

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1349/2018  
(ARISING FROM SLP (C) NO. 20203 OF 2012)

SHAHID JAMAL & ANR.

APPELLANT(S)

VERSUS

STATE OF U.P. & ORS.

RESPONDENT(S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. The High Court, as per the impugned order, declined to grant an order in favour of the appellants for reference under Section 18 of the Land Acquisition Act, 1894 (for short "the Act") for enhancement of compensation, on the ground that the application was filed beyond the period of six months.

3. To refer to the undisputed facts, though the Award was passed on 31.03.1999, the compensation was paid only on 07.04.1999. There is no dispute that the same was received under protest. According to the appellants, the copy of the Award was not supplied and, therefore, the appellants could not furnish the details of the objections with regard to the Award in the application for reference.

4. Be that as it may, it is not in dispute that the appellants had filed an application for reference on 24.07.1999. To the extent relevant, the request reads as follows:-

"Kindly refer our case in the joint name of Shahid Jamal & Durwesh to reference court u/s. 18. Also please refer the case Shahid Jamal & M.A. Trading Co. and another in the name of Durwesh Najaf & MAT FAB International to reference court u/s. 18 and deposit the award amount u/s 31 sub section (2) part V."

5. It seems that there was a communication dated 25.09.1999 from the Land Acquisition Officer to the appellants. The letter reads as follows:-

"Please accept the reference of your letter dated 07.06.1999, 24.07.1999 and 25.08.1999, under which it has been mentioned that for the construction of the project of Ahmadpur Phulwaria Phase-1 of Bhadohi Industrial Development Authority the information of the declared Award regarding the acquired land from the village Lakhanpur alias Abhayanpur has not been made available. Regarding this you have been informed that notice under section 12(2) was sent on 31.03.1999 regarding declaring the Award, on which you refused to sign. You demanded the copy of the Award at the time of receiving the amount of compensation on 07.04.1999 and even the photo copy of the Award was made available to you, but on the receiving register you did not sign, rather by making

unnecessary correspondence the certified copy of the Award is being demanded. From your said act it seems that you are trying to take advantage of the time limit (time barred) by hook or by crook after enclosing with your application the judicial precedents of the Hon'ble Courts, which is improper. Even then according to your desire the so-called photo copy of the Award is sent after enclosing."

6. It may be specifically noted that the said letter dated 25.09.1999 is, in any case, within six months' period, as required under Section 18(2) of the Act (as amended in the State of U.P.).

7. Learned senior counsel appearing for the State points out that a proper application stating the grounds for reference has been made only on 30.12.1999, which is beyond the prescribed period of six months. It is submitted that under Section 18(2), the application for reference should contain the grounds for reference and, therefore, only an application with the grounds can be taken as a proper application for reference.

8. In the impugned judgment the High Court has taken note of the fact that the appellants had come to know about the Award on 07.04.1999 when the compensation was received and hence, the application dated 30.12.1999 under Section 18 of the Act was beyond time and thus the writ petition was dismissed.

9. Having regard to the factual matrix we have referred to above, and having heard the learned senior counsel appearing for the appellants as well as the learned senior counsel appearing for the State, we find that the High Court has unfortunately missed a crucial point on facts. As can be seen from the extracted portion of the application dated 24.07.1999 there is a specific request for reference under Section 18 of the Act. It is not in dispute and it is borne out from the records also as seen by the High Court the compensation was received only under protest with regard to the sufficiency of the compensation. It is also seen from the communication from the Land Acquisition Officer to the appellants dated 25.09.1999, on which date the time under Section 18 had not expired, that certified copy of the Award had not been furnished to the appellants. However, a photocopy of the Award was given, which the appellants were not inclined to acknowledge.

10. Having regard to the fact that the appellants had accepted the compensation under protest on the point of sufficiency of the compensation and having made a specific request for reference under Section 18 on 24.07.1999, which indisputably is within six months, we are of the view that this is a case where the request under Section 18 of the Act made on 24.07.1999 should be treated as a proper application.

It may also have to be seen that before rejection the grounds had also been furnished after receipt of the certified copy of the Award. Ordered accordingly.

11. However, having regard to the peculiar facts and circumstances of this case, we are of the view that we should also invoke our jurisdiction under Article 142 of the Constitution of India and pass certain further orders for doing complete justice between the parties regarding the interest from 07.04.1999, the date when the appellants received the compensation, till the filing of this special leave petition on 29.06.2012 in the interest of any enhancement. Accordingly, for the said period, in the event of any enhancement, the appellants shall not be entitled to any interest.

12. The appeal is disposed of, as above.

13. Needless to say that this order is confined only to the statutory benefit of interest and all other benefits, which the appellants are free to claim when the reference under Section 18 of the Act is considered on merits. We also direct the Land Acquisition Collector to make a reference within four weeks from today and the Reference Court shall dispose of the same within three months thereafter. The parties are free to take all available contentions before the Reference Court.

14. Pending applications, if any, shall stand disposed of.

15. There shall be no orders as to costs.

.....J.  
[KURIAN JOSEPH]

.....J.  
[MOHAN M. SHANTANAGODAR]

NEW DELHI;  
JANUARY 30, 2018