

(1995) 03 SC CK 0005

In the Supreme Court Of India

Case No : Review Petns. (Civil) No"s. 364-65 of 1992 in Civil Appeals No"s.
2320-21 of 1991

Union of India and another

APPELLANT

Vs

Pradeep Kumari and others

RESPONDENT

Date of Decision : 10-03-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 26, 28A, 34

Citation : AIR 1995 SC 2259 : (1995) 9 JT 644 : (1996) 6 KarLJ 557 : (1996) 1
KLT 93 : (1995) 2 SCALE 260 : (1995) 2 SCC 736 : (1995) 2 SCR 703

Hon'ble Judges : S.C. Agrawal, J;Kuldip Singh, J;B.P. Jeevan Reddy, J

Bench : Full Bench

Advocate : N.N. Goswamy, B.K. Pradesh, T.C. Shrama, R.D. Upadhaya and
Neelam Sharma, for the Appellant; M.R. Sharma, Prem Malhotra, Anjana Sharma
and Neresh K. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Agrawal, J.—By these Review Petitions the petitioners are seeking review of the order dated October 8, 1991 whereby Civil Appeals Nos. 2320-21 of 1991 filed by the petitioners have been dismissed. The said Civil Appeals arose out of proceedings for acquisition of land for the Beas Dam Project. Notifications dated January 11, 1962, April 1, 1963 and November 10, 1964 were issued u/s 4 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the Act'] during the period 1962-64 in respect of lands in District Kangra which was a part of the erstwhile State of Punjab. After the re-organisation of the State of Punjab by the Punjab Re-organisation Act, 1966 the said lands came fall in the State of Himachal Pradesh. Proceedings for acquisition of land were thereafter conducted in the State of Himachal Pradesh. The awards were made by the Land Acquisition Collector, Beas Dam Project, Talwara. The respondents in these petitions did not seek a reference u/s 18 of the Act but other persons whose lands were acquired under the said notifications sought a reference. Most of these references were disposed of by the Court prior to September 24, 1984 but in some references the

award by the Court was made after the enactment of the Land Acquisition (Amendment) Act, 1984 [hereinafter referred to as 'the Amendment Act'] which came into force on September 24, 1984. By the Amendment Act Section 28A was introduced in the Act. According to the petitioners the earliest award by the Court after the coming into force of the Amendment Act was made on December 27, 1984. Awards were, however, made by the Court in pending references subsequent to December 27, 1984 also. One such award was made on February 21, 1987. Smt. Pradeep Kumari, respondent No. 1, filed an application u/s 28A for claiming the benefit of the said award dated February 21, 1987. On the said application the Collector made an order dated March 14, 1988 awarding additional amount of compensation on the basis of the award of the court dated February 21, 1987. Feeling aggrieved by the said order of the Collector dated March 14, 1988 the petitioners filed Civil Writ Petition No. 181 of 1989 in the High Court of Himachal Pradesh. Respondent No. 2, Smt. Savitri Devi, also filed an application u/s 28A of the Act wherein she contended that the benefit of the decision of the High Court of Himachal Pradesh dated September 5, 1986 in R.F.A. No. 166 of 1977 be extended to her and the amount of compensation be enhanced on that basis u/s 28A. The said application of respondent No. 2 was dismissed by the Collector on January 29, 1987 on the view that the benefit u/s 28A is available only on the basis of an award of the reference court and re-determination of the amount of compensation could not be sought on the basis of the judgment of the High Court. Feeling aggrieved by the said order of the Collector respondent No. 2 filed Civil Writ Petition No. 580 of 1987 in the High Court of Himachal Pradesh. In the said writ petition respondent No. 2 submitted that in case she was not entitled to get enhanced compensation on the basis of the judgment of the High Court dated September 5, 1986, she may be given the benefit of Section 28A on the basis of the award made by the reference court on November 10, 1986.

2. Both the writ petitions were disposed of by a Division Bench of the High Court by common judgment dated October 24, 1990. On behalf of the petitioners it was submitted before the High Court that the expression 'award of the court' in Section 28A of the Act means the first award made by the court after the coming into force of the Amendment Act and as the said award was made on December 27, 1984 the applications submitted by the respondents are barred by limitation since they were submitted after the expiry of the period of three months from the date of the making of the said award. The High Court rejected the said contention and held that all that is required for the applicability of Section 28A is that there should be an award made under Part III of the Act by the court in which excess amount is allowed and that Section 28A nowhere provides that it should be the first after coming into force of the Amendment Act. The High Court held that the other requirement for the applicability of Section 28A is that the land of the person interested should be covered by the same notification which is the subject matter of the award of the court and in that event the application should be moved within the period of three months from the date of the making

of the award. The High Court, however held that the said right has to be exercised only once and that once the right has been exercised by a person by applying to the Collector for re-determination, no application can be made thereafter. The High Court dismissed the writ petition filed by the petitioners. The writ petition filed by respondent No. 2 was allowed by the High Court on the view that respondent No. 2 could invoke the benefit of Section 28A on the basis of the award made by the District Judge on November 10, 1986 in another land Reference No. 15 of 1984. Civil Appeal nos. 2320-21 of 1991 filed by the petitioners against the said judgment of the High Court were dismissed by this Court by order dated October 8, 1991 whereby it has been held that the High Court was right in extending the benefit of enhanced compensation as well as the enhanced rate of interest and solatium to the respondents.

3. The first contention urged by Shri N.N. Goswamy, the learned senior counsel appearing for the petitioners, was that the benefit of Section 28A could be extended only if the application is made within three months from the date of the making of the first award after the coming into force of the Amendment Act and, as in the present case the first such award was made by the court on December 27, 1984, the application for re-determination of compensation u/s 28A could only be moved within three months from the date of the said award of the court. Shri Goswamy has submitted that since the applications u/s 28A of both the respondents were made after the expiry of the said period of three months from the date of the first award the said applications could not be entertained and were liable to be dismissed and that the benefit of Section 28A could not be extended to the respondents. Shri Goswamy has placed reliance on the decisions of this Court in Babua Ram and Others Vs. State of U.P. and Another, and Union of India (UOI) and Others Vs. Karnail Singh and Others,

4. It would be convenient at this stage to refer to the provisions contained in Section 28A of the Act which reads as under:-

Section 28A. Redetermination of the amount of compensation on the basis of (lie 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 redetermined 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 made 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, require 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 u/s 18.

5. The object underlying the enactment of these provisions, as indicated in the Statement of Objects and Reasons, was:-

(ix) Considering that the right of reference to the civil court u/s 18 of the Act is not usually taken advantage of by inarticulate and poor people and is usually exercised by the comparatively affluent landowners and that this causes considerable inequality in the payment of compensation for the same or similar quality of land to different interested parties, it is proposed to provide an opportunity to all aggrieved parties whose land is covered under the same notification to seek re-determination of compensation, once any one of them has obtained orders for payment of higher compensation from the reference court u/s 18 of the Act.

6. In *Babua Ram* (supra), decided by a bench of two Judges, it has been held that the period of three months prescribed for moving an application for re-determination of compensation u/s 28A has to be computed from the date of the making of the first award. It has been observed: -

Limitation begins to run from the date the award was pronounced by the court u/s 26. It is well settled that the law of limitation limits the time after which a suit or other proceeding cannot be entertained in a court of justice or before appropriate authority, though it does not affect the substantive rights of the parties. Once the limitation begins to run, it runs in its full course until its running is interdicted by an order of the court. [p.397]

It is true that in a given set of facts, there could be more than one reference u/s 18 at the behest of different claimants of the lands covered by Section 4(1) Notification and the court may make successive awards at various times. Compensation given in the respective awards may vary and may be higher than the one given in an earliest award. In the teeth of the express language in Sub-section (1) of Section 28A, limitation of three months once expires in respect of earliest award by efflux of time, none of the later awards could provide any assistance to revive the lapsed time u/s 28A(1) nor provide fresh cause of action or successive causes of action when multiple awards are made at different times or dates. [pp. 397-398]

7. This view was reiterated by the same bench in Karnail Singh (supra).

8. After giving our thoughtful consideration to the aforementioned reasons we are unable to persuade ourselves to take the view that the period of limitation for making an application u/s 28A of the Act has to be computed from the date of the making of the first award after the coming into force of Section 28A and any subsequent award has no bearing on the right conferred by Section 28A.

9. We may, at the outset, state that having regard to the Statement of Objects and Reasons, referred to earlier, the object underlying the enactment of Section 28A is to remove inequality in the payment of compensation for same or similar quality of land arising on account of inarticulate and poor people not being able to take advantage of the right of reference to the civil court u/s 18 of the Act. This is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek re-determination once any of them has obtained orders for payment of higher compensation from the reference court u/s 18 of the Act. Section 28A is, therefore, in the nature of a beneficial provision intended to remove inequality and to give relief to the inarticulate and poor people who are not able to take advantage of right of reference to the civil court u/s 18 of the Act. In relation to beneficial legislation, the law is well-settled that while construing the provisions of such a legislation the court should adopt a construction 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. The provisions of Section 28A should, therefore, be construed keeping in view the object underlying the said provision.

10. A perusal of the provisions contained in Sub-section (1) of Section 28A of the Act would show that after an award is made under Part III whereby the court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector u/s 11, a right accrues to a person interested in the other land covered by the same notification under Sub-section (1) of Section 4 who is also aggrieved by the award of the Collector but who had not made an application to the Collector u/s 18, to move an application before the Collector for re-determination of the amount of compensation payable to him on the basis of the amount compensation awarded by the court. This application for re-determination of compensation is required to be made within three months from the date of the award of the court. The right to make the application u/s 28A arises from the award of the court on the basis of which the person making the application is seeking re-determination of the compensation. There is nothing in Sub-section (1) of Section 28A to indicate that this right is confined in respect of the earliest award that is made by the Court after the coming into force of Section 28A. By construing the expression 'where in an award under this Part' in Sub-section (1) of Section 28A to mean 'where in the first award made by the court under this Part', the word 'first', which is not found in Sub-section (1) of Section 28A, is being read therein and thereby the amplitude of the said provision is being curtailed so as to restrict the benefit conferred by it. In the

matter of construction of a beneficial provision it is not permissible by judicial interpretation to read words which are not there and thereby restrict the scope of the said provision. [See : Jnan Ranjan Sen Gupta and Others Vs. Arun Kumar Bose,

11. It is possible to visualise a situation where in the first award that is made by the court after the coming into force of Section 28A the enhancement in the amount of compensation by the said award is not very significant for the reason that the person who sought the reference was not able to produce adequate evidence in support of his claim and in another reference where the award was made by the court subsequently such evidence is produced before the court and a much higher amount is awarded as compensation in the said award. By restricting the benefit of Section 28A to the first award that is made by the court after the coming into force of Section 28A the benefit of higher amount of compensation on the basis of the subsequent award made by the court would be denied "to the persons invoking Section 28A and the benefit of the said provision would be confined to re-determination of compensation on the basis of lesser amount of compensation awarded under the first award that is made after the coming into force of Section 28A. There is nothing in the wordings of Section 28A to indicate that the legislature intended to confer such a limited benefit u/s 28A. Similarly, there may be a situation, as in the present case, where the notification u/s 4(1) of the Act covers lands falling in different villages and a number of references at the instance of persons having lands in different villages were pending in the court on the date of coming into force of Section 28A and awards in those references are made by the court on different dates. A person who is entitled to apply u/s 28A belonging to a particular village may come to know of the first award that is made by the court after the coming into force of Section 28A in a reference at the instance of a person belonging to another village, after the expiry of the period of three months from the date of the said award but he may come to know of the subsequent award that is made by the court in the reference at the instance of a person belonging to the same village before the expiry of the period of three months from the date of the said award. This is more likely to happen in the case of inarticulate and poor people who cannot be expected to keep track of all the references that were pending in court on the date of coming into force of Section 28A and may not be in a position to know, in time, about the first award that is made by the court after the coming into force of Section 28A. By holding that the award referred to in Section 28A(1) is the first award made after the coming into force of Section 28A, such persons would be deprived of the benefit extended by Section 28A. Such a construction would thus result in perpetuating the inequality in the payment of compensation which the legislature wanted to remove by enacting Section 28A. The object underlying Section 28A would be better achieved by giving the expression "an award" in Section 28A its natural meaning as meaning the award that is made by the court in Part III of the Act after the coming into force of Section 28A. If the said expression in Section 28A(1) is thus construed, a person would be able to seek

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

12. Since the cause of action for moving the application for re-determination of compensation u/s 28A arises from the award on the basis of which re-determination of compensation is sought, the principle that "once the limitation begins to run, it runs in its full course until its running is interdicted by an order of the court" can have no application because the limitation for moving the application u/s 28A will begin to run only from the date of the award on the basis of which re-determination of compensation is sought.

13. We are, therefore, unable to agree with the view expressed in Babu Ram (supra) and Kurnail Singh (supra) that application u/s 28A for re-determination of compensation can only be made on the basis of the first award that is made after the coming into force of Section 28A. In our opinion, the benefit of re-determination of amount of compensation u/s 28A can be availed of on the basis of any one of the awards that has been made by the court after the coming into force of Section 28A provided the applicant seeking such benefit makes the application u/s 28A within the prescribed period of three months from the making of the award on the basis of which re-determination is sought. The first contention urged by Shri Goswamy in support of the Review Petitions is, therefore, rejected.

14. Shri Goswamy has next contended that while re-determining the amount of compensation u/s 28A it is not permissible for the Collector to award interest on the additional amount of compensation awarded by him for the reason that u/s 28 of the Act only the court can direct payment of interest on the excess amount awarded as compensation and no such power is conferred on the Collector and, therefore, interest cannot be awarded by the Collector on the additional amount

of compensation determined u/s 28A. It is no doubt true that u/s 28 only the court can direct payment of interest on the excess amount awarded as compensation and the Collector is not competent to award interest on the additional amount of compensation under the said provision. But Sub-section (2) of Section 28A provides that after an application has been submitted under Sub-section (1) of Section 28A the Collector after conducting an inquiry makes an award determining the amount of compensation payable to the applicants and under Sub-section (3) of Section 28A any person who has not accepted the award under Sub-section (2) may move the Collector requiring that the matter be referred for determination to the court and the provisions of Sections 18 to 28 have been made applicable to such reference. This would show that after an application has been submitted u/s 28A(1) for re-determination of the amount of compensation the process of such re-determination results in making of an award by the Collector and a person not accepting the said award can move the Collector to refer the matter to the court for determination and such reference is governed by Sections 18 to 28. If that is so Section 34 of the Act would be applicable to the award that is made by the Collector under Sub-section (2) of Section 28A and it would be permissible for him to award interest u/s 34 on the additional amount of compensation awarded by him. The second contention urged by Shri Goswamy is, therefore, rejected.

15. In the result, we find no merit in the Review Petitions and the same are accordingly dismissed. No order as to costs.