



IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 23rd OF JULY, 2025

FIRST APPEAL No. 184 of 2022

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

DAYARAM

Appearance:

Shri Dilip Awasthi – Government Advocate for the State/appellants.

Shri Chetan Kanungo- Advocate for the respondent.

JUDGEMENT

This first appeal under Section 54 of the Land Acquisition Act, 1984 has been filed against the Award dated 09/09/2021 passed by Eleventh District Judge, Gwalior in MJC (Land Acquisition) No.205/2018 by which reference filed by respondent has been allowed.

2. It is submitted by counsel for the parties that so far as the ground raised by appellants with regard to the fact as to whether reference was barred by time or not and whether respondent had accepted compensation amount without protest or not is concerned, same has already been decided by this Court by



order dated 23.06.2025 in the case of **State of M.P. And Others Vs. Lokendra Singh in FA. No.264/2021**, therefore, for the aforesaid grounds are duly covered by order passed by this Court in the case of **Lokendra Singh (supra)**. However, it is submitted by counsel for appellants that Reference Court should not have awarded compensation amount by relying upon the Collector guidelines.

3. *Per contra*, it is submitted by counsel for respondent that so far as the Collector guidelines issued by Collector can be guidelines for ascertaining market value and thus, the Reference Court did not commit any mistake by relying upon the Collector's guidelines.

4. Heard learned counsel for the parties.

5. So far as the question as to whether Reference was barred by time and whether respondent had accepted compensation amount without any protest or not is concerned, this Court in the case of **Lokendra Singh (supra)** has held as under:

“1. This appeal, under Section 54 of the Land Acquisition Act, 1894 (*for short “the Act”*) , has been filed against the order/Award dated 13.07.2020 passed by Additional Judge to the Court of First Additional District Judge, Gohad, District Bhind in Land Acquisition MJC Case No. 16 of 2015 by which reference filed by respondent has been allowed.

2. It is not out of place to mention here that against the award passed by Land Acquisition Officer, a reference was made under Section 18 of Land Acquisition Act. By impugned award, the Trial Court has enhanced the compensation amount. It was informed by Counsel for the parties, that being dissatisfied by the award passed by the Reference Court, the Land owners have also filed First Appeal.



3. As a general practice, all the appeals arising out of one judgment and decree or award should be heard analogously, but in the present case, it was submitted by Counsel for appellant, that the State has not questioned the quantum of compensation and the appeal is being pressed only on two grounds i.e., that the reference was barred by time and since, the respondent/land owner had received the compensation amount therefore, the reference is not maintainable.

4. In view of the grounds of attack, this Court is of the considered opinion, that large number of appeals are pending but since, the question for consideration in both the appeals, i.e., by the State and the land owners, are not overlapping each other and the appeal filed by the State can be decided without adversely affecting the ground regarding quantum of compensation which is the subject matter of appeal filed by land owner, therefore, the appeal filed by the State is being decided.

5. The facts necessary for disposal of present appeal, in short, are that a notification was issued for acquisition of 2.52 hectares of land for construction of canal and accordingly in Land Acquisition Case Number 21/2012-13/A-82, Award dated 17/9/2013 was passed and Land Acquisition Officer awarded compensation @ ₹4,30,167 per hectare. Being aggrieved by the said Award, respondent preferred an application under Section 18 of the Act on 23.08.2014. The matter was referred by Collector to District Court for answering the reference. The Additional Judge to the Court of First Additional District Judge, Gohad, District Bhind by Award dated 13.07.2020 passed in MJC Number 16 of 2015 allowed the reference and awarded ₹10,50,000/- per hectare by way of compensation.

6. Being aggrieved by the Award passed by the Court below, it is submitted by counsel for appellant that reference application was barred by time. It is further submitted that as the respondent had accepted the compensation amount without any demur, therefore he is estopped from filing an application under Section 18 of the Act and relied upon the judgment passed by Supreme Court in the case of **State of Punjab Vs. Satinder Singh** reported in (1995) 3 SCC 330.

7. *Per contra*, the appeal is vehemently opposed by counsel for respondent. It is submitted that as per the provisions of Section 18(2) of the Act, the reference application has to be filed within a period of



6 weeks from the date of Award in case the land owner was present. However, if the Award is passed in absence of land owner, then reference application could have been filed within a period of 6 weeks from the date of receipt of notice under Section 12 of the Act or within a period of 6 months from the date of Award of Collector, whichever is earlier. It is submitted that admittedly neither the respondent was present at the time of passing of Award nor any notice under Section 12(2) of the Act was given to respondent. Immediately after the respondent came to know about the impugned Award, then he gave an application for supply of certified copy which was supplied on 1.8.2014 and accordingly on 23.08.2014 an application under Section 18 of the Land Acquisition Act was filed for making the reference. It is submitted that the words “from the date of the Collector's award” as mentioned in Section 18(2)(b) of the Act cannot be given a narrow meaning and it would also include “from the date of knowledge.” It is further submitted that the respondent has specifically stated that he had received the compensation amount under protest. It is submitted that even if the amount is received without any protest, still it cannot be inferred that the land owner was aware of the contents of award and therefore it is submitted that the acceptance of compensation amount, whether under protest or, would not estop the land owner from filing an application under Section 18 of the Act and relied upon the judgment passed by the Supreme Court in the case of **Bhagwan Das & Ors vs State Of U.P. (2010) 3 SCC 545, Vijay Mahadeorao Kubade vs State Of Maharashtra (2019) 2 MPLJ 529 (SC)**.

8. Heard the learned Counsel for the parties.

Whether reference was barred by time

9. Section 18 of Land Acquisition Act reads as under :

18. Reference to Court.—(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.



(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2); or within six months from the date of the Collector's award, whichever period shall first expire.

10. Admittedly, the respondent was not present at the time of passing of award, therefore, Section 18(2)(i) of Land Acquisition Act, would not apply.

11. Now, the next question for consideration is that whether any notice was ever given by Collector under Section 12(2) of Land Acquisition Act or not?

12. The respondent, in para 3 of his application filed under Section 18 of Land Acquisition Act, had specifically pleaded that no notice under Section 12(2) of Land Acquisition Act was given. The appellants did not deny this fact in their written statement. A solitary stand was taken by the appellants that the respondent was aware of the award from the date of its pronouncement. The respondent in his affidavit filed under Order 18 rule 4 CPC had specifically stated that no notice under Section 12 of Land Acquisition Act was given. The respondent has examined Awadhesh Pratap Singh Yadav who has stated that information regarding passing of award was given by Kotwar by beat of drum.

13. First of all, it is made clear that no defence was taken by the appellants in their written statement, that any public notice was given to the villagers by Kotwar by beat of drums. However, the moot question for consideration is that whether general notice by beat of drums can be said to be sufficient compliance of Section 12(2) of Land Acquisition Act 1894 or not?

14. The aforesaid question is no more res integra. The Supreme Court in the case of **Premji Nathu v. State of Gujarat**, reported in (2012) 5 SCC 250 has held as under:



15. What needs to be emphasised is that along with the notice issued under Section 12(2) of the Act, the landowner 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.

16. In *Harish Chandra Raj Singh v. Land Acquisition Officer*, this Court was called upon to decide whether the expression “date of award” is to be interpreted with reference to the time when the award is signed by the Collector or from the date the affected party comes to know about the same and held as under: (AIR pp. 1503-04, paras 5-6)

“5. ... Therefore, if the award made by the Collector is in law no more than an offer made on behalf of the Government to the owner of the property then the making of the award as properly understood must involve the communication of the offer to the party concerned. That is the normal requirement under the contract law and its applicability to cases of award made under the Act cannot be reasonably excluded. Thus considered the date of the award cannot be determined solely by reference to the time when the award is signed by the Collector or delivered by him in his office; it must involve the consideration of the question as to when it was known to the party concerned either actually or constructively. If that be the true position then the literal and mechanical construction of the words ‘the date of the award’ occurring in the relevant section would not be appropriate.

6. There is yet another point which leads to the same conclusion. If the award is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect persons, it is essentially fair and just that the said decision should be communicated to the said party.



The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. *Thus considered the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the office of the Collector; it must involve the communication of the said award to the party concerned either actually or constructively.* If the award is pronounced in the presence of the party whose rights are affected by it it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly if without notice of the date of its pronouncement an award is pronounced and a party is not present the award can be said to be made when it is communicated to the party later. 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 ‘the date of the award’ 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. In our opinion, therefore, it would be unreasonable to construe the words ‘from the date of the Collector’s award’ used in the proviso to Section 18 in a literal or mechanical way.”

(emphasis supplied)

17. In *State of Punjab v. Qaisar Jehan Begum*, the principle laid down in *Harish Chandra case* was reiterated and it was held: (AIR p. 1607, para 5)

“5. ... It seems clear to us that the ratio of the decision in *Harish Chandra case* 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.”

(emphasis supplied)

18. In *Bhagwan Das v. State of U.P.* this Court interpreted Section 18 and laid down the following propositions: (SCC pp. 553-54, para 28)

“(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks from the date of the Collector’s award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under Section 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.

(iv) If a person interested receives a notice under Section 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit



of the provision for six months for making the application on the ground that the date of receipt of notice under Section 12(2) of the Act was the date of knowledge of the contents of the award.”

19. The Court in *Bhagwan Das* then held: (SCC p. 554, paras 30-31)

“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  258 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.”

* * * *

21. A careful reading of the averments contained in Para 2 of the application filed by the appellant under Section 18(1) shows that the notice issued by the Collector under Section 12(2) was served upon him on 22-2-1985. Thereafter, his advocate obtained certified copy of the award and filed application dated 8-4-1985 for making a reference to the Court. This implies that the copy of the award had not been sent to the appellant along with the notice and without that he could not have effectively made an application for seeking reference.

22. On behalf of the State Government, no evidence was produced before the Reference Court to show that the copy of the award was sent to the appellant along with the notice. Unfortunately, while deciding Issue 3, this aspect has been totally ignored by the Reference Court which mechanically concluded that the application filed on 8-4-1985 was beyond the time specified in Section 18(2)(b). The learned Single Judge of the High Court also committed serious error by approving the view taken by the Reference Court, albeit without considering the fact that the notice issued by the Collector under Section 12(2) was not accompanied by a copy of the award which was essential for effective exercise of right vested in the appellant to seek reference under Section 18(1).

15. The Supreme Court in the case of **Vijay MahadeoraoKubadeVs State of Maharashtra** reported in (2018) 8 SCC 266 has also relied upon the judgment passed in the case of **PremjiNathu (Supra)**.

16. Thus, it is clear that no notice under Section 12(2) of Land Acquisition Act was ever served upon the respondent and no copy of the award was ever supplied to the respondent, therefore, a specific pleading was made by the respondent, that when he came to know about passing of award, then on 14-7-2014, he filed an application for supply of certified copy and certified copy was supplied on 1-8-2014



and according to the record, the application under Section 18 of Land Acquisition Act was filed before the LAO on 23-8-2014 and as per endorsement made on the application, the Collector directed for taking action on 22-12-2014.

17. Now the only question for consideration is that whether application was filed within a period of six months from the date of the Collector's award or not?

18. The moot question for consideration is that whether narrow interpretation is 4 to be given to the words "from the date of the Collector's award or the date of knowledge of award would also mean from the date of the Collector's award?

19. The Supreme Court in the case of **Bhagwan Das v. State of U.P.**, reported in (2010) 3 SCC 545 has held as under :

25. Invariably, the land-loser is required to make an application under Section 18 of the Act to get the market value as compensation. The land-loser does not get a right to seek reference to the civil court unless the award is made. This means that he can make an application seeking reference only when he *knows* that an award has been made.

26. If the words six months from the "date of the Collector's award" should be literally interpreted as referring to the date of the award and not the date of knowledge of the award, it will lead to unjust and absurd results. For example, the Collector may choose to make an award but not to issue any notice under Section 12(2) of the Act, either due to negligence or oversight or due to any ulterior reasons. Or he may send a notice but may not bother to ensure that it is served on the landowner as required under Section 45 of the Act. If the words "date of the Collector's award" are literally interpreted, the effect would be that on the expiry of six months from the date of award, even though the claimant had no notice of the award, he would lose the right to seek a reference. That will lead to arbitrary and unreasonable discrimination between those who are notified of the award and those who are not notified of the award.

27. Unless the procedure under the Act is fair, reasonable and non-discriminatory, it will run the risk of being branded as being violative of Article 14 as also Article 300-A of the



Constitution of India. To avoid such consequences, the words “date of the Collector’s award” occurring in proviso (b) to Section 18 requires to be read as referring to the date of knowledge of the essential contents of the award, and not the actual date of the Collector’s award.

28. The following position therefore emerges from the interpretation of the proviso to Section 18 of the Act:

(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks from the date of the Collector’s award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under Section 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.

(iv) If a person interested receives a notice under Section 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice under Section 12(2) of the Act was the date of knowledge of the contents of the award.

29. A person who fails to make an application for reference within the time prescribed is not without remedy. It is open to him to make an application under Section 28-A of the Act, on the basis of an award of the court in respect of the other lands covered by the same acquisition notification, if there is an increase. Be that as it may.

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.

20. Thus the words from the date of the Collector's award would also include from the date of knowledge.

21. In the present case, it was specifically pleaded by the respondent, that after getting information of award, an application was filed on 14-7-2014 for supply of certified copy which was received on 1-4-2014 and as per the record, the application under Section 18 of Land Acquisition Act was filed before LAO on 23-8-2014 and on 22-12-2014, an endorsement was made by Collector to take necessary action. Thus, it is held that the application under Section 18 of Land Acquisition was filed within six months from the



date of knowledge of impugned award, therefore, the reference is held to be within the period of limitation.

Whether the respondent had accepted the compensation amount without protest?

22. It is submitted by Counsel for appellant, that since, the respondent had received the compensation amount, therefore, the reference under Section 18 of Land Acquisition Act was not maintainable.

23. Considered the submissions made by Counsel for the appellant.

24. The appellants in their written statement did not claim that the respondent has accepted the compensation amount without any protest. However, the respondent in para 10 of his cross-examination had admitted that the compensation amount was received under protest. Awadhesh Pratap Singh Yadav, who appeared as a departmental witness did not claim that the compensation amount was paid. Thus, it is clear that the respondent himself has admitted that compensation amount was received under protest. Therefore, now the next question for consideration is that if the land owner has accepted the compensation amount under protest, then whether a reference can be made under Section 18 of Land Acquisition Act or not?

25. Section 31 of Land Acquisition Act reads as under :

31. Payment of compensation or deposit of same in Court.—(1)

On making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the court to which a reference under Section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:



Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of ¹[appropriate Government], instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

26. Section 31(2) second proviso provides that no person who has received the amount other than under protest shall be entitled to make any application under Section 18. As already pointed out, the respondent, in para 10 of his cross-examination, that the amount of compensation was received by him under protest. The appellant has not controverted the said fact by producing documents. Awadhesh Pratap Singh Yadav who had appeared as a Departmental Witness neither refuted the said evidence of the respondent, nor filed any document to show that compensation amount was received by respondent without any protest.

27. The Supreme Court in the case of **Chandra Bhan v. Ghaziabad Development Authority**, reported in (2015) 15 SCC 343 has held as under :

11. The principal contention urged by the learned counsel for GDA was that since the compensation was accepted by the claimants without any protest, the reference was not maintainable. In our opinion, this contention is without any substance for several reasons. In *Ajit Singh v. State of Punjab* it



was held that since the appellants therein had filed an application for reference under Section 18 of the Act, it manifested their intention. Consequently, the protest against the award of the Collector was implied notwithstanding the acceptance of compensation.

12. Similarly, in *U.P. State Industrial Development Corpn.v. RishabhIspat Ltd.* it was held that (SCC p. 252, para 8) the question whether the compensation offered was accepted without protest is essentially a question of fact to be determined on the basis of the evidence on record. On facts, it was held in that decision that there was nothing to suggest that the claimants had accepted the compensation without protest.

13. Insofar as the present appeals are concerned, although the State/GDA did aver in its written statement that Chandra Bhan had accepted the compensation without any protest, no issue was framed in this regard, and, therefore, there was no question of any evidence having been led to show that the claim was accepted without any protest. That apart, SLAO gave his award on 7-12-1990 and Chandra Bhan had filed his objections to the award and sought a reference within the prescribed time by making an application under Section 18 of the Act on 11-1-1991. His conduct clearly shows that the award passed by SLAO was not accepted without protest.

14. Additionally, we are of the opinion that in cases where a large number of claimants are involved, there will always be a few claimants who may accept the award passed by the Collector. If they are precluded from making a reference for enhancement of compensation, it could lead to an anomalous situation where out of very large number of landowners, some of them, located in scattered pockets would be entitled to the compensation only as awarded by the Collector while some of them in other scattered pockets would be entitled to claim enhancement of compensation. There would, therefore, be two distinct class of landowners similarly located and placed but receiving different amounts of compensation for the acquisition of the same land. Surely, this cannot be the intention of Section 18 of the Act.



15. In the impugned judgment and order the High Court has laid emphasis on the fact that since the claimants had accepted the compensation awarded by SLAO without protest, the reference under Section 18 of the Act was not maintainable. As we have found on facts, this is incorrect and the judgment and order passed by the High Court is, to this extent, unsustainable.

16. The learned counsel for the State/GDA relied upon *Ashwani Kumar Dhingra v. State of Punjab* to contend that only a person who has accepted the compensation under protest is entitled to ask for a reference. The decision relied upon does not advance the case of the learned counsel. That was a case decided on its own facts pertaining to an individual in which one member of the family was satisfied with the compensation awarded to him in respect of his parcel of land and other members of the family were not and had accepted the compensation under protest. The appellant in the cited case sought to take advantage of the protest by other members of his family. This Court, in that context, referred to Section 18 of the Act and held that a person interested, in order to enable him to seek the remedy of reference can do so if he does not accept the award made by the Collector. That was also a case in which only an individual was affected and not a large number of landowners.

17. The learned counsel also submitted that the protest letter of Chandra Bhan that has been filed in this Court as a part of the paper book does not contain any date, thereby implying that the protest letter was not genuine. We cannot entertain this submission since it involves a decision on a fact that was not considered either by the Reference Court or by the High Court. However, we may only observe that in the written statement filed by the State/GDA it has not been stated anywhere when the compensation was accepted by Chandra Bhan (without protest) and the quantum thereof. On the contrary, a rather general averment has been made to the following effect:

“That the claimant(s) has/have accepted the award and has/have received the amount of compensation without protest as such the reference is legally not maintainable and is liable to be dismissed.”



18. In the absence of any definitive facts having been pleaded by the State/GDA, it is difficult to come to the conclusion that Chandra Bhan and the other claimants had accepted the compensation without protest.

28. Since, the evidence of respondent has remained unrebutted that he had received the compensation amount under protest, therefore, this Court is of considered opinion, that the reference was maintainable.

29. No other argument was advanced by Counsel for the State.

30. Accordingly, it is held that no illegality was committed by the reference court by holding that not only the reference was maintainable, but it was not barred by time.

31. It was informed by the Counsel for the parties, that the Land Owners have also challenged the award on the question of quantum of compensation.

32. Therefore, by keeping the question of quantum of compensation open, the award dated 13.07.2020 passed by Additional Judge to the Court of First Additional District Judge, Gohad, District Bhind in Land Acquisition MJC Case No. 16 of 2015 is hereby affirmed. The appeal filed by the State/Appellants is hereby **Dismissed**.

33. **Office is directed to keep the record of the Reference Court in the Appeal filed by land owner.**

34. **No order as to costs.”**

6. It is next contended by Counsel for Appellant is that the LAO had properly ascertained the market value of the land , but the reference Court has relied upon the guidelines issued by the Collector for the purposes of collection of stamp duty, therefore, illegality has been committed by the Reference Court.

7. Considered the submission made by Counsel for the Appellant

8. The Supreme Court in the case of **Lal Chand Vs. Union of India** reported in **AIR 2010 SC 170** has held as under :

Whether the circle rates/guideline value rates can be relied upon to determine the market value?



28. The appellant relied upon the Notification dated 21-1-1981 issued by the Land Division of the Government of India, Ministry of Works and Housing, notifying the schedule of market rates of land in different parts of Delhi and various outlying areas—showing the minimum rates at Rs 400 per square yard for residential and Rs 800 per square yard for non-residential plots. The question is whether the same could be relied upon for determination of market value in regard to land acquisition.

29. When the matter came up before this Court in the earlier round, the counsel for the appellant had conceded that such rates could not form the basis for determining the market value of the acquired lands. In spite of it, the learned counsel for the appellant submitted before us that though the said circle rates cannot be the basis for determining the market value, it may be taken note of as one of the relevant pieces of evidence indicative of the market value.

30. There is some confusion as to whether such basic rates/guideline value/minimum registration value rates could form the basis for determining the market value.

31. This Court in *Jawajee Nagnatham v. Revenue Divisional Officer* and several cases following it, including *Land Acquisition Officer v. Jasti Rohini*, *U.P. Jal Nigam v. Kalra Properties (P) Ltd.* and *Krishi Utpadan Mandi Samiti v. Bipin Kumar* held that market value under Section 23 of the LA Act cannot be fixed on the basis of the rates mentioned in the basic valuation registers maintained for the purpose of detection of undervaluation and collection of proper stamp duty.

32. In *Jawajee Nagnatham* the landowners had appealed to the Andhra Pradesh High Court against the order of the Reference Court, claiming increase, relying on the market value entered in the basic valuation register maintained by the Revenue Authorities under the Stamp Act, 1899. The High Court rejected the claim based on the basic valuation register, as such register had no evidentiary value or statutory basis.

33. In appeals by the landowners, this Court in *Jawajee Nagnatham case* held that the basic valuation register was maintained for the purpose of collecting stamp duty under Section 47-A of the Stamp Act, 1899 (as amended in Andhra Pradesh); that Section 47-A



conferred no express power to the Government to determine the market value of the lands prevailing in a particular area, village, block, district or region and to maintain basic valuation register for levy of stamp duty in regard to instruments presented for registration; that there was no other statutory provision or rule having statutory force providing for maintaining such valuation register; and therefore, such register prepared and maintained for the purpose of collecting stamp duty had no statutory base or force and cannot form the basis to determine the market value of any acquired land under Section 23 of the LA Act.

34. *Jasti Rohini* also arose from Andhra Pradesh and followed *Jawajee Nagnatham* and held that the basic valuation register had no statutory basis.

35. The case of *U.P. Jal Nigam* arose from Uttar Pradesh. In that case, the landowner filed a writ petition seeking a direction to U.P. Jal Nigam to pay compensation in regard to lands acquired on the basis of market value assessed by the Collector, Lucknow. The High Court allowed the petition and directed the U.P. Jal Nigam to pay compensation at the rate determined by the Collector, on the basis of the basic valuation circulars issued for the purposes of stamp duty.

36. This Court in *U.P. Jal Nigam case* reversed the decision of the High Court following its earlier decision in *Jawajee Nagnatham* and held that the Collector committed an error in determining the market value on the basis of basic valuation circulars.

37. *Jawajee Nagnatham* was again followed in *Bipin Kumar* which is another case from Uttar Pradesh.

38. All the abovementioned four decisions rejected the value entered in the basic valuation registers, on the ground that they had no statutory basis having regard to the provisions of the stamp law applicable in the respective States (Andhra Pradesh and Uttar Pradesh) and cannot be the basis for determination of market value under Section 23 of the LA Act.

39. There is also another set of decisions considering if such circle rates could be considered as *prima facie* basis, for the purposes of ascertaining the market value and determining whether there was any undervaluation of the instrument for the purposes of stamp duty, which is a revenue collection exercise. We may refer to one of those



cases, that is, *Ramesh Chand Bansal v. District Magistrate/Collector* wherein this Court held: (SCC pp. 67-68, para 5)

“5. ... Reading Section 47-A with the aforesaid Rule 340-A it is clear that the circle rate fixed by the Collector is not final but is only a prima facie determination of rate of the area concerned only to give guidance to the registering authority to test prima facie whether the instrument has properly described the value of the property. The circle rate under this rule is neither final for the authority nor to the one subjected to pay the stamp duty. So far sub-sections (1) and (2) are concerned they are very limited in their application as they only direct the registering authority to refer to the Collector for determination in case the property is undervalued in such instrument. The circle rate does not take away the right of such person to show that the property in question is correctly valued as he gets an opportunity in case of undervaluation to prove it before the Collector after reference is made.”

40. In *R. Sai Bharathi v. J. Jayalalitha* while examining the issue in the context of a case relating to disproportionate assets this Court held: (SCC pp. 40-41, paras 22 & 24)

“22. ... The guideline value is a rate fixed by authorities under the Stamp Act for purposes of determining the true market value of the property disclosed in an instrument requiring payment of stamp duty. Thus the guideline value fixed is not final but only a prima facie rate prevailing in an area. It is open to the registering authority as well as the person seeking registration to prove the actual market value of property. The authorities cannot regard the guideline valuation as the last word on the subject of market value. ...

* * *

24. This scheme of the enactment and the Rules contemplate that guideline value will only afford a prima facie basis to ascertain the true or correct market value, undue emphasis on the guideline value without reference to the setting in which it is to be viewed will obscure the issue for consideration. It is clear, therefore, that guideline value is not sacrosanct as urged on behalf of the appellants, but only a factor to be taken note of, if at all available in respect of an area in which the property transferred lies.”



41. It should however be noted that as contrasted from the assessment of market value contained in non-statutory basic valuation registers, the position may be different, where the guideline market values are determined by Expert Committees constituted under the State stamp law, by following the detailed procedure laid down under the relevant Rules, and are published in the State Gazette. Such State Stamp Acts and the Rules thereunder, provide for scientific and methodical assessment of market value in different areas by Expert Committees.

42. These statutes provide that such Expert Committees will be constituted with officers from the Department of Revenue, Public Works, Survey & Settlement, Local Authority and an expert in the field of valuation of properties, with the Sub-Registrar of the sub-registration district as the Member-Secretary. They also provide for different methods of valuation for lands, plots, houses and other buildings. They require determination of the market value of agricultural lands by classifying them with reference to soil, rate of revenue assessment, value of lands in the vicinity and locality, nature of crop yield for a specified number of years, and situation (with reference to roads, markets, etc.).

43. The rates assessed by the Committee are required to be published inviting objections/suggestions from the members of the public. After considering such objections/suggestions, the final rates are published in the gazette. Such published rates are revised and updated periodically. When the guideline market values, that is, minimum rates for registration of properties, are so evaluated and determined by the Expert Committees as per statutory procedure, there is no reason why such rates should not be a relevant piece of evidence for determination of market value.

44. One of the recognised methods for determination of market value is with reference to the opinion of experts. The estimation of market value by such statutorily constituted Expert Committees, as expert evidence can therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We, however, hasten to add that the guideline market value can be a



relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either streetwise, or roadwise, or areawise, or villagewise) and finalised after inviting objections and published in the gazette. Be that as it may.

45. We have referred to this aspect only to show that there are different categories of basic valuation registers in different States and what is stated with reference to the stamp law in Andhra Pradesh or Uttar Pradesh, may not apply with reference to other States where State stamp laws have prescribed the procedure for determination of market value, referred to above.

9. It is not the case of the Appellant that the Collector's guidelines were not issued in accordance with law. Thus in absence of challenge to the correctness of the Collector's guidelines by the State, this Court is of the considered opinion, that the Collector's guidelines issued by the State Authority has been rightly relied upon by the Reference Court.

10. No other argument is advanced by the Counsel for the Appellant.

11. *Ex consequenti*, Award dated 09/09/2021 passed by Eleventh District Judge, Gwalior in MJC (Land Acquisition) No.205/2018 is hereby **affirmed** and the appeal filed by appellants/State is hereby **dismissed** in the light of terms and conditions of the judgment passed in the case of **Lokendra Singh (supra)** as well as the observation made in respect of application of Collector guidelines.

(G.S. Ahluwalia)
Judge

PjS/-