JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:
Mr. Justice Omar Sial
Mr. Justice Muhammad Humayon Khan

First Appeal No. D-35 of 2017

Province of Sindh and another **...Appellants**

Versus

Land Acquisition Officer (B&R),
Hyderabad and another **...Respondents**

For the Appellants	:	Mr. Allah Bachayo Soomro, Additional Advocate General Sindh
For the Respondents	:	Nemo
Date of Hearing	:	27.10.2026
Date of Judgment	:	03.11.2026

JUDGMENT

Muhammad Humayon Khan, J.: This appeal under s. 54 of the Land Acquisition Act, 1894 ("1894 Act") has arisen out of the acquisition of an area of 03-10 acres owned by the Respondent No. 2 in Deh Katado, Taluka Tando Bago, District Badin ("acquired land"). The proceedings were initiated and conducted in a routine manner at the instance of the Executive Engineer, Provincial Highways Division, Badin ("acquiring department") by way of notification under s. 4 of the 1894 Act followed by a declaration under s. 6 (and 17). Subsequently, notices under s. 9 of the 1894 Act were issued and the Respondent No. 2 filed her objections claiming a market value of Rs. 600,000/- along with statutory benefits and amounts. The Respondent No. 1 passed Award No. LAO/169 of 2016 dated 25.03.2016 ("Award") by which he settled a sum of Rs. 560,000/- per acre as market value along with solatium under s. 23(2) and interest

under s. 34 of the 1894 Act as well as damages for the destruction of bubal and uculum trees at Rs. 19,300/- altogether, making the entire award at Rs. 2,865,780/-.

2. Against the Award, the Appellant No. 2 (Executive Engineer) filed a reference under s. 18(3) of the 1894 Act, being Land Acquisition Reference No. 01 of 2016, before the learned District Judge, Badin, and which was transferred to the learned Additional District Judge-II, Badin ("Referee Judge"). The Respondent No. 2 contested by filing her written objections and stating that the reference was time-barred under s. 18(3) of the 1894 Act and therefore not maintainable. By Order dated 31.07.2017, the learned Referee Judge held that the reference was in fact time barred and dismissed it on the grounds of maintainability. The said order has now been challenged before this Court by the Appellants.

3. We have heard the learned Additional Advocate General Sindh and perused the record of the case. His main arguments were on similar lines as the grounds of appeal and which were that the impugned order is illegal and erroneous both on facts and law; that under ss. 9 to 11 of the 1894 Act, all parties are mandatorily required to be heard before making any award; that the award was announced without giving any opportunity of hearing to the Appellants and as such the award is in violation of the principle of *audi alteram partum*; that the compensation awarded by the Respondent No. 1 is exorbitant and extortionate; that even after passing the award no notice under s. 12(2) of the 1894 Act was served upon the Appellants which is mandatory and as such the award was not in the knowledge of the Appellants; and that the Land Acquisition Officer and the private parties have deliberately tried to

conceal material facts from the Appellants in order to cover limitation. He finally prayed for the appeal to be allowed.

4. With all due respect, we are not convinced by the arguments advanced at the bar. Recently, a division bench of this Court comprising Riazat Ali Sahar J and one of us (Muhammad Humayon Khan J) had occasion to discuss the scope and application of notices under s. 12(2) of the 1894 Act in *Farman Ali and others v Assistant Commissioner/Land Acquisition Officer, Khipro and others* 2026 SHC MPK 1910 (First Appeals Nos. D-06 to 09 of 2024; Judgment dated 08.10.2026; unreported). The requirement under s. 12(2) was dealt with in paras 21 and 22 of the Judgment and it was held as follows (emphasis added):

> 21. It will be seen that the requirement to give notice of a land acquisition award is in relation to "such of the persons interested as are not present personally…when the award is made" (emphasis added). The language of s. 12(2) is plain and unambiguous in nature and as such it has to be given full effect: Messrs Kassim Textile Mills (Pvt.) Limited v Commissioner Inland Revenue Karachi 2025 SCMR 1248 (para 13) and Baz Muhammad Kakar and others v Federation of Pakistan through Ministry of Law and Justice and others PLD 2012 SC 923 (5 judges; para 50) and Syed Mukhtar Hussain Shah v Mst. Saba Imtiaz and others PLD 2011 SC 260 (para 8). In our view, if we were to understand s. 12(2) as requiring the awards to be separately communicated to the Government or the concerned acquiring department/agency, that would be against the plain language of the provision. *We therefore hold that s. 12(2) of the 1894 Act provides for notice of intimation of award to be given only to those persons interested (as defined in s. 3(b)) who are not present; it does not include the Government or the acquiring agency and as such there is no duty on the Collector/Land Acquisition Officer to issue proper notice under s. 12(2) to them. He or she may reasonably want to provide copies of the awards to the Government department concerned, but there is no obligation, and even if no notice, let alone one under s. 12(2), is issued in writing and merely the award is communicated (as was done presently and admitted by Letter dated 24.03.2020), that would be an extraordinary grace for the Government department and/or acquiring agency and not a right.*
>
> 22. This is for two reasons, the first being substantive and the second being grounded in commonsense and legislative

wisdom. The first is that if the legislature had intended for notice to be given to the Government of a land acquisition award, it would not have left such an obvious lacuna in s. 12(2) of the 1894 Act. It did not do so because there was no such intention and we would not be assuming or introducing such an intention without intruding in legislative function. The second and perhaps the more important reason has to do with the entire acquisition process and may be stated as follows. The arguments of lack of knowledge or the supposed requirement of notice all have this misconception at heart that, somehow, the Government (and through it the acquiring department) and the Land Acquisition Officer/Collector are distinct entities altogether. We do not disagree or deny that the Land Acquisition Officer has a certain independent and neutral function under the scheme of the 1894 Act. However, the fact of the matter is that a land acquisition is not initiated at the whims and wishes of the Collector or Land Acquisition Officer. It is initiated by and at the instance of the Government through the process usually under ss. 4, 6, 9 and 11 of the 1894 Act. Consequently, in the acquisition process the Government and the acquiring department are deeply involved from the inception and it is highly improbable and conceivably even impossible for the Government not to have knowledge of acquisition proceedings and awards the process of which it has itself triggered. Indeed, the Land Acquisition Officer or Collector is an official within the administrative hierarchy of the Government itself and acts at the Government's instance and behest though essentially in an impartial and neutral manner. Thus, in Assistant Commissioner and Land Acquisition Collector, Badin through Additional Secretary (Revenue), Board of Revenue Sindh v Haji Abdul Shakoor through Legal Heirs and another 1996 CLC 2002, this Court has observed as follows (emphasis added):

> "In view of the above discussion, the logical conclusion that may be drawn is that an appeal under section 54 could be preferred by the Government or the Land Acquisition Collector; and that the Advocate-General Sindh being duly authorised under the above referred Rules is competent to sign the memorandum of appeal on behalf of the Provincial Government or Government Officer. The Land Acquisition Officer acts as an agent of the Government and merely because he does not act as such Collector he does not lose his status as that of Government Officer. In the case of Bhajan Lal and others v. Secretary of State (AIR 1932 Allahabad 568) a Special Bench of three Judges headed by Suleman, CJ, has observed that 'a Collector throughout the proceedings resulting in an award acts as Administrative Officer and not as a Judicial Officer. He is not suddenly converted from an Administrative Officer into judicial one for the purpose of making or refusing to make reference under section 18 and he continues to act as an agent of the Government in an administrative capacity throughout."

To put it in simple words, the Government cannot be reasonably unaware of acquisition proceedings and awards which it has

> *itself initiated. That is probably why the Government does not need to be specially notified under s. 12(2) of the 1894 Act, and quite sensibly so. In our view, the Government and the acquiring department/agency are the direct beneficiaries and initiators of acquisition proceedings and they ought to be assumed as having knowledge of the proceedings they have themselves initiated. If they do, they do so as a matter of duty. If they do not, that shall be a case of bureaucratic failure, gross negligence and of lack of coordination within the internal hierarchy of the Government for which the persons interested in the awards ought not to be burdened or prejudiced.*"

Even the learned Referee Judge has made similar observations in his Order which are as follows:

> "…The explanation furnished by the plaintiff is not satisfactory. It seems to be very strange, that in whose favor the land was acquired remained unaware about its entire proceedings till finalizing of award. Moreover, the copy of award itself is explanatory that same was sent to the plaintiff as well as Chief Engineer Highways Hyderabad for information. Reliance is placed on 1989 MLD 441."

5. Under s. 18(3) of the 1894 Act, the learned Referee Judge was fully competent to examine the reference at the preliminary stage to see whether the Appellant No. 2 had a *prima facie* case, and upon a perusal of the reference he rightly found that the award had been passed and announced on 25.03.2016, whereas the Executive Engineer had himself filed written objections before the Land Acquisition Officer (who for all intents and purposes was the wrong forum but we do not presently touch that aspect of the matter) bearing No. HC/G-148/ 1170/2016 dated 07.10.2016 (p. 33 of the R&Ps of the Referee Court). Consequently, in any case the Appellant No. 2 was aware of the award by 07.10.2016; the reference was admittedly filed on 05.11.2016, which was almost one month thereafter. We are therefore of the considered view that the learned Referee Judge had arrived at the correct conclusion in holding that the reference was time-barred and we have no different conclusion to express. Since the reference was time barred, all other objections lost

significance as they could not have saved a reference that was otherwise time-barred.

6. For these reasons, this appeal is without merit and is hereby dismissed with no order as to costs.

JUDGE

JUDGE

Approved for reporting