

(2014) 12 JH CK 0026

Jharkhand High Court

Case No: Writ Petition (Civil) No. 7793 of 2012

Girvar Dayal Panday

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: Dec. 8, 2014

Acts Referred:

- Land Acquisition Act, 1894 - Section 12(2), 18, 18(2), 18(2)(b)
- Limitation Act, 1963 - Section 5

Hon'ble Judges: S. Chandrashekhar, J

Bench: Single Bench

Advocate: Sambit Nayak, Advocate for the Appellant; V.K. Prasad, S.C. (L/C), Advocate for the Respondent

Judgement

S. Chandrashekhar, J.

Seeking quashing of order contained in letter dated 04.10.2012, allegedly made under Section 18 of the Land Acquisition Act, 1894, the petitioner has approached this Court.

2. The brief facts of the case are that, for construction of Mahila Industrial Training Institute at Kinamar, land was acquired by the respondent-State of Jharkhand and an award was prepared. A notice dated 30.05.2012 was issued to the petitioner. The petitioner made an application on 07.06.2012 raising objection with respect to measurement and inadequacy of compensation. The award was prepared on 15.03.2012 and vide order dated 04.10.2012, the request of the petitioner for referring the matter under Section 18 of the Land Acquisition Act, 1894 has been dismissed.

3. The learned counsel for the petitioner submits that, on the objection dated 07.06.2012 submitted by the petitioner, the award was modified and a modified Award was made on 20.07.2012 however, the objection with respect to inadequate compensation remained un-redressed. Ultimately the petitioner received the award

on 07.08.2012, under protest. It is thus, contended that the letter dated 07.08.2012 would be continuation of the application dated 07.06.2012 whereby objections were raised by the petitioner. In these facts it is submitted that, the respondent has illegally rejected the application of the petitioner for referring the matter under Section 18 of the Land Acquisition Act, 1894.

4. A perusal of the materials on record indicates that the award was prepared on 15.03.2012 and a notice dated 30.05.2012 was issued to the petitioner which was received by the petitioner on 02.06.2012. It is an admitted position that the award was modified on 20.07.2012 but the amount of compensation etc. remained the same and the modified Award has not provided a fresh cause of action to the petitioner. The contention of the learned counsel for the petitioner that from the date of modified Award dated 20.07.2012, the application dated 29.08.2012 would be within time, is liable to be rejected. The application dated 07.06.2012 submitted by the petitioner was not the application seeking reference under Section 18 of the Land Acquisition Act, 1894. Section 18(2) of the Land Acquisition Act, 1894 provides a limitation of six weeks from the date of the Collector's award which, the petitioner has failed to submit. It is well settled that in so far as, the limitation prescribed under the Land Acquisition Act, 1894 is concerned, the statutory authorities have no power to condone the delay. The statutory limitation provided under the Land Acquisition Act, 1894, in absence of an analogous provision under Section 5 of the Limitation Act, cannot be condoned by the statutory authorities. In [Parsottambhai Maganbhai Patel and Others Vs. State of Gujarat through Deputy Collector Modasa and Another,](#), the Hon"ble Supreme Court has held that,

7. "This court, therefore, held that the limitation under the latter part of Section 18(2)(b) of the Act has to be computed having regard to the date on which the claimants got knowledge of the declaration of the award either actual or constructive. This principle, however, will apply only to cases where the applicant was not present or represented when the award was made, or where no notice under Section 12(2) was served upon him. It will also apply to a case where the date for the pronouncement of the award is communicated to the parties and it is accordingly pronounced on the date previously announced by the Court, even if, the parties are not actually present on the date of its pronouncement..... "

5. In view of the aforesaid discussion, I do not find any merit and accordingly, this writ petition is dismissed.