

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 19565/2015

- 1. Abdul Aziz
- 2. Abdul Latif
- 3. Abdul Majid
- 4. Abdul Hamid
- 5. Abdul Wahid

Legal Heirs of Pirbaksh @ Piru Khan

- 6. Ehsaan son of Late Shri Nanhu Khan
- 7. Zakir son of Late Shri Nanhu Khan
- 8. Sakir son of Late Shri Nanhu Khan
- 9. Zafar son of Late Shri Nanhu Khan

All R/o Village Chaksu, Tehsil Chaksu, District Jaipur

-----Petitioners

Versus

- 1. Regional Manager Indian Oil Corporation, Chaksu, District Jaipur.
- 2. State of Rajasthan, Through Deputy Secretary, Food & Supplies Department, Secretariat, Jaipur
- 3. Land Acquisition Officer (Sub-Divisional Officer) South, Jaipur

-----Respondents

For Petitioner(s)	: Mr. B.L. Sharma Mr. Bhanu Prakash Verma
For Respondent(s)	: Ms. Alisha Chopra Ms. Annika Anna for Ms. Suruchi Kasliwal

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

Date of hearing and conclusion of arguments	11.02.2026
Date on which the judgment was reserved	11.02.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	17.02.2026

1. The present writ petition has been filed assailing the order dated 04.03.2015, passed by learned Senior Civil Judge and Chief Judicial Magistrate, Jaipur District, Jaipur, in Reference No. 1/2001, whereby the application preferred by the applicants-petitioners under Order 22 Rule 3 CPC, was rejected.
2. Facts in a nutshell are that the petitioners, predecessor namely Nanhu Khan and Peerbux were *khatedar* tenants of an ancestral agricultural land bearing Khasra Nos. 1236, 1237 and 1238, ad-measuring 1 Bigha 6 Biswa, situated at Village Chaksu, District Jaipur. The said land was acquired in the year 1968 for construction of a crude oil tank by the Indian Oil Corporation under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894').
3. Being dissatisfied with the compensation awarded by the Land Acquisition Officer, pertaining to the acquisition, the predecessor namely Nanhu Khan and Peerbux filed a reference under Section 18 of the Act of 1894, which remained pending adjudication before the learned Reference Court.
4. During the pendency of the reference proceedings, petitioner Nanhu Khan expired on 03.09.2009. Thus, an application under Order 22 Rule 3 CPC for substitution of legal representatives was filed. The said application was allowed and the legal representatives were taken on record.
5. Thereafter, Peerbux also expired on 05.07.2012. Due to inadvertence and oversight on the part of the learned counsel, an application for bringing on record the legal representatives of deceased Peerbux was not filed within time. The application under

Order 22 Rule 3 CPC for substitution of legal representatives was eventually filed on 02.01.2014, along with the death certificate.

6. Vide order dated 04.03.2015, the learned Reference Court dismissed the application under Order 22 Rule 3 CPC, solely on the ground of delay in filing the same.

7. Aggrieved by the said order 04.03.2015, the present writ petition has been preferred.

8. It is pertinent to note that during the alleged period of delay, the petitioners had completed their evidence in the reference proceedings.

9. Learned counsel for the petitioners submitted that the provisions of limitation period are relaxed in reference proceedings under Section 18 of the Act of 1894. Moreover, the reference proceedings can neither be abated for want of non-appearance, nor can it be dismissed for default. Learned counsel further submitted that the delay in bringing the legal representatives on record thus, does not result in abatement of the reference proceedings.

10. Learned counsel for the petitioners contended that in land acquisition reference proceedings, strict application of provisions of Limitation Act to ordinary civil suits is not warranted. Moreover, assuming limitation applies, the delay is liable to be condoned in the interest of justice and the learned Reference Court was expected to consider the sufficient cause behind the delay.

11. Learned counsel for the petitioner submitted that the litigant should not suffer for the inadvertence of the counsel and the learned Reference Court should exercise the judicial discretion

liberally. Hence, learned counsel for the petitioners prayed that the order dated 04.03.2015 be quashed and set aside and the application under Order 22 Rule 3 CPC be allowed.

12. Learned counsel for the petitioners relied on the following judgments to buttress his arguments:

(i) ***Khazan Singh (Dead) by L.Rs vs Union of India***; AIR 2002 SC 726.

(ii) ***Bhadar Munda & Anr. vs Dhuchua Oraon***; AIR 1970 Patna 209.

(iii) ***Abdul Karim s/o Abdul Hakim & Anr. vs State of Madhya Pradesh through the Collector, Bilaspur***; AIR 1964 Madhya Pradesh 171.

13. Per contra, learned counsel for the respondent vehemently opposed the present writ petition and submitted that the learned Reference Court rightly treated the proceedings as having abated qua the deceased petitioner. Moreover, in absence of a formal application for condonation of delay under Section 5 of the Limitation Act, 1963, the learned Reference Court had no jurisdiction to entertain the delayed substitution application.

14. Learned counsel for the respondent further contended that Section 53 of the Act of 1894 expressly provides that the provisions of CPC apply to the proceedings before the learned Reference Court. Therefore, a reference under Section 18 of the Act of 1894 is governed by procedural provisions of CPC, unless inconsistent. Hence, Order 22 CPC squarely applies to the substitution of legal representative. Thus, learned counsel for the respondent prayed that the present writ petition is liable to be dismissed and the order dated 04.03.2015 passed by the learned Reference Court be upheld.

15. Learned counsel for the respondent relied upon the following judgments to support her case:

(i) **Addl. Spl. Land Acquisition Officer, Bangalore vs Thakoredas, Major & Ors.;** (1997) 11 SCC 412.

(ii) **Patel Kashuben Narottambhai & Ors. vs Special Land Acquisition Officer and Ors.;** (2009) 2 GLR 1421.

16. Heard learned counsel for the parties and perused the material available on record.

17. Both parties were unaware of the latest status of the reference proceedings.

18. The controversy in a narrow compass in the present writ petition is that whether an application seeking to bring the legal representatives of a deceased petitioner on record in reference proceedings under Section 18 of the Act of 1894, can be rejected solely on the ground of limitation.

19. At the outset, it is necessary to appreciate the nature of proceedings under Section 18 of the Act of 1894. Such proceedings are not in the nature of ordinary civil suits instituted by presentation of a plaint; rather, they arise upon a statutory reference made by the Collector to the Civil Court for determination of just compensation. Once a valid reference is made, the Court is under a statutory obligation to adjudicate the same and render an award under Section 26 of the Act of 1894. The jurisdiction of the Court thus, does not depend upon the participation of the petitioner alone, but flows from the reference itself.

20. It is well settled principle of law that the provisions of CPC apply to proceedings under the Act of 1894, only insofar as they are not inconsistent with the scheme and object of the Act. The rigid application of Order 22 of CPC, which contemplates abatement of proceedings for failure to substitute legal representatives within the prescribed time, has been consistently held to be inconsistent with the very nature of reference proceedings.

21. A reference cannot be dismissed for default, nor can it abate, as the Court is duty-bound to determine the compensation payable for the acquired land irrespective of the presence or absence of the petitioner. Furthermore, once a reference under Section 18 of the Act of 1894 is made, the Court must proceed to answer it, even if the person at whose instance the reference was sought does not appear or fails to adduce evidence. Consequently, the rejection of an application to bring legal representatives on record on the ground of limitation defeats the statutory mandate requiring the Court to effectively adjudicate the reference.

22. Additionally, the Hon'ble Apex Court in the case of **Sardar Amarjit Singh Kalra (Dead) by LRs Vs. Pramod Gupta (Smt.) (Dead) by LRs** reported in (2003) 3 SCC 272, has emphasized a liberal approach to procedural laws to ensure justice and viewed the same handmaid of justice and not to hamper the cause of justice. The relevant portion of the judgment is reproduced under as:

"26. Laws of procedure are meant to regulate effectively, assist and aid the object of doing

substantial and real justice and not to foreclose even an adjudication on merits of substantial rights to citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice. A careful reading of the provisions contained in Order 22 of CPC as well as the subsequent amendments thereto would lend credit and support to the view that they were devised to ensure their continuation and culmination into an effective adjudication and not to retard the further progress of the proceedings and thereby non-suit the others similarly placed as long as their distinct and independent rights to property or any claim remain in fact and not lost forever due to the death of one or the other in the proceedings. The provisions contained in Order 22 are not to be construed as a rigid matter of principle but must ever be viewed as a flexible tool of convenience in the administration of justice. The fact that the Khata was said to be joint is of no relevance, as long as each one of them had their own independent, distinct and separate shares in the property as found separately indicated in Jamabandhi itself of the shares of each of them distinctly. We are also of the view that the High Court should have, on the very perception it had on the question of abatement, allowed the applications for impleadment even dehors the cause for the delay in filing the applications keeping in view the serious manner it would otherwise jeopardize an effective adjudication on merits, the rights of other remaining appellants for no fault of them. Interest of justice would have been better served had the High Court adopted a positive and constructive approach than merely scuttle the whole process to foreclose an adjudication of the claims of others on merits. The rejection by the High

Court of the applications to set aside abatement, condonation and bringing on record the legal representatives does not appear, on the peculiar nature of the case, to be a just or reasonable exercise of the Court's power or in conformity with the avowed object of Court to do real, effective and substantial justice. Viewed in the light of the fact that each one of the appellants had an independent and distinct right of his own not inter-dependant upon the one or the other of the appellants, the dismissal of the appeals by the High Court in their entirety does not constitute a sound, reasonable or just and proper exercise of its powers. Even if it has to be viewed that they had a common interest, then the interests of justice would require the remaining other appellants being allowed to pursue the appeals for the benefit of those others, who are not before the Court also and not stultify the proceedings as a whole and non-suit the others, as well."

23. Thus, keeping in view the settled position of law with regard to the liberal consideration of the provisions of CPC in cases of reference proceedings. The objective of the proceeding being the determination of fair compensation, a hyper-technical approach founded on limitation would result in substantial injustice and frustrate the beneficial character of the legislation.

24. In the present case, the Court below rejected the petitioner's application solely on the ground that it was filed beyond the prescribed period, without considering whether the principles governing abatement and limitation were at all attracted to a reference proceeding.

25. So far as the judgments relied upon by learned counsel for the respondent are concerned, the case of **Patel Kashuben Narottambhai** (supra), do not advance the case of the respondent in any manner as in the said matter, the application for condonation of delay in bringing the legal representatives on record was allowed by the High Court of Gujarat, while taking a liberal interpretation of the provisions of CPC.

26. Further, in the case of **Addl. Spl. Land Acquisition Officer, Bangalore** (supra), the Hon'ble Apex Court was dealing with the issue of limitation prescribed for making application to the Civil Court for a direction to the Deputy Commissioner to make the reference. Thus, the said case does not cover the issue pertaining to application of limitation period on an application filed under Order XXII Rule 3 CPC as involved in the present controversy.

27. In view of the above discussion, this Court is of the firm opinion that the reference proceedings can neither be abated nor can be dismissed for default. The Court below ought to have permitted the substitution so as to enable a complete and effective adjudication of the reference on merits.

28. Accordingly, the writ petition deserves to be **allowed**. The impugned order dated 04.03.2015, passed by learned Senior Civil Judge and Chief Judicial Magistrate, Jaipur District, Jaipur, in Reference No. 1/2001, is hereby quashed and set aside. Consequently, the application for bringing the legal representatives on record stands allowed. The learned Reference Court is directed to proceed with the matter in accordance with

law and is expected to decide the reference as expeditiously as possible.

29. Since both the parties were not aware about the status of the reference proceedings on the date of conclusion of hearing therefore, the above direction is applicable only if the proceedings are pending and if the same have been concluded, then this order will not come into effect.

30. No order as to costs.

31. Pending application(s), if any, stand disposed of.

(BIPIN GUPTA),J

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