

Satya Narayan and ors. Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Aug-30-1988

Reported in : 1988WLN(UC)505

Judge : N.M. Kasliwal, J.

Appeal No. : S.B. Civil Revision No. 755 to 757 of 1987

Appellant : Satya Narayan and ors.

Respondent : State of Rajasthan and ors.

Disposition : Petition Allowed

Judgement :

N.M. Kasliwal, J.

1. All the above three revisions are disposed of by one single order as identical question of law is involved in all the three cases.

2. The only controversy in the present case is whether the filing of the certified copy of award is necessary along with the application for reference filed 18 of the Rajasthan Land Acquisition Act, 1953 (here in after referred to as the Act). The admitted facts of the case are that the award in the present case was given on September 22, 1986 11 of the Act. The petitioners moved an application for making the reference on October 30, 1986 18 of the Act. It is not in dispute that

the aforesaid application filed 18 of the Act was within six weeks of the passing of the award. On June 26, 1987 the learned Officer on special duty, Urban Development and Housing Department, Rajasthan passed an order that the copy of the award had not been filed along with the application for reference and as such it was not considered possible to send the reference to the Civil Judge. The petitioners were directed to be informed of the said order. Thereafter, the petitioners submitted the copy of the award on July 13, 1987. The Special Officer again considered the matter on August 24, 1987 and held that the reference was barred by limitation in as much as the reference application shall be due to be complete only on July 13, 1987 and on that day the period of limitation having expired, it was not possible to take any action on the application for reference and in this view of the matter the application was dismissed. Aggrieved against the aforesaid orders dated June 26, 1987 and August 24, 1987 these revisions have been filed.

3. Mr. Garg, learned Counsel for the non-petitioners No. 2 first raised a preliminary objection that the revision is not maintainable as it is directed against the two orders dated June 26, 1987 and August 24, 1987. It was submitted that no revision can lie against two orders and the petitioners should restrict their revision against one order only.

4. I see no force in this contention. So far as the order dated June 26, 1987 is concerned, it is totally innocuous. In the order dated June 26, 1987, it was observed that the application for reference is not accompanied with the copy of award and as such it was not possible to take any further action and a direction was given to inform the petitioners accordingly. No order was passed dismissing the application. Thereafter, the copy of the award filed on July 13, 1987 and subsequently, the order was passed on August 24, 1987 holding the application for reference as time barred. Thus, the main order is of August 24, 1987 and the present revision is maintainable against this order and if this order dated August 24, 1987 is set aside then the order dated June 26, 1987 automatically goes away.

5. Another important question to be considered in the case is whether there is any requirement 18 of the Act or any other law for filing the certified copy of the award

along with the application for reference made 18 of the Act. Mr. Garg, learned Counsel for the non-petitioner No. 2 only placed reliance on the language of Section 18 of the Act and was unable to show any other provision of the Rajasthan Land Acquisition Rules or other provision making it necessary to file the certified copy of the award along with the application for reference. A plain reading of Section 18 of the Act clearly shows that the only requirement is to move an application in writing to the Collector, requiring him that the matter be referred for determination to the Court. The requirement is that the application shall state the grounds on which objection to the award or the amendment thereof is taken. If the person making such application was present or represented before the Collector at the time when he made the award then such application has to be filed within six weeks from the date of the Collector's award or the amendment thereof and in other cases within six weeks of the receipt of the notice from the Collector 12 Sub-section (2) or within six weeks from the date of the Collector's award or the amendment thereof whichever period shall first expire. As already mentioned above in the present case, the application had been filed by the petitioners within six weeks from the date of the award and it was submitted in writing and the grounds had been mentioned on which objection to the award had been made. Thus, the application fulfilled all the requirements of Section 18 of the Act and it cannot be held to be barred by limitation even if the certified copy of the award was filed at a subsequent date. Mr. Garg, tried to argue that the Collector or Officer on special duty who entertains the application for reference 18 cannot appropriately consider and pass any order without the supply of a copy of the award to him I see no force in this contention, Firstly, the original record of the case containing such award lies with the Collector himself and in any case even if he requires such copy from the petitioners, it cannot be taken as a ground for rejecting the petition if the certified copy is filed by the petitioners after some time of filing of the application The main question is whether the application 18 raising objection against the award has been filed or not within the period of limitation prescribed 18 of the Act itself. If such application has been filed well within the period of limitation then the filing of the certified copy or typed copy of the award after some time is wholly immaterial for the purpose of calculating limitation for filing the application for reference 18 of the Act.

6. Mr. Garg, cited M/s Capstan Meter (India) Ltd. v. The State of Rajasthan AIR 1974 Rajasthan 63, in support of his contention that the certified copy of the award was necessary to be filed along with the application for reference. The above authority does not lay down the above principle as tried to be contended by Mr. Garg. In the above case the petitioners wanted extension of time on the basis of Section 12 of the Limitation Act and their contention was that time should be excluded in filing the 'application for reference which was taken in obtaining the certified copy of the award. The Court negatived contention of the petitioners and held that the provision of Section 12 of the Limitation Act were not applicable in the case when application for reference is moved 18 of the Act. Thus, in the above case, the petitioners themselves wanted exclusion of time on the basis of obtaining certified copy of the award. In the present case the petitioners are not seeking any extension of time because the application for reference 18 of the Act itself has been filed within limitation.

7. In the result, all these revision petitions are allowed, the orders of the learned Land Acquisition Officer, Rajasthan Housing Board, Jaipur (Officer on Special Duty Urban Development and Housing Department) Rajasthan, Jaipur dated June 26, 1987 as well as August 24, 1987 are set aside and the cases are remanded back with a direction to dispose of the reference application filed by the petitioners according to law.