



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RFA No. 1209 of 2022 (O&M)

Date of decision: 17.09.2025

Haryana Shehri Vikas Pradhikaran, Gurugram

...Appellant

Versus

Shyam Kumari and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Shivendra Swaroop, Advocate and
Mr. Siddhanth Arora, Advocate for
Mr. Ankur Mittal, Advocate
for the appellant.

Mr. Keshav Pratap Singh, Advocate and
Mr. Sanskar Dhanda, Advocate
for contesting respondent No. 1-landowner (Shyam Kumari)

Mr. Abhinash Jain, Deputy Advocate General, Haryana
for *pro forma* respondent Nos. 2 & 3.

HARKESH MANUJA, J. (ORAL)

CM-3170-CI-2022

Prayer in the present application, filed under Order 41
Rule 27 of CPC, moved by the applicant-appellant/HSVP, is for
seeking permission to lead additional evidence in the shape of copy of
CWP No. 4753 of 2013, annexed with the paper-book as Annexure A-
1.

This Court, vide order dated 09.11.2022, admitted the main appeal while passing orders to hear the instant application with the main case.

Notice of the application.

Learned counsel for the non-applicant/respondent No. 1 accepts notice and does not oppose the prayer made in the application.

Learned counsel for the parties have been heard.

A copy of the CWP-4753-2013 is necessary for adjudication of the appeal in hand as the same would help even this Court to adjudicate the rights of the parties; finally and conclusively. There being no dispute raised at the instance of non-applicant/respondent No. 1 about the veracity and contents of the copy of the aforesaid writ petition, especially when the document forms part of the judicial record and no objection has been raised as to their admissibility or the mode of proof at the instance of non-applicant/respondent No. 1-landowner.

In view thereof, the prayer made in the application is allowed and the copy of aforesaid writ petition is taken on record as Annexure A-1.

Instant application is **disposed off**.

MAIN CASE

[1] By way of present appeal, challenge has been laid to an award dated 01.10.2019 passed by the Court of learned Additional District Judge, Gurugram (**hereinafter referred to as “Reference Court”**), whereby a reference petition filed under Section 18 of the

Land Acquisition Act, 1894 (**hereinafter referred to as ‘1894 Act’**) preferred at the instance of respondent No.1-landowner, was allowed.

FACTS

[2] Briefly stating, some land owned by respondent No.1-landowner, situated within the revenue estate of Village Choma, Tehsil and District Gurugram came to be acquired vide Notifications dated 25.01.2008 and 18.03.2008 issued under Section 4 read with Section 17(1) and Section 6 respectively of the 1894 Act, for the public purpose, namely, “development and utilisation of land for 150 Mtr. Periphery Road linking Dwarika Township Delhi from Haryana Boundary to NH-8, near Village Kherki Daula at Gurugram.” An Award under Section 11 of 1894 Act was passed by the Land Acquisition Collector, Gurugram (**for short ‘LAC’**) on 23.12.2009, whereby the market value was assessed at Rs.60,00,000/- per acre.

[3] Aggrieved thereof, respondent No.1-landowner (Shyam Kumari) filed reference under Section 18 of the 1894 Act on 12.11.2013 for the purpose of seeking enhancement of market value. The aforesaid reference was opposed at the instance of the appellant-HSVP, being barred by limitation.

[4] Learned Reference Court, vide its award dated 01.10.2019, allowed the reference petition filed at the instance of respondent No.1-landowner on merits, while holding it to be within limitation. Respondent No.1-landowner was as such awarded the benefit of market value of Rs.4,06,34,750/- besides grant of other statutory benefits in view of the market value determined by the Hon’ble Apex Court vide

order dated 05.09.2017 passed in ***Civil Appeal Nos. 11814-11864 of 2017***, titled ***“State of Haryana & Ors. Versus Ram Chander and Anr.”***. The aforementioned award dated 01.10.2019 passed by the Reference Court has been impugned by the appellant in the present appeal.

CONTENTION(S) ON BEHALF OF THE APPELLANT

[5] Learned counsel for the appellant submits that learned Reference Court went wrong while holding the reference petition filed at the instance of respondent No.1-landowner to be within limitation. He points out that on 26.02.2013, respondent No.1-landowner being one of the petitioners in ***CWP-4753-2013***, titled ***“Sukhwinder Singh Gill and others Versus The State of Haryana and others”***, challenged the Notifications dated 25.01.2008 and 18.03.2008 issued under Sections 4 and 6 of the 1894 Act relating to present acquisition with a further prayer for setting aside all consequential proceedings in terms of the said notifications. He contends that in the aforesaid writ petition, in para-10, it finds mention that the award under Section 11 of 1894 Act was passed by the LAC on 23.12.2009. Learned counsel for the appellant thus submits that once respondent No.1-landowner was aware about passing of the award dated 23.12.2009 at the time of filing of CWP-4753-2013 on 26.02.2013 and challenged the acquisition proceedings initiated in terms of Sections 4 and 6 of the 1894 Act with a prayer for setting aside of all the consequential proceedings, reference petition under Section 18 of the 1894 Act filed on 12.11.2013 was clearly barred by limitation. Learned counsel argues that the date of

filing of the writ petition i.e. 26.02.2013 was at least required to be taken as the date of constructive knowledge of the award to respondent No.1-landowner and as such, the reference petition filed at her instance on 12.11.2013 was to be dismissed being barred by limitation.

[5.1] In support, learned counsel for the appellant relies upon decision rendered by the Hon'ble Apex Court in "***Bhagwan Das and Ors. Versus State of UP and Ors.***" reported as AIR 2010 Supreme Court 1532. Relevant Para Nos.30 and 31 thereof are extracted hereunder:-

“ 30. When a person interested makes an application for reference seeking the benefit of six months' period from the date of knowledge, the initial onus is on him to prove that he (or his representative) was not present when the award was made, that he did not receive any notice under Section 12(2) of the Act, and that he did not have the knowledge of the contents of the award during a period of six months prior to the filing the application for reference.

This onus is discharged by asserting these facts on oath. He is not expected to prove the negative. Once the initial onus is discharged by the claimant/person interested, it is for the Land Acquisition Collector to establish that the person interested was present either in person or through his representative when the award was made, or that he had received a notice under Section 12(2) of the Act, or that he had knowledge of the contents of the award.

31. Actual or constructive knowledge of the contents of the award can be established by the Collector by proving that the person interested had received or

drawn the compensation amount for the acquired land, or had attested the mahazar / panchnama / proceedings delivering possession of the acquired land in pursuance of the acquisition, or had filed a case challenging the award or had acknowledged the making of the award in any document or in statement on oath or evidence. The person interested, not being in possession of the acquired land and the name of the State or its transferee being entered in the revenue municipal records coupled with delay, can also lead to an inference of constructive knowledge. In the absence of any such evidence by the Collector, the claim of the person interested that he did not have knowledge earlier will be accepted, unless there are compelling circumstances not to do so.

[5.2] In addition, learned counsel for the appellant also places reliance upon a decision dated 13.10.2023 rendered by this Court in RFA-442-2015 titled as ***“Dinesh Kumar and Others Versus State of Haryana and others”*** to submit that once respondent No.1-landowner became aware of the date of the award on the date of filing of the writ petition, the period of six months was required to be utilized by her for the purpose of obtaining the award and filing of reference under Section 18 of 1894 Act and thus, filed beyond that was to be dismissed being barred by limitation. Relevant para No. 13 of the said judgment is reproduced hereunder for reference:-

“13. However, reliance placed by learned Senior counsel in this regard is misplaced. The purpose of giving 6 months, when limitation in a particular reference is covered by the second

*part of Section 18(2)(b) of 1894 Act, is that once the landowner gets knowledge of the award, he could make sincere efforts to get a copy of the award and then accordingly make a reference. Reliance in this regard can be placed on “**Premji Nathu v. State of Gujarat and Anr.**”, reported as AIR 2012 Supreme Court 1624, relevant para of which is reproduced here under:*

“11. The reason for providing six months from the date of the award for making an application seeking reference, where the applicant did not receive a notice under Section 12(2) of the Act, while providing only six weeks from the date of receipt of notice under Section 12(2) of the Act for making an application for reference where the applicant has received a notice under Section 12(2) of the Act is obvious. When a notice under Section 12(2) of the Act is received, the landowner or person interested is made aware of all relevant particulars of the award which enables him to decide whether he should seek reference or not. On the other hand, if he only comes to know that an award has been made, he would require further time to make enquiries or secure copies so that he can ascertain the relevant particulars of the award. What needs to be emphasised is that along with the notice issued under Section 12(2) of the Act, the land owner who is not

present or is not represented before the Collector at the time of making of award should be supplied with a copy thereof so that he may effectively exercise his right under Section 18(1) to seek reference to the Court.”

[5.3] Learned counsel for the appellant also contends that the initial burden to prove the fact that no notice under Section 12(2) of 1894 Act was served upon respondent No. 1-landowner in this case was upon her, however, no such pleadings were ever made in the reference and thus, respondent No.1-landowner having failed to discharge the primary burden; the onus never shifted upon the appellant for the purpose of establishing the factum of service of notice under Section 12(2) of 1894 Act upon respondent No.1-landowner. He thus submits that respondent No. 1-landowner in this case was not entitled to draw benefit of non-service of notice under Section 12(2) of 1894 Act.

[5.4] Thus, in view of the aforesaid submission(s), learned counsel for the appellant submits that the award dated 01.10.2019 passed by the learned Reference Court was required to be set aside.

CONTENTION(S) ON BEHALF OF RESPONDENT NO. 1-LANDOWNER

[6] Learned counsel appearing on behalf of respondent No.1-landowner submits that in the given facts, once no notice under Section 12(2) of the 1894 Act was ever served upon respondent No.1-landowner, reference petition could not have been dismissed being barred by limitation as she was never made aware of the contents of the

award by the appellant. He also points out that neither respondent No.1-landowner nor even any of her representative/authorized person was present at the time of passing of the award and a specific finding to this effect was recorded in favour of respondent No.1-landowner by the learned Reference Court. He thus submits that neither in terms of Section 12(1) nor even as per Section 12(2) of 1894 Act, reference petition preferred at the instance of respondent No. 1 can be treated to be barred by limitation and no interference is, therefore, called for in the impugned award.

[6.1] Learned counsel also submits that respondent No.1-landowner duly discharged the primary burden casted upon her by making a specific statement in the cross-examination while appearing as PW-2 to the effect that no notice under Section 12(2) of the 1894 Act pertaining to the award passed by the LAC on 23.12.2009 was ever served upon respondent No. 1 and no suggestion to contradict the same was ever put to her. In support of his submissions, learned counsel relies upon a decision rendered by the Hon'ble Apex Court in ***“State of Punjab Versus Mst. Qaisar Jehan Begum and another”***, reported as ***“AIR 1963 Supreme Court 1604”***. He also places reliance upon an order dated 09.04.2025 passed by the Hon'ble Apex Court in ***SLP(C) No.5123 of 2023, titled “Rati Ram and Ors. Versus State of Hayrana and Ors.”***

DISCUSSION

[7] After hearing learned counsel for the parties and gone through the relevant record/paper-book, I am unable to find substance in the submissions made on behalf of the appellant.

[8] A perusal of the pleadings arising out of CWP-4753-2013 (*supra*) makes it evident that no specific or categorical challenge to the award dated 23.12.2009 passed by the LAC in exercise of powers under Section 11 of the 1894 Act in relation to the acquisition in hand was ever made therein. The material challenge laid in the writ petition was only to the Notifications dated 25.01.2008 & 18.03.2008 issued under Section 4 & 6 read with Section 17 (1) and 17 (4) of 1894 Act, although the factum of passing of the Award dated 23.12.2009 was mentioned in para-10 of the said writ petition. Mere fact that a consequential prayer was made for setting aside of the subsequent proceedings arising out of the Notifications dated 25.01.2008 & 18.03.2008 could not be taken to be a specific challenge to the award dated 23.12.2009 as no copy thereof was ever placed on record, forming it to be part of the writ petition. The prayer clause from the writ petition alongwith para-10 thereof are re-produced hereunder:-

“PRAYER CLAUSE

Civil Writ petition under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of Certiorari so as to quash the impugned alignment of the proposed V2 (a) road as given in the Final Drawing dated 14.11.2006 (Annexure P-9) reiterated vide final Development Plan-2031AD (Annexure P-15), and made pursuant to the proposals

under the Head "Provision of Additional Road Links between Delhi and Gurgaon" as well as under Head No. 4 "Transport and Communication" and Dwarka Residential Complex of Delhi to National Highway No. 8 passing at Gurgaon through Palam Vihar Gurgaon in the Final Development Plan 2031-AD for Complex; Gurgaon-Manesar Urban Complex;

AND

a writ in the nature of certiorari so as to quash the impugned notifications dated 25.1.2008 and 18.03.2008 issued under Sections 4 and 6 read with Section 17[1] and [4] of the Land Acquisition Act, 1894 (Annexures P-12 and P-13) respectively and all subsequent proceedings in furtherance of the said notifications qua the residential houses/plots of the petitioners;

And

for issuance of any other order or appropriate writ, direction, which this Hon'ble Court may deem just and proper keeping in view the peculiar facts and circumstances of the present case.

PARA-10

10. That even though the said notifications under Sections 4 and 6 of the said Act were issued in the year 2008 and the award under Section 11 of the said Act was passed on 23.12.2009, the petitioners still continue to be in actual physical possession of the said houses/plots at the spot. Before the award, the petitioners in their claim applications filed under Section 9[2] of the said Act inter-alia, claimed respective plots of the same size in lieu of their present houses/plots at an appropriate location. True copies of the claims of the petitioners No. 1, 2 and 4 are

annexed herewith as ANNEXURE P-13A (COLLY).”

[9] Furthermore, no merit can be found in the contention raised on behalf of the appellant to the effect that respondent No. 1-landowner failed to discharge the initial burden placed upon her so as to establish that she was never served the copy of the Award dated 23.12.2009 and thus there was non-compliance of mandatory provision of Section 12 (2) of 1894 Act. In this regard, reference can be made to certain portion from the cross-examination of respondent No. 1-landowner, who appeared as PW-2 before the learned Reference Court. Relevant portion therefrom is extracted hereunder:-

“Voluntarily stated, I never received any notice about acquisition of land and even no amount towards compensation was paid to me by the LAC till date.....”

From the record, it is clear that no suggestion to counter the aforesaid portion of the cross-examination of respondent No. 1-landowner was ever put to her to rebut the same. In such circumstances, respondent No. 1 having discharged the primary burden, the onus shifted upon the appellant to prove the factum of service of notice under Section 12 (2) of 1894 Act alongwith a copy of Award dated 23.12.2009 passed by the LAC so as to establish their plea of the reference petition being barred by limitation. Also, no documentary evidence or even oral deposition has been made on behalf of the appellant to establish that respondent No. 1-landowner was ever made

aware of the contents of the award dated 23.12.2009 having served with a copy thereof upon her. In such circumstances, mere mentioning about the date of the award in the writ petition preferred at the instance of respondent-landowner without there being any specific challenge to the same, was not sufficient to attribute her with the knowledge regarding contents thereof and as such, in view of the law laid down by the Hon'ble Apex Court in case of ***Mst. Qaisar Jehan Begum (supra) and another***", no illegality or perversity can be found with the award passed by the Reference Court to the effect that the reference petition preferred at the instance of respondent No. 1-landowner was within limitation. Relevant portion of para-4 of the aforementioned judgment is extracted hereunder:-

"4. As to the second part of clause (b) of the proviso, the true scope and effect thereof was considered by this court in Raja Harish Chandra's case. It was there observed that a literal and mechanical construction of the words "six months from the date of the Collector's award" occurring in the second part of clause (b) of the proviso would not be appropriate and "the knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice, the expression ... used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively". Admittedly the award was never communicated to the respondents. Therefore the question before us boils down to this. When did the respondents know the award either actually or constructively?

Learned counsel for the appellant has placed very strong reliance on the petition which the respondents made for interim payment of compensation on December 24, 1954. He has pointed out that the learned Subordinate Judge relied on this petition as showing the respondents' date of knowledge and there are no reasons why we should take a different view. It seems clear, to us that the ratio of the decision in Raja Harish Chandra case (supra) is that the party affected by the award must know it, actually or constructively, and the period of six months will run from the date of that knowledge. Now knowledge of the award does not mean a mere knowledge of the fact that an award has been made, The knowledge must relate to the essential contents of the award, These contents may be known either actually or constructively, If the award is communicated to a party under Section 12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it or not. Similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award."

[10] Moreover, the reliance placed upon by the learned counsel representing the appellant to the decision dated 13.10.2023 passed in ***Dinesh Kumar & Others case (supra)***, is also misplaced as in the said case, the reference petition preferred at the instance of landowners were

held to be barred by limitation for the reasons that it was established on record that the landowners (petitioners therein) had already received the amount of compensation and the commencement of limitation for filing reference petition under Section 18 of the 1894 Act *qua* them was taken from the date of receipt of compensation. However, in the present facts, it has nowhere been established on record by the appellant that respondent No. 1-landowner was paid the compensation amount in terms of the Award passed by the LAC and the reference petition was preferred six months beyond it. Thus, mere factum of knowledge to respondent No. 1 about passing of the Award was not to be taken as if she was aware of the contents thereof. Essentially, the purpose of service of notice under Section 12 (2) of 1894 Act was to make the landowner aware about the contents of the award.

[11] Further, on merits, the learned counsel(s) representing the parties are *ad idem* that respondent No. 1-landowner has already been awarded the benefit of market value @ Rs. 4,06,34,750/- besides grant of all other statutory benefits provided under the 1894 Act in terms of the final adjudication made on the issue by the Hon'ble Apex Court in case of ***Civil Appeal Nos. 11814-11864 of 2017***, decided on ***05.09.2017, State of Haryana & Ors. Versus Ram Chander and Anr.***"

DECISION

[12] In view of the aforesaid discussion, finding no merits in the present appeal preferred on behalf of the appellant, the same is thus **dismissed**, while upholding the Award dated 01.10.2019 passed by the learned Reference Court. No order as to costs.

[13] Pending miscellaneous application(s), if any, shall also stand disposed off.

September 17, 2025
‘Tejwinder / dk kamra’

(HARKESH MANUJA)
JUDGE

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No