

SUPREME COURT OF INDIA

Union of India

Vs.

Hansoli Devi

C.A.No.9477 of 1994

(A.P. Misra and Umesh C. Banerjee JJ.)

17.04.2001

ORDER

A.P. Misra, J.

1. The issue involved in the matter under consideration pertains to Section 28-A of the Land Acquisition Act, 1894 (as inserted by Act 68 of 1984). A three judges Bench of this Court in the case of *Union of India another v. Pradeep Kumari and others*¹, came to a conclusion that the starting point of limitation of 3 months as prescribed under Section 28-A for making application for re-determination of compensation ought to be the date of making of the award on the basis of which re-determination is sought. In Pradeep Kumari's case (supra) six conditions have been mentioned in order to enable a person to seek redetermination of the amount of compensation payable to him, and the above-noted six conditions are as below:

"(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."

2. In paragraph 11 of the Report in the last noted decision, this Court categorically held that since the cause of action for moving the application for redetermination of compensation under Section 28-A arises from the award on the basis of which redetermination 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 under Section 28-A will begin to run only from the date of the award on the basis of which redetermination of compensation is sought.

3. On the wake of the aforesaid, this Court expressed its inability to agree with the view expressed in *Babua Ram and others v. State of U.P. and another*², and *Union of India and others v. Karnail Singh and others*³.

4. Incidentally, a two-judges Bench of this Court in Babua Ram's case (supra) held that the period of limitation begins to run from the date of the first award made on a reference under Section 18 of the Act and successive awards cannot save the period of limitation. This view was reiterated in the decision in Karnail Singh (supra) wherein this Court held that the limitation of three months for an application for redetermination of compensation must be computed from the date of the earliest award made by a civil Court and not the judgment rendered by an appellate court.

5. The dissention as noticed above between the three judges Bench and the two judges Bench judgments however is rather restrictive since in both Babua Ram and Karnail Singh, they sought to confine the right to seek determination to the earliest award made by the Court under Section 18 of the Act after the introduction of Section 28-A into the Act.

6. Subsequently, however, in *Jose Antonio Cruz Dos R. Rodrigues and another v. Land Acquisition Collector and another*⁴, a three judges Bench observed that there is no doubt that the period of limitation has to be computed from the date of the Court's award under Section 18 on the basis whereof redetermination is sought.

7. In *State of Tripura and another v. Roop Chand Das and others*⁵, two judges Bench of this Court in a later decision and upon reference to the decision in *Jose Antonio Cruz Dos R. Rodrigues and another v. Land Acquisition Collector and another*⁶, duly recorded the events noticed above but in view of the contentions raised formulated two questions. The questions being:

"1. Whether the award of the Court, i.e. civil Court made under Section 26 on reference under Section 18 would also include judgment and decree of the appellate Court under Section 54?

2. Whether each successive award or judgment and decree (if answer on Question 1 is positive) would give cause of action to file application under Section 28-A, if so construed, does not such a construction violate the language used in Section 28-A when Parliament advisedly did not use such expressions ?"

8. The questions having the backdrop of the incidents and the state of law thus were required to be examined by larger Bench of the five-judges as to the proper interpretation of Section 28-A on the issue of limitation. Similar is the situation presently before us and having regard to the issue involved herein we also feel it expedient to record that such a pronouncement of a larger Bench is required to be made on the issue pertaining to limitation in so far as Section 28-A of the Land Acquisition Act (as amended) is concerned. In the normal course of events we would have framed certain questions for determination but since the issue such as fairly elaborated in two questions noted in Jose Antonia's decision (supra) we do not feel it expedient to introduce further questions since answer to the same would resolve the principal disputes in most of these matters placed before this Bench excepting however in two matters (SLP(CC) No. 2919 of 2000, BBMB, Punjab v. Sita Devi and another and SLP(CC) No. 3141 of 2000, BBMB Punjab v. Basu Dev and another) wherein Mr. Dhruv Mehta, learned Advocate appearing in support of the petitions raised following two questions which we also feel it expedient to record herein for the benefit of adjudication by the larger Bench. The questions being :

"1. (a) Whether dismissal of an application seeking reference under Section 18 on the ground of delay amounts to "not filing an application" within the meaning of Section 28-A of the Land Acquisition Act, 1894 ? (b) Whether a person whose application under Section 18 of the Land Acquisition Act, 1894 is dismissed on the ground of delay or any other technical ground is entitled to maintain an application under Section 28-A of the Land Acquisition Act ? 2. Whether a person who has received the compensation without protest pursuant to the award of the Land Acquisition Collector and has not filed an application seeking reference under Section 18 is "a person aggrieved" within the meaning of Section 28-A ?"

9. Though various other suggestions have come forth from the Bar but the questions noticed in Jose Antonio's decision (supra) in our view would otherwise cover the field for which difficulties are being experienced as noticed herein before.

10. On the wake of the aforesaid we do feel it expedient also to record that above noted two questions require examination by a larger Bench of at least five Judges by reason of the pendency of the various matters in this Court.

11. Notices thus be issued to the respondents returnable within four weeks. Dasti service to be taken out in addition.

12. The Registry is directed to place these matters before the Hon. Chief Justice of India for appropriate orders.

Order accordingly.

¹1995(2) SCC 736

⁴1996(6) SCC 746

²1995(2) SCC 689

⁵1997(5) SCC 757

³1995(2) SCC 728

⁶1996(1) SCC 88