



2025:DHC:1088-DB



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 21.02.2025

+ **W.P.(C) 16525/2024**

BALWAN SINGH AND ORS.

..... Petitioners

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr J.B. Mudgil, Advocate.

For the Respondents : Mr Sanjay K. Pathak, Standing Counsel with
Ms K.K. Kiran Pathak, Mr Sunil K. Jha and
Mr M.S. Akhtar, Advocates for R-1 and R-2.
Ms Smita Maan, Advocate.

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HON'BLE MR JUSTICE VIBHU BAKHRU

HON'BLE MR JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT

VIBHU BAKHRU, J.

1. The petitioners have filed the present petition impugning an order dated 16.08.2024 (hereafter *the impugned order*) passed by respondent no.2 (hereafter *LAC*), whereby the application preferred by the petitioners under Section 28A of the Land Acquisition Act, 1894 (hereafter *the LA Act*) was dismissed on the ground of limitation.

2. The petitioners also pray that directions be issued to the respondents to pay compensation to the petitioners at the rate of ₹26.6



lacs per acre (₹5,52,083.33 per bigha) along with interest as awarded by the Court of the learned Additional District Judge (ADJ) in terms of the order dated 11.11.2016.

3. The principal question that falls for consideration of this court is whether the application filed by the petitioners under Section 28A of the LA Act was barred by limitation.

BRIEF FACTS

4. The petitioners claim that they owned land/had interest in land (hereafter *the subject land*) located in the revenue estate of village Chhawala.

5. The Notification under Section 4 of the LA Act for acquisition of certain lands including the subject land in the revenue estate of village Chhawala, for public purposes namely construction of 100 meters wide road under the planned development of Delhi, was published on 07.04.2006.

6. The aforesaid Notification was followed by a declaration under Section 6 of the LA Act, which was published on 04.04.2007. Thereafter, an award dated 27.01.2009 [being Award No.11/2008-09/SW – hereafter *the Award*] was passed under Section 11 of the LA Act, in respect of certain lands including the subject land. The LAC determined the market value of the lands covered under the Award at ₹17,58,400/- per acre, which translates to ₹3,66,333.33 per bigha. Various land owners, who were dissatisfied with the compensation,



sought a reference under Section 18 of the LA Act for enhancement of compensation. The LAC forwarded the reference to the learned ADJ, Dwarka Courts for adjudication. Although the subject land was also covered under the Notification dated 07.04.2006 issued under Section 4 of the LA Act as well as the Award dated 27.01.2009, the petitioners did not seek any reference for enhancement of compensation at the material time.

7. The learned ADJ disposed of the reference in terms of an order dated 11.11.2016 enhancing the compensation to ₹26.5 lacs per acre, which translates to ₹5,52,083.33 per bigha.

8. The petitioners claim that the subject land is also similarly located and its market value is no different from the market value of the land owned by other land owners, which were covered under the Notification under Section 4 of the LA Act and the Award. Accordingly, the petitioners filed an application on 22.11.2019 under Section 28A(1) of the LA Act before the LAC. The same was dismissed by the impugned order.

CONTENTIONS ADVANCED ON BEHALF OF THE PETITIONERS

9. The learned counsel appearing for the petitioners contends that they had no knowledge of the order dated 11.11.2016 enhancing the compensation and therefore, were precluded from filing an application under Section 28A of the LA Act within the time prescribed. It is contended on behalf of the petitioners that the provisions of Section 28A



of the LA Act are in the nature of beneficial provisions, which are enacted to remove the inequality. Therefore, the same are required to be interpreted in a manner so as to advance the object of the legislation. The learned counsel referred to the decision of the Supreme Court in ***Union of India and Anr. v. Pradeep Kumari and Ors.***¹ in support of his contention. He also referred to the decision of the Supreme Court in ***Samiyathal v. Tehsildar***² and pointed out that in the said case, the Supreme Court had directed payment of enhanced compensation to even those persons who had not filed the special leave petition.

10. Additionally, the petitioners referred to the decision of the Division Bench of this court in ***Kalawati v. Union of India and Ors.***³ and pointed out that in the said case, this court had directed enhanced compensation to be paid to other persons interested notwithstanding that the said persons had not preferred any appeal. The learned counsel also referred to the decision in the case of ***Ram Phal v. Union of India and Anr.***⁴ and submitted that on the basic principle of equality, the petitioners were required to be treated on parity with the other owners of land covered under the same Award.

11. During the course of the proceedings, it was also contended that the expression “persons interested” as used in Sub-section (2) of Section 28A of the LA Act would take colour from the meaning of the said

¹ (1995) 2 SCC 736

² Civil Appeal No.5335-5336/2013 decided on 05.07.2013

³ 2004 (74) DRJ 515 (DB)

⁴ Neutral Citation No.: 2017:DHC:3834-DB



expression in Section 28A(1) of the LA Act. On the aforesaid basis, it was contended that the LAC was required to issue notice to all interested persons informing them of the decision of the order awarding enhanced compensation to land owners owning lands covered under the same Notification under Section 4 of the LA Act.

12. Mr Pathak, the learned counsel appearing for the LAC has countered the aforesaid submissions.

13. We also had the benefit of submissions advanced by Ms Smita Mann, learned *amicus curiae*, who was requested to assist this court. She referred to the decisions of the Supreme Court in *Union of India & Anr. v. Pradeep Kumari & Ors.*¹ and *State of Andhra Pradesh & Anr. v. Marri Venkaiah & Others*⁵ and submitted that the limitation period of three months is required to be reckoned from the date of the order on which the application is premised and not from the date of knowledge of that order. She also drew the attention of this court to the decision of the Supreme Court in *Banwari and Ors. v. Haryana State Industrial and Infrastructure Development Corporation (HSIIDC) and Another*⁶.

REASONS AND CONCLUSION

14. At the outset, it is relevant to set out the provisions of Section 28A of the Act. The same is reproduced below:

⁵ (2003) 7 SCC 280

⁶ Neutral Citation No.: 2024 INSC 951



“28A. Re-determination of the amount of compensation on the basis of the award of the Court. –

(1) where in an award under this part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, required that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.”



15. A plain reading of Section 28A(1) of the LA Act indicates that where the court allows an applicant an amount of compensation in excess of the amount, which is set out in the award made by the Collector under Section 11 of the LA Act, all other persons interested in lands that are covered by the notification under Section 4(1) of the LA Act and who are also aggrieved by the said award, are entitled to make an application within a period of three months from the date of the award made by the court, to seek redetermination of the compensation payable to them on the basis of the enhanced compensation awarded by the court.

16. The plain language of Section 28A(1) of the LA Act literally reads that an application under Section 28A(1) of the LA Act is required to be made within a period of three months from the date of the award of enhanced compensation by the court. The proviso to Section 28A(1) of the LA Act stipulates that the day on which the award is pronounced by the court and the time taken for obtaining a copy of the award from the court is excluded for computing the period of three months within which an application under Section 28A of the LA Act can be preferred.

17. In *Union of India and Anr. v. Pradeep Kumari and Ors.*¹, the Supreme Court had examined the provisions of Section 28A(1) of the LA Act and had explained that the time period of three months for making an application under Section 28A(1) of the LA Act is not necessarily required to be reckoned from the date of the first award made by the court. The Supreme Court had summarized the conditions



that are required to be satisfied for seeking redetermination of compensation under Section 28A(1) of the Act as under:

“10....If the said expression in Section 28-A(1) is thus construed, a person would be able to seek redetermination of the amount of compensation payable to him provided the following conditions are satisfied:

- (i) An award has been made by the court under Part III after the coming into force of Section 28-A;
- (ii) By the said award the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference;
- (iii) The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates;
- (iv) The person moving the application did not make an application to the Collector under Section 18;
- (v) The application is moved within three months from the date of the award on the basis of which the redetermination of amount of compensation is sought; and
- (vi) Only one application can be moved under Section 28-A for redetermination of compensation by an applicant.”

18. The question whether the period of limitation for filing an application under Section 28A(1) of the LA Act is required to be reckoned from the date of the award of the court or the date when the applicant acquires knowledge, is no longer *res integra*. In *State of*



*Andhra Pradesh and Anr. v. Marri Venkaiah and Ors.*⁵, the Supreme Court had framed the following question for its consideration:

“1....Whether the period of limitation for filing application under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”) begins to run from the date of passing of the award by the court in a reference filed by a landowner, other than the applicant, whose land was acquired by a common notification under Section 4 of the Act or from the date of the knowledge of the applicant of the passing of the award by the civil court.”

19. The Supreme Court had examined the provisions of Section 28A of the Act and had rejected the contention that the time to apply under Section 28A(1) of the LA Act would commence from the date of knowledge of the award passed by the court on which such an application is premised. The Supreme Court had also rejected the contention that provisions of Section 28A(1) of the LA Act are required to be construed in a liberal manner as Section 28A of the LA Act is a beneficial provision. Additionally, the Supreme Court had also rejected the contention that any separate notice was required to be given to the land owners in respect of an order passed by the court enhancing the compensation as determined by the award passed under Section 11 of the LA Act. The relevant extract of the said decision is set out below:

“7. Plain language of the aforesaid section would only mean that the period of limitation is *three months from the date of the award of the court*. It is also provided that in computing the period of three months, the day on which the award was pronounced and the time requisite



for obtaining the copy of the award is to be excluded. Therefore, the aforesaid provision crystallizes that application under Section 28-A is to be filed within three months from the date of the award by the court by only excluding the time requisite for obtaining the copy. Hence, it is difficult to infer further exclusion of time on the ground of acquisition of knowledge by the applicant.

8. Further, the judgment rendered by the High Court is contrary to the decision rendered by this Court in *Tota Ram v. State of U.P.* [(1997) 6 SCC 280] wherein this Court held that limitation begins to run from the date of the award and as per the proviso the time taken for obtaining the certified copy of the award and the decree is to be excluded in computing the period of three months. The Court held that in view of the express language the question of knowledge does not arise and, therefore, the plea of the petitioner that limitation of three months begins to start from the date of the knowledge is clearly unsustainable and cannot be accepted. Same view is expressed by this Court in *Union of India v. Mangatu Ram* [(1997) 6 SCC 59] and *Jose Antonio Cruz Dos R. Rodriguese v. Land Acquisition Collector* [(1996) 6 SCC 746].

9. However, the learned counsel for the respondents submitted that Section 28-A is a beneficial provision and that applicants being non-parties to the reference proceedings initiated by some other landowners, they would not have any knowledge of the date of the award or its contents, therefore, the interpretation given by the High Court to the provisions of Section 28-A of the Act does not call for any interference and, in any case, the question involved be referred to a larger Bench.

10. In our view, with regard to the first contention that Section 28-A is a beneficial provision, there cannot be any dispute. However, the advantage of the benefit



which is conferred is required to be taken within the stipulated time. A landowner may be poor or illiterate and because of that he might not have filed reference application but that would not mean that he could be negligent in not finding out whether other landowners have filed such applications. Whosoever wants to take advantage of the beneficial legislation has to be vigilant and has to take appropriate action within the prescribed time. He must at least be vigilant in making efforts to find out whether the other landowner has filed any reference application and if so, what is the result. If that is not done then the law cannot help him. Admittedly, in the present case, award enhancing the compensation was pronounced by the civil court by order dated 29-11-1984 and applications were filed on 27-11-1989 i.e. after a lapse of 5 years. In such case, as the applicant was having an opportunity of knowing the award and/or he was required to make efforts of knowing about such proceedings, he must be presumed to have had knowledge of the award. If the contention of the learned counsel for the respondents is accepted, it will create total vagueness and uncertainty as the landowners can claim that they have come to know of the award after a long lapse of time and, therefore, the application even though beyond time may be entertained. If such applications are entertained, there may not be any finality to the award and payment of compensation. Result may be that such proceedings may adversely affect where land is acquired by the Government for a project which is to be carried out by local bodies.

11. The learned counsel for the respondents relied upon the decision of this Court in *Raja Harish Chandra Raj Singh v. Dy. Land Acquisition Officer* [AIR 1961 SC 1500 : (1962) 1 SCR 676] which is approved by a three-Judge Bench in *State of Punjab v. Qaisar Jehan Begum* [AIR 1963 SC 1604 : (1964) 1 SCR 971]. In that case, the Court interpreted the proviso to Section 18 of the Act



and held that clause (a) of the proviso was not applicable in the said case because the person making the application was not present or was not represented before the Collector at the time when he made his award. The Court also held that notice from the Collector under Section 12(2) was also not issued, therefore, that part of clause (b) of the proviso would not be applicable. The Court, therefore, referred to the second part of the proviso which provides that such application can be made within six months from the date of the Collector's award. In the context of the scheme of Section 18 of the Act, the Court held that the award by the Land Acquisition Officer is an offer of market price by the State for purchase of the property. Hence, for the said offer, knowledge, actual or constructive, of the party affected by the award was an essential requirement of fair play and natural justice. Therefore, the second part of the proviso must mean the date when either the award was communicated to the party or was known by him either actually or constructively.

12. The aforesaid reasoning would not be applicable for interpretation of Section 28-A because there is no question of issuing notice to such an applicant as he is not a party to the reference proceeding before the court. The award passed by the court cannot be termed as an offer for market price for purchase of the land. There is no duty cast upon the court to issue notice to the landowners who have not initiated proceedings for enhancement of compensation by filing reference applications; maybe, that their lands are acquired by a common notification issued under Section 4 of the Act. As against this, under Section 18 it is the duty of the Collector to issue notice either under Section 12(2) of the Act at the time of passing of the award or in any case the date to be pronounced before passing of the award and if this is not done then the period prescribed for filing



application under Section 18 is six months from the date of the Collector's award.”

20. It is also relevant to refer the decision of the Full Bench of the Bombay High Court in *Shrikrishna s/o Sitaramji Fande and Ors. v. State of Maharashtra and Another*⁷. In that case, the following three questions were referred for consideration of the Full Bench of the Bombay High Court:

- “i) Whether under section 28-A is it, or not necessary for the interested person to file written application?
- ii) Whether the Collector can suo motu exercise powers under section 28-A in relation to all the plots of land acquired under the same notification, moment any interested person in relation to anyone of the plots of the land succeeds in getting enhancement of compensation in a reference under section 18 of the said Act?
- iii) Whether in a proceeding under section 28-A in relation to a particular plot of land, the Collector is duty bound to issue notices to all the persons whose plots of land are acquired under the same notification?”

21. For the purposes of the present petition, the third question is relevant. The Court had answered the said question in the following manner:

“**21.** Question No. 3 under reference is whether or not it is obligatory upon the Collector to issue notices to all the persons, whose lands are acquired under the same

⁷ 2007 SCC OnLine Bom 988



notification, irrespective of the fact whether such persons have filed an application under Section 28A of the Act or not. We may again refer to the language and the scheme underlying the provisions of section 28A. Sub-section (1) of section 28A requires a written application to be moved within three months from the date of the award praying for redetermination of the compensation. Provisions of sub-section (2) of Section 28A would come into play only when there is compliance of the provisions of sub-section (1). If an application under sub-section (1) is not moved it is difficult to understand as to how the prescribed procedure under sub-section (2) would come into play. The Collector is to exercise his power under sub-section (2) only upon receipt of an application under sub-section (1). This provision does not exhibit any ambiguity in its language and it stand to clear and prudent interpretation. The notice, the Collector is required to give, is to 'all the persons interested' and to give them reasonable opportunity of being heard before he makes his award re-determining the compensation payable to the applicants. The expression 'persons interested' cannot be read beyond its scope. Interested persons would be such who have interest in one way or the other in the acquired land, which is the subject matter of the Application, filed under section 28A(1) of the Act. It appears to us that it is neither permissible nor possible to give meaning to this expression that it would deem to include all the land owners, whose lands have been acquired under the same notification, though they have taken benefit of the provisions of section 18 or who have not filed application and do not satisfy the conditions stated in sub-section (1). The object of section 28A appears to be to provide another opportunity to such kind of claimants who have not availed of the remedy under Section 18 or could not avail the same for any reasons whatsoever to file an application for redetermination of the compensation within the stipulated period before the



Collector. The legislative intent appears to be that it is for granting of another opportunity subject to the satisfaction of the mandatory conditions. Every person/claimant is expected to be vigilant of his rights and if so, desires should exercise his right and not to leave to the Collector to issue notice to all interested persons and then seeking redetermination of the compensation. Such an approach would neither be in line with the scheme of the Act nor in line with the legislative intent. If the legislature had the intention that upon pronouncement of the award by the Reference Court enhancing compensation awarded by the Collector, all the claimants, irrespective of any procedure, or satisfaction of the conditions, would be entitled to receive that compensation, and such re-determination would be obligatory on the State/Collector, then Section 28A would simply have been worded by using one line stating that the Collector upon the award passed by the reference Court enhancing compensation shall disburse similar amount to all the claimants, whose lands have been acquired under the same notification from the same revenue estate. But it is not worded so. It prescribes specific procedure for re-determination. Another aspect of this argument is that there will be no need to give power to the Collector for re-determination. If the submission of the petitioners is accepted then it would amount to payment of already determined amount by Reference Court and the concept of redetermination would not have been attracted. The Courts have held that the scope of Section 28-A, despite Application, is not automatic payment of the amount but still the collector would have to examine whether the lands are similarly situated/located or there are reasons for paying similar compensation. In this regard a reference can be made to the judgment of the Supreme Court in the case of *Babua Ram* (supra).”



22. We respectfully concur with the said view. Clearly, the reference to interested persons under Section 28A(2) of the LA Act is to those persons who are interested and have filed an application under Section 28A(1) of the LA Act. Sub-section (2) of Section 28A of the LA Act contemplates that, upon receipt of an application under Section 28A(1) of the LA Act, the Collector would hold an enquiry and for the said purpose, issue notice to all interested persons. Thus, obviously, the reference is to the interested persons who have filed an application claiming redetermination of compensation under Section 28A(1) of the LA Act. It is not necessary for the Collector to issue notice to all persons whose lands are covered under the notification issued under Section 4 of the LA Act. This is because Section 28A(2) of the LA Act does not contemplate any enquiry for redetermining the value of all lands that are covered under the notification issued under Section 4 of the LA Act. The enquiry by the Collector, as referred to in Section 28A(2) of the LA Act, is confined to redetermination of the compensation in respect of the lands in respect of which application is made under Section 28A(1) of the LA Act.

23. In view of the above, we are also unable to sustain the contention that any separate notice was required to be issued to land owners, who had not made an application under Section 18 of the LA Act, in regard to the enhanced compensation awarded by the Court of the learned ADJ in terms of the order dated 11.11.2016.



24. The decision of this court in the case of *Kalawati v. Union of India and Ors.*³ is not applicable to the facts of the present case. In that case, the following question fell for consideration of this court:

“Whether the respondents can discriminate the land owners/Co-owners in the matter of payment of compensation under the Land Acquisition Act in respect of same land of same village acquired under the same notification and same Award.”

25. The principal issue before this court was whether the co-owners of the land could be deprived of the enhanced compensation. In the aforesaid context, the Division Bench had held as under:

“22. Thus, we conclude that normally person whose land acquired and thereupon award is made by the LAC fixing the compensation, he should seek enhancement thereof in the manner provided under the Act by resort to the provisions of Sections 18, 54 and 28 of the Act. However, if he is co-owner of the land acquired and other co-owner gets enhanced compensation in appeal etc., he would be entitled to same treatment even if he did not prefer appeal, on the first principles of law that one co-owner is entitled to have the benefit of the enhanced compensation given in respect of other co-owners of the land acquired, which belonged to all of them, jointly.”

26. There is no cavil that in the case enhanced compensation is awarded to the co-owners of the land, the said compensation would also be available to other co-owners notwithstanding that the said co-owners had not sought a reference under Section 18 of the LA Act. However, the present case is not one where the petitioners are co-owners of the



land for which enhanced compensation was awarded by the learned ADJ by its order dated 11.11.2016. The petitioners own and/or have interest in the subject land, which amongst other lands is covered under the Notification issued under Section 4 of the LA Act and the Award dated 27.01.2009. But they are not joint or co-owners of the land in respect of which application under Section 18 of the LA Act was made by the persons interested in those lands.

27. The decision of this court in *Ram Phal v. Union of India and Anr.*⁴ is also not applicable in the given facts. In the said case, the petitioner was one of the co-owners of the suit land, which was acquired. The Collector had fixed the market value of the land in question at ₹1,86,500 (Rupees one lakh eighty six thousand and five hundred) per bigha for 'A' Category and ₹1,61,500 (Rupees one lakh sixty one thousand and five hundred) per bigha for 'B' Category of the acquired land. The petitioner as well as its co-owner were dissatisfied with the said compensation and applied for a reference under Section 18 of the LA Act. The said reference did not succeed as the Court found that the market value of the suit lands as determined by the Collector was proper and adequate. Whilst the petitioners in that case did not pursue their claim for enhanced compensation. The co-owners of land, one Sh. Bhagwana as well as other land owners filed an appeal before this court, which was allowed and the compensation was uniformly enhanced to ₹1,99,904.68 per bigha of land in both the Categories. Thus, compensation for land falling in Category 'A' was enhanced by ₹13,404.68 per bigha and those falling under Category 'B' was



enhanced to ₹38,404.68 per bigha. In the said context, this Court held as under:

“8. Those invoking Section 28A should apply for enhanced compensation. For cases of land acquisition that do not fall under Section 28A, i.e, where the award has been enhanced by the Appellate Courts and not a Reference Court, this Court in *Kalawati (supra, relied upon by the petitioner)* granted compensation to co-owners on the basic principle of parity and equality amongst co-owners of the land. In this case, the enhancement of compensation was granted by the High Court. In order to avail the benefit of the same, a co-owner of the land sought relief from the High Court. The Court held that:

“Reading of the aforesaid judgment makes it clear that it was treated as the first principles of law that a co-owner is entitled to have the benefit of the enhanced compensation given to the other co-owners qua the same land acquired which belonged to all of them, jointly. It can thus be clearly concluded that this judgment is the authority for the proposition that even if the case does not fall strictly within the ambit of Section 28A of the Act, still on the principle of parity, another exception is carved out, namely, when the acquired land belongs to co-owners jointly, which is subject matter of acquisition, all the co-owners are to be given the same compensation and they cannot be treated differentially.”

Thus, in instances where Section 28A is not applicable, compensation can be granted to maintain parity between similarly situated owners.



9. This court is supported by consistency of precedent of a previous Division Bench ruling, in its conclusion that the petition should succeed. What the State sets up in defense is procedure- i.e., that the petitioner did not approach the Collector within the time, that without an application enhanced compensation – based on parity is shut out to a land owner, etc. Lost within the procedural morass here is the basic principle of equality. The landowner whose property is expropriated has agency over his litigation; no more. He has no wherewithal to find out whether an adjacent landowner succeeds in reference proceedings or the High Court; much would depend on his personal relationship with that landowner. Likewise, co-owners may be forthcoming about information; but then, they may not also share information. If there is no source given by law, or provided by the State for a landowner to access such information, that would be useful to him or her, to apply under Section 28A, its benevolent objective is completely undermined. Till that stage, the absence of mechanism (for information to all in such matters) can result in unintended violation of Article 14. However, when the State, mulishly displays intransigence – as in the present case, insisting that the landowner is precluded because of the letter of Section 28A, though all landowners covered by the notification are to enjoy a uniform compensation rate based on a common market value, declared by the High Court, it directly and with intent violates Article 14. In short, procedure trumps justice; form succeeds over substance: a conclusion incompatible with the Constitution of India. If one keeps in mind that Article 28A is but a statutory enactment, though in a limited manner, of the larger equality principle under Article 14 of the Constitution, it is evident that the state’s denial of enhanced compensation, based on this court’s previous judgment in Bhagwana - the co-owner’s appeal- is arbitrary.”



28. It is apparent from the above that the observations made by this court in *Ram Phal v. Union of India and Anr.*⁴ are in the context of granting parity of higher compensation to a co-owner of land, who had filed an application under Section 18 of the LA Act – and thus, was precluded from filing an application under Section 28A of the LA Act – but had not further appealed the said decision before this court. In the present case, the said decision has no application as the petitioners had not made an application under Section 18 of the LA Act.

29. In view of the above, we find no infirmity with the impugned order rejecting the petitioner's application under Section 28A(1) of the LA Act as barred by limitation.

30. Before concluding, we also consider it relevant to refer to a recent decision of the Supreme Court in *Banwari and Ors. v. Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and Another*⁶. In that case, certain lands owned by the appellant were acquired by a Notification dated 17.11.2004 issued under Section 4 of the LA Act. Thereafter, an award dated 01.03.2006 was made determining the compensation at ₹12,50,000/- per acre. Certain land owners, who were aggrieved by the said determination, had filed a reference under Section 18 of the LA Act which was dismissed by an order dated 17.01.2024. The said land owners, thereafter, preferred an appeal before the High Court of Punjab and Haryana, which was allowed by an order dated 02.05.2016 and the compensation was enhanced to ₹19,91,300/-. Thereafter, on 30.06.2012, the



appellants (Banwari and Others) filed an application under Section 28A(1) of the LA Act seeking redetermination of their compensation on the basis of the enhanced compensation of ₹19,91,300 per acre as allowed by the High Court of Punjab and Haryana. By an order dated 15.09.2020, the application under Section 28A of the LA Act was allowed by the Collector and the compensation was enhanced as per the order dated 02.05.2016 of the High Court of Punjab and Haryana. The respondent (Haryana State Industrial and Infrastructure Development Corporation) assailed the said decision by way of writ petition before the High Court. The High Court referred to the decision of the Supreme Court in *Ramsinghbhai (Ramsangbhai) Jerambhai v. State of Gujarat and Anr.*⁸ and allowed the said writ petition for the reason that the application under Section 28A of the LA Act was made beyond the period of three months.

31. The Supreme Court faulted the decision of the High Court. The Court interpreted the earlier decision in the case *Union of India and Anr. v. Pradeep Kumari and Ors.*¹ as permitting filing of an application under Section 28A(1) of the LA Act for redetermination of the compensation based on the enhancement by the High Court or the Supreme Court. The relevant extract of the said decision is as under:

“15. In the present case, it is not in dispute that the First Appeal which was allowed by the High Court vide judgment and order dated 2nd May 2016 was in respect of the land which was covered by the same notification

⁸ (2018) 16 SCC 445



under which notification the appellants' land is also covered. It is also not in dispute that the amount awarded by the High Court in the said First Appeal is in excess of the amount awarded by the Collector under Section 11 of the 1894 Act in the case of the land of the appellants. It is also not in dispute that the appellants had not made an application to the Collector under Section 18 of the 1894 Act. It is also not in dispute that the application made by the appellants under Section 28-A of the 1894 Act to the Collector was within a period of three months from the date of the judgment and order of the High Court.

16. From the perusal of the judgment of this Court in the case of ***Pradeep Kumari and Others*** (supra), it is clear that the limitation for moving the application under Section 28-A of the 1894 Act will begin to run only from the date of the award on the basis of which redetermination of the compensation is sought. The appellants are seeking redetermination of the compensation on the basis of the judgment and order of the High Court in First Appeal No.429 of 2023 dated 2nd May 2016. It is not disputed that the application of the appellants under Section 28-A of the 1894 Act is within a period of three months from 2nd May 2016.

17. We are, therefore, of the considered view that the case of the appellants is fully covered by the judgment of this Court in the case of ***Pradeep Kumari and Others*** (supra).

18. It is further to be noted that the cases of ***Pradeep Kumari and Others*** (supra) and ***Ramsingbhai (Ramsangbhai) Jerambhai*** (supra), both have been decided by a Bench strength of three learned Judges of this Court. The case of ***Pradeep Kumari and Others*** (supra) is decided on 10th March 1995, whereas ***Ramsingbhai (Ramsangbhai) Jerambhai*** (supra), has been decided on 24th April 2018.



19. A perusal of the judgment rendered in ***Ramsinghai (Ramsangbhai) Jerambhai*** (supra), would reveal that the said case does not take note of the earlier view taken by three learned judges of this Court in the case of ***Pradeep Kumari and Others*** (supra).

23. In any case, the judgment in ***Pradeep Kumari and Others*** (supra) has been rendered by three learned Judges of this Court after considering the relevant provisions of the Statute and the principles of interpretation. However, the judgment in the case of ***Ramsinghai (Ramsangbhai) Jerambhai*** (supra) is a short judgment only referring to the text of Section 28-A(1) of the 1894 Act.

24. As already discussed hereinabove, the provisions of Section 28-A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of ***Pradeep Kumari and Others*** (supra). In the said case, it has been held that the Statement of Objects and Reasons of Section 28-A would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for r giving benefit to inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the Act. It has been held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court under Section 18 of the Act. The same benefit would be available to the other landholders under Section 28-A. It has been held that Section 28-A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the principle of



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interpretation which would be required to be adopted is the one which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it.”

32. In view of the above decision, we consider it apposite to clarify that this order would not preclude the petitioners from filing an application under Section 28A(1) of the LA Act within three months of any subsequent court order, which has an effect of awarding a higher compensation than what was determined by the Collector in terms of the Award.

33. The petition is dismissed with the aforesaid observations.

VIBHU BAKHRU, J

ANOOP KUMAR MENDIRATTA, J

FEBRUARY 21, 2025
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