
(2010) 12 DEL CK 0099

In the Delhi High Court

Case No : Writ Petition (C) No. 800 of 2010

Amir Chand Singla

APPELLANT

Vs

Land Acquisition Collector (South West) and Others

RESPONDENT

Date of Decision : 24-12-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Land Acquisition Act, 1894 — Section 18, 28A

Citation : (2011) 121 DRJ 415

Hon'ble Judges : Valmiki J Mehta, J; Sanjay Kishan Kaul, J

Bench : Division Bench

Advocate : Arvind Nigam and Ram Niwas, for the Appellant; Sanjay Poddar, for R-1, R-2 and R-4; Rajiv Bansal, Kanika Agnihotri and Amandeep for R-3, for the Respondent

Final Decision : Allowed

Judgement

Sanjay Kishan Kaul, J.—The alleged reference sought by the predecessors-in-interest of the Petitioner u/s 18 of the Land Acquisition Act, 1894 ("the said Act" for short) which reference was actually never made qua the portion of the land of the Petitioner is forming the basis of rejection of the claim of the Petitioner for enhanced compensation on parity with his co-owner u/s 28-A of the said Act.

2. The facts of the case are that Sh. Khyali Ram s/o Sh. Bharta and Sh. Kaptan Singh, Sh. Ran Singh, Sh. Ranbir Singh and Sh. Dharambir Singh, all sons of Sh. Khyali Ram, were the co-owners/co-bhumidars of the land measuring 565 bighas and 19 biswas situated in the village Lado Sarai, New Delhi in respect of which a notification was issued u/s 4 of the said Act on 23.01.1965 seeking to acquire land for planned development of Delhi followed by a declaration u/s 6 of the said Act on 07.12.1966. The co-owners entered into an agreement to sell in respect of 346 bighas and 5 biswas of land forming part of the aforesaid title land in 1987-88. However, some disputes arose in respect of the sale and thus the Petitioner and Sh. Madan Lal Mittal filed a suit in the year 1992 which was

ultimately decreed in the year 1994 and resulted in execution of a sale deed on 22.11.1975, which was duly registered and mutation carried out in pursuance thereto. In terms of the sale deed, 2/3rd of the land fell to the share of the Petitioner while 1/3rd of the land fell to the share of Sh. Madan Lal Mittal. The Award No. 21/1989-90 in respect of the acquisition proceedings was made on 16.10.1989 in respect of the land owned by the co-owners and the original land owners sought a reference u/s 18 of the said Act on 27.11.1989 for enhancement of compensation. The reference was, however, made in the year 2003 in respect of total land of 565 bighas and 19 biswas less 346 bighas and 5 biswas forming subject matter of the sale deed. The reference order notes that the physical possession of the land was taken over on 10.12.1998, 11.12.1998 and 12.12.2002 and the land measuring 346 bighas and 5 biswas had not been included in the reference.

3. Another reference was also made on 31.03.2003 in respect of 1/3rd share of the co-owner of the Petitioner Sh. Madan Lal Mittal at the request of Sh. Mittal.

4. The reference was decided on 05.04.2004 by the learned Additional District Judge enhancing the compensation from Rs. 3,300/- to Rs. 20,000 per bigha. The compensation is stated to have been paid in terms thereof and accepted by the beneficiaries.

5. It is the case of the Petitioner that he had never sought a reference and on the compensation being enhanced, filed an application u/s 28-A of the said Act within the stipulated period of 3 months for grant of more compensation to the Petitioner in respect of his 2/3rd share of the land acquired vide sale deed dated 22.11.1995. Arguments were concluded on this application and judgment was reserved by the LAC on 25.01.2007 but since for almost two years no order was passed, the Petitioner approached this Court by filing CWP No. 7425/2009. On the writ petition being filed, the LAC recused himself from the matter as certain allegations had been made in the writ petition against him. The result was that a new LAC was assigned the case who has passed the impugned order dated 28.10.2009. The LAC found that the original co-owners had filed a reference petition on 30.11.1989 and thereafter Sh. Khyali Ram passed away on 20.09.1991 and his share was inherited by his four sons whose names were mutated in the revenue records. The Petitioner had purchased 2/3rd share of the sons of Sh. Khyali Ram vide sale deed dated 22.11.1995 while Sh. Madan Lal Mittal had acquired 1/3rd share vide sale deed dated 22.11.1995. It was contended that since Sh. Khyali Ram and his four sons had sought a reference including in respect of the land sold to the Petitioner and Sh. Madan Lal Mittal, it was treated as a reference sought even on behalf of the Petitioner and thus must be bound by the acts of their predecessors-in-interest. The ADM found that the provisions of Section 28-A of the said Act were not applicable. A reference has been made to certain judgments cited, but those judgments have not been recorded. A further fact taken note of is that in the sale deed dated 22.11.1995 executed in favour of the Petitioner, Clause 9 records that a reference has been

made u/s 18 of the said Act by the vendors and the vendees are entitled to substitute their own names in the reference petition. This was held to imply that the Petitioner had knowledge about the pendency of the reference petition and thus the proper remedy under law was to continue the proceedings u/s 18 of the said Act. The said Clause 9 reads as under:

9. That vendees are entitled to file the reference u/s 18 of the Land Acquisition Act, 1894 in their own names for enhancement of compensation amount etc. in respect of aforesaid lands or part thereof or substitute their own names in the reference petition (s) already filed by the vendors.

6. The Petitioner by way of the present writ petition under Articles 226 and 227 of the Constitution of India has pleaded that no reference petition was ever filed by the Petitioner u/s 18 of the said Act nor was any reference made in respect of land in question at the behest of predecessors-in-interest of the Petitioner. Thus, the Petitioner claims the benefit u/s 28-A of the said Act. The reference made specifically excluded the land of the Petitioner and Sh. Madan Lal Mittal. Sh. Madan Lal Mittal had filed a separate reference u/s 18 of the said Act qua his share and it is only the land of the Petitioner which was not subject matter of any reference petition. The Petitioner claims entitlement to parity with his co-owner/co-sharer Sh. Madan Lal Mittal.

7. The Petitioner relies on the fact that the reference made by the LAC only pertains to Sh. Kaptan Singh and Ors., all sons of Sh. Khyali Ram, wherein the share of Sh. Kaptan Singh and Ors. was limited to the extent of 144 bighas and 8 biswas and this fact was mentioned in the revised statement u/s 19 of the said Act forwarded to R-2/LAC along with a reference. It is also recorded that the remaining land was not included in view of the Petitioner Sh. Madan Lal Mittal being the owner. Sh. Madan Lal Mittal sought a separate reference in respect of his 1/3rd share registered as LAC Case No. 5/2003. The Petitioner on coming to know about the judgment of the learned ADJ in LAC Case No. 5/2003 dated 05.04.2004, obtained a certified copy of the order and immediately filed an application u/s 28-A of the said Act on 24.05.2004 and thus the same was filed within the prescribed period of limitation of three months. In the counter affidavit filed by R-2, the impugned order is sought to be supported on the same terms as recorded in the order.

8. The aforesaid limited factual matrix has to be examined in the light of certain judgments of the Supreme Court and this Court which have been referred to by both the learned Counsel for the parties. However, before proceeding to do so we consider it appropriate to reproduce the relevant Section 28-A of the said Act, which is as follows:

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 u/s

11, the persons interested in all the other land covered by the same notification u/s 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 u/s 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 - 28 shall, so far as may be, apply to such reference as they apply to a reference u/s 18.

9. Learned Counsel for LAC referred to the order passed in Mewa Ram (Deceased) by his Lrs. and Others Vs. State of Haryana through The Land Acquisition Collector, Gurgaon, . The counsel for the claimants in that case confined the submission to the consequences of change in law by introduction of Sections 25 and 28-A in the said Act by way of Land Acquisition (Amendment) Act, 1984. On the basis of the introduction of these provisions, it was contended that the courts should not be unduly technical and deprive the citizens of their legitimate claims. It is in that context that the concession of the counsel for the claimants/Petitioners is recorded that the claimants in that matter did not belong to the class of society for whose benefit the provision is intended i.e. inarticulate and poor people. It was, however, also noted that the Petitioners had all applied for reference u/s 18 of the said Act.

10. We find strength in the plea of the learned Counsel for the Petitioner that the reliance on this judgment is misplaced. Firstly, it is not a judgment but merely an order. Secondly, a judgment and/or an order has to apply to the facts of a case as has been repeatedly observed by the Supreme Court. The opening sentence of the order thus sets out the controversy which was covered by the Supreme Court and said sentence reads as under:

In these special leave petitions which was much belated, the only question was whether the court should entertain the petitions despite the delay and grant special leave merely because this Court in Paltu Singh v. State of Haryana and Nand Kishore v. State of Haryana enhanced the rate of compensation for the adjacent land to Rs. 17.50 per square yard.

The appeals were barred by 1079 days in one case and by 1146 days in the other case. Thirdly, it is clearly noted in para 4 of the order that the Petitioner had applied for reference u/s 18 of the said Act and thus the Supreme Court came to the conclusion that even otherwise there was no provision in the said Act apart from Section 28-A for re-opening of an award which had become final and conclusive.

11. Learned Counsel for LAC also referred to the observations of the Supreme Court in *Kendriya Karamchari Sehkari Greh Nirman Samiti Ltd. Vs. State of U.P. and Another*, where the plea of the authorities was recorded that the Statement of Objects and Reasons behind enacting Section 28-A of the said Act was explicitly clear and the provision had been inserted in the Act with a view to protect "little Indians" who due to poverty or ignorance of law could not challenge the award passed by the LAC by seeking a reference. The additional plea was that the application u/s 28-A of the said Act could have been made only by "person interested". The land had been purchased by the Appellant post issuance of notification u/s 4 of the said Act and a declaration u/s 6 of the said Act and thus should not be termed as "person interested". The Supreme Court referred to the judgment in *Mewa Ram (Deceased) by his L Rs and Ors. v. State of Haryana through the Land Acquisition Collector, Gurgaon's case* (supra) holding that the provisions were not intended to re-open an award which had attained finality and was of binding nature. Some of the observations made in the judgment which are germane are reproduced herein asunder:

37. A Constitution Bench of this Court in *Union of India v. Hansoli Dev* held that dismissal of an application seeking reference u/s 18 on the ground of delay also would not come in the way of the claimant for redetermination of compensation u/s 28-A of the Act. Such person can be said to be a "person aggrieved" and would be entitled to make an application to receive compensation provided the conditions of the said section are complied with.

38. From the aforesaid decisions, in our judgment, the law is well settled and it is that against an award, if the Reference Court allows the applicant and awards any amount of compensation in excess of the amount awarded by the Land Acquisition Officer u/s 11 of the Act, any person interested in the land covered by the same notification may make an application u/s 28-A of the Act within the period specified in the said section and may seek the same relief which has been granted to other landowners by the Reference Court.

39. We are, however, of the considered opinion that the Appellant is not entitled to the relief he prayed in the writ petition before the High Court as well as before us in the present proceedings so far as the direction to decide his application u/s 28-A of the Act is concerned.

40. It is true that once the Reference Court decides the matter and enhances the compensation, a person who is otherwise eligible to similar relief and who has not sought reference, may apply u/s 28-A of the Act. If the conditions for

application of the said provision have been complied with, such person would be entitled to the same relief which has been granted to other persons seeking reference and getting enhanced compensation. But, it is equally true that if the Reference Court decides the matter and the State or acquiring body challenges such enhanced amount of compensation and the matter is pending either before the High Court or before this Court (the Supreme Court), the Collector would be within his power or authority to keep the application u/s 28-A of the Act pending till the matter is finally decided by the High Court or the Supreme Court as the case may be. The reason being that the decision rendered by the Reference Court enhancing compensation has not attained "finality" and is sub judice before a superior court. It is, in the light of the said circumstance that the State of U.P. issued two Government Orders on 14-1-1994 and 13-6-2001.

41. We see no illegality in keeping the applications u/s 28-A of the Act pending till the issue is finally settled by the Court and a decision has been arrived at.

12. The ratio is thus apparent which is contained in para 41 above. This is also clear from the observations made in para 44 of the judgment that the Collector was right in not deciding the application u/s 28-A of the said Act in view of the fact that the order passed by the Reference Court was challenged by the authorities by filing appeals before the High Court. The Supreme Court observed in para 47 that they were not deciding about the locus standi of the Appellant.

13. We thus fail to appreciate how the aforesaid judgment in any manner comes to the aid of the plea advanced by learned Counsel for LAC as the question being examined was as to whether the LAC could keep an application pending moved u/s 28-A of the said Act to finally await the decision of a superior court in an appeal against the reference.

14. In Union of India (UOI) and Another Vs. Hansoli Devi and Others, , the scope and ambit of Section 28-A of the said Act was examined. It would suffice to reproduce para 9 which reads as under:

9. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of a statute. The rule stated by Tindal, C.J. in *Sussex Peerage* case still holds the field. The aforesaid rule is to the effect: (ER p.1057)

If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver.

It is a cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent

with the alleged object and policy of the Act. In *Kirkness v. John Hudson & Co. Ltd.* Lord Reid pointed out as to what is the meaning of "ambiguous" and held that: (All ER p. 366 C-D)

A provision is not ambiguous merely because it contains a word which in different contexts is capable of different meanings. It would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning.

It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, C.J. in the case of *Aswini Kumar Ghose v. Arabinda Bose* had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In *Quebec Railway, Light Heat & Power Co. Ltd. v. Vandry* it had been observed that the legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons. Similarly, it is not permissible to add words to a statute which are not there unless on a literal construction being given a part of the statute becomes meaningless. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these words would have been inserted by the draftsman and approved by the legislature had their attention been drawn to the omission before the Bill had passed into a law. At times, the intention of the legislature is found to be clear but the unskilfulness of the draftsman in introducing certain words in the statute results in apparent ineffectiveness of the language and in such a situation, it may be permissible for the court to reject the surplus words, so as to make the statute effective. Bearing in mind the aforesaid principle, let us now examine the provisions of Section 28-A of the Act, to answer the questions referred to us by the Bench of two learned Judges. It is no doubt true that the object of Section 28-A of the Act was to confer a right of making a reference, (sic on one) who might have not made a reference earlier u/s 18 and, therefore, ordinarily when a person makes a reference u/s 18 but that was dismissed on the ground of delay, he would not get the right of Section 28-A of the Land Acquisition Act when some other person makes a reference and the reference is answered. But Parliament having enacted Section 28-A, as a beneficial provision, it would cause great injustice if a literal interpretation is given to the expression "had not made an application to the Collector u/s 18" in Section 28-A of the Act. The aforesaid expression would mean that if the landowner has made an application for reference u/s 18 and that reference is entertained and answered. In other words, it may not be permissible for a landowner to make a reference and get it answered and then subsequently make another application when some other person gets the

reference answered and obtains a higher amount. In fact in Pradeep Kumari case the three learned Judges, while enumerating the conditions to be satisfied, whereafter an application u/s 28-A can be moved, had categorically stated (SCC p. 743, para 10) "the person moving the application did not make an application to the Collector u/s 18". The expression "did not make an application", as observed by this Court, would mean, did not make an effective application which had been entertained by making the reference and the reference was answered. When an application u/s 18 is not entertained on the ground of limitation, the same not fructifying into any reference, then that would not tantamount to an effective application and consequently the rights of such applicant emanating from some other reference being answered to move an application u/s 28-A cannot be denied. We, accordingly answer Question 1(a) by holding that the dismissal of an application seeking reference u/s 18 on the ground of delay would tantamount to not filing an application within the meaning of Section 28-A of the Land Acquisition Act, 1894.

15. The observations made by the Supreme Court leave no manner of doubt that the provisions of Section 28-A of the said Act have been read in a manner so as to preclude the benefit under the provisions of Section 28-A of the said Act only if an application for reference u/s 18 of the said Act is made and is followed up with a reference being entertained and answered.

16. The Division Bench of this Court in Smt. Kalawati, Lal Chand Gupta and Shiv General Finance (P) Ltd. Vs. Union of India (UOI) and Others, relied upon the ratio of The Jalandhar Improvement Trust Vs. The State of Punjab and Others, to grant compensation at parity with other co-owners when the application u/s 28-A of the said Act was filed by those co-owners whose application for reference u/s 18 of the said Act was rejected albeit on the ground of delay. It was held by the Supreme Court that co-owners of the land could not be given different treatment. It was thus observed that the first principle of law would require that co-owners are entitled to have benefit of enhanced compensation given to other co-owners qua the same land acquired which belonged to all of them jointly. The relevant paras 20 and 21 are reproduced herein as under:

20. Answer to the aforesaid submission of Mr. Poddar is provided by the Supreme Court in the case of Jalandhar Improvement Trust (Supra). That was also a case of co-owners of land. After the compensation was fixed by the LAC in his Award, Respondent No. 4 had sought reference u/s 18 of the Act which was rejected because of delay. However, reference of the Petitioners 2 to 5, who were co-owners of land along with Respondent No. 4, was allowed and enhanced compensation was granted. After enhancement of the compensation, Respondent No. 4 moved an application u/s 28A of the Act, which was allowed by the LAC. Jalandhar Improvement Trust, the beneficiary in which the land was acquired, challenged it by filing writ petition which was dismissed by a Division Bench of the Punjab & Haryana High Court. In further appeal to the Supreme Court, the Jalandhar Improvement Trust took up the contention to the effect that Section

28A was not applicable as it was not a case where Respondent No. 4 had not sought reference u/s 18 of the Act but said reference was rejected albeit on the ground of delay. The Supreme Court did not deem it even necessary to go into this question and dismissed the appeal of the Jalandhar Improvement Trust holding that co-owners of the land could not be given differential treatment. It would be apposite to quote the exact discussion on this aspect from the judgment itself:

Para 4: The learned Senior Counsel for the Appellant strenuously contended that inasmuch as the claim of the 4th Respondent came to be rejected by the very same award dated 5-2-1986, no advantage can be taken by the 4th Respondent who has not challenged that part of the award rejected her claim for availing of the benefit of Section 28-A of the Act and that to a case like the one on hand, Section 28-A will have no application. The learned Counsel for the 4th Respondent relied upon the judgment of the Constitution bench reported in Union of India (UOI) and Another Vs. Hansoli Devi and Others, .

Para 5: Having regard to the view we propose to take and the manner of disposal intended to be given, it is unnecessary for us to even advert to the relevance or applicability of Section 28-A of the Act to the case of the nature before us. The 4th Respondent indisputably is a co-owner along with her children who were added as Petitioners 2 to 5 to the award dated 5-2-1986, in which case, even on the first principles of law one co-owner is entitled to have the benefit of the enhanced compensation given in respect of the other co-owners in a reference made at his instance in respect of the land acquired, which belonged to all of them, jointly. So far as the fact that in this case the 4th Respondent's application for reference u/s 18 was rejected by the Tribunal ultimately on the ground that the reference was made on a belated application, does not make any difference and, is no reason, in our view, to differentiate the claims of such co-owners whose claims came to be really sustained and that of the 4th Respondent for differential treatment. We are fortified to some extent in the view expressed above, by principles laid down by this Court in the decision reported in A. Viswanatha Pillai v. Special Tehsildar for Land Acquisition, : (1992) 4 SCC 17.

Para 6: In the light of the above conclusion of ours, and finding that real and substantial justice has been done to the parties, we decline to interfere with the order made by the Land Acquisition Collector, giving the benefit of enhanced compensation to the 4th Respondent.

21. 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. This is inherent in the concept of co-ownership itself as laid down by the Supreme Court in the case of A. Viswanatha Pillai (supra) in the following words:

It is settled law that one of the co-owners can file a suit and recover the property against strangers and the decree would ensure to all the co-owners. It is equally settled law that no co-owner has a definite right, title and interest in any particular item or a portion thereof. On the other hand he has right, title and interest in every part and parcel of the joint property or coparcenery under Hindu law by all the coparceners. In *Kanta Goel v. B.P.Pathak* : [1977] 3 SCR 814 this Court upheld an application by one of the co-owners for eviction of a tenant for personal occupation of the co-owners as being maintainable. The same view was reiterated in *Sri Ram Pasricha Vs. Jagannath and Others*, and *Pal Singh Vs. Sunder Singh (Dead) by Lrs. and Others*, . A co-owner is as much an owner of the entire property as a sole owner of the property. It is not correct to say that a co-owner's property was not its own. He owns several parts of the composite property along with others and it cannot be said that he is only a part owner or a fractional owner in the property. That position will undergo a change only when partition takes place and division was effected by metes and bounds. therefore, a co-owner of the property is an owner of the property acquired but entitled to receive compensation pro rate. The State would plead no waiver nor omission by other co-owners to seek reference nor disentitle them to an award to the extent of their legal entitlement when in law they are entitled.

(emphasis supplied)

17. In our considered view the facts are clear in the present case. The stand of R-2/LAC at best is that a reference was sought by the predecessors-in-interest of the Petitioner. It is, however, not in dispute that in the subsequent sale deed executed in favour of the Petitioner, it had been observed that the Petitioner and the other co-owner Mr. Madan Lal Mittal could either get themselves impleaded in the application seeking reference or file a separate application for reference. The two purchasers did not get themselves impleaded and thus no reference was made in their case by the LAC. On a separate application of Mr. Madan Lal Mittal, a reference was made. In the earlier reference, the land of the Petitioner and Mr. Madan Lal Mittal was specifically excluded from the purview of reference. The Respondents have relied upon a letter of an advocate of the Petitioner in response to a query raised by the ADM (the letter raising the query is not on record) where the advocate stated that the signatures of the Petitioner herein and the advocate are verified on the reference petition. However, no copy of such reference application has been produced. Similarly, in the counter affidavit at page 488 of the paper book, it has been averred as under:

The Petitioner chose not to file any reference u/s 18 within the statutory time period and thus, he gave up his right to claim enhanced compensation u/s 18 of that Act.

The aforesaid shows the inconsistent stand of the LAC even in respect of the fact that whether any application was filed by the Petitioner and the counter affidavit proceeds on the basis that the Petitioner steps into the shoes of his predecessors-in-interest. The fact, however, remains that the land of the Petitioner and his co-owners was specifically excluded from the reference made in respect of the application filed by the original co-owners who had sold the land to the Petitioner and his co-owners u/s 18 of the said Act.

18. We find the impugned order completely unsustainable in view of the aforesaid facts and the legal principles enunciated in Union of India and Anr. v. Hansoli Devi and Ors." case (supra) which have explained the scope and ambit of Section 28-A of the said Act. A literal construction has been eschewed and the provisions have been interpreted to imply that only where a reference is made and answered, would an application u/s 28-A of the said Act not lie. The impugned judgment notes that certain judgments have been cited but did not even care to refer to them apparently as the reasoning in the impugned order would fly in the face of the judgments both of the Supreme Court and of this Court.

19. We are of the unequivocal view that the Petitioner is entitled to succeed in his application filed u/s 28-A of the said Act and is thus entitled to compensation at par with his co-owners Mr. Madan Lal Mittal. The compensation has been assessed at Rs. 20,000/- per bigha.

20. The Respondents are directed to take necessary steps to expeditiously process the balance payment to be made to the Petitioner in respect of the compensation and interest etc. and the same be remitted to the Petitioner within one month from today on the Petitioner completing necessary formalities. The Petitioner is already 80 years old and must receive the fruits of his success being the appropriate compensation for his land which has been acquired.

21. The writ petition is allowed with costs quantified at Rs. 20,000/-.