Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 2026
(Arising out of SLP (C) No.18801 of 2025)

New Okhla Industrial Development Authority & Anr. ...Appellant (s)

Versus

Rajveer Singh & Ors. ...Respondent (s)

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. The appellant is the requestioning authority, which is aggrieved by the application filed by the party respondents; directed to be entertained under Section 28A of the Land Acquisition Act, 1894[1] and allowed, by the impugned order.

3. The party respondents claim under their predecessors-in-interest whose lands were proceeded against under Section 4(1) read with Section 17 of the Act of 1894 and acquired. An award was passed on 15.02.1977 and

[1] Hereinafter referred to as 'the Act of 1894'

the entire compensation, admittedly, was received by the predecessors-in-interest, who did not file any application for reference under Section 18 of the Act of 1894. But others, whose lands were also acquired by the very same notification, sought a reference under Section 18, which though referred, was rejected by the Additional District Judge, Ghaziabad, by a judgment and decree dated 25.11.1981. An appeal was filed therefrom under Section 54 of the Act of 1894, being First Appeal No.458 of 1982, which by Annexure P1, was disposed of on 18.04.2022. The party respondents, hence, filed an application under Section 28A of the Act of 1894 on 23.05.2022, within three months from the date of Annexure P1. No consideration having been carried out, the applicants filed a writ petition, in which expeditious decision was ordered. The application under Section 28A, subsequently stood rejected as not maintainable since it was filed on the basis of the decision passed in First Appeal and not based on an order passed by the Reference Court under Section 18 of the Act of 1894.

4. Various decisions were relied on by the applicants before the High Court, in a challenge to the order of the

Collector. The High Court, by the impugned order, found that the decision of a three Judge Bench in ***Union of India and Another v. Pradeep Kumari and Others***[2], regulated the issue. Therein the three Judge Bench had categorically found that the benefit under Section 28A accrues not only from the first award passed on reference under Section 18 but also from any one of the awards after coming into force of Section 28-A, right of determination not being confined to the earliest award made by the Court. The said view was reaffirmed in ***Banwari and Others v. Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and Another***[3] wherein on an identical situation of the reference being rejected, the entitlement to file an application within three months from an award passed in an appeal by the High Court, was permitted.

5. The questions, as to who would be entitled under Section 28A and when the limitation commences, have engaged this Court's attention in numerous cases. The decisions having come from Benches of varying strength, we

[2] (1995) 2 SCC 736
[3] 2024 SCC OnLine SC 3685

need to look at those decisions to put the law in the correct perspective.

6. ***Pradeep Kumari***[2] was by a three Judge Bench, wherein the award was made by the Land Acquisition Officer (LAO) and the respondents therein did not seek a reference under Section 18, but other landowners did. Some of the references were disposed of prior to 24.09.1984, on which date, the Land Acquisition (Amendment) Act, 1984, introduced Section 28A in the Act of 1894. The Union of India (UoI) contended that the earliest award by the Reference Court after Section 28A came into force, was on 27.12.1984. The application filed by Pradeep Kumari was within the period of three months from a subsequent award dated 21.02.1987. The Collector, under Section 28A awarded enhanced compensation, equal to that in the subsequent award. An appeal was filed before the High Court by the UoI. One other landowner, Savitri Devi, sought for the benefit of a decision dated 05.09.1986 of the High Court in an appeal, to be extended to her, which application under Section 28A was dismissed by the Collector, finding that Section 28A would

be available only on the basis of the award of the Reference Court, which too was challenged before the High Court.

7. The High Court, in the challenge from the two orders held that all that is required under Section 28A is that there should be an award made under Part III of the Act by the Court, in which an excess amount is allowed and Section 28A nowhere provides that it should be the first award after coming into force of the Amendment Act. The other requirement under Section 28A was that the land of the person applying, should be covered by the very same notification which is the subject matter of the award of Court, but such an application can be made only once before the Collector. The claim of Savitri Devi was allowed on the basis of another award made on 10.11.1986 while the enhancement of compensation to Pardeep Kumari based on the award dated 21.02.1987 was affirmed. The Civil Appeals filed against the said orders were dismissed and the cited decision was rendered in a review. Here we have to immediately notice that the dictum in the three judge bench was only that Section 28A could be invoked on any of the successive awards made by the Refence Court.

8. ***Pradeep Kumari***[2] visualized various situations, especially, in the context of the introduction of Section 28A. It was held that in the first award passed on reference, if the applicant could not produce adequate evidence in support of his claim for enhancement and in another reference subsequently, such evidence is produced, then in the subsequent award, there would be a higher amount determined as compensation. There can be no restriction of the benefit of Section 28A to the first award. If there be denial of invocation of Section 28A after three months from the first award, it results in redetermination of compensation only on the basis of a lesser amount, depriving the benefit of the larger amount subsequently granted, that too on a reference from the very same acquisition notification.

9. The three Judge Bench also considered a situation where the notification under Section 4(1) covers lands falling in various villages and a number of references are made by owners having lands in the different villages. An award may be made with respect to one village, which the owner, in another village who had not sought for a reference, would not be aware of. But if there is a subsequent award made at the

instance of a person belonging to the same village, then before the expiry of the period of three months from the date of such award, a person of the same village would be entitled to invoke Section 28A. If redetermination under Section 28A is restricted to the first award made, such a construction would result in perpetuating the inequality in payment of compensation; which was sought to be removed by Section 28A, was the finding.

10. Section 28A, thus construed, was found to enable an application, if 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 28A 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 28A for redetermination of compensation by an applicant.

11. It was thus held that the limitation for moving an application under Section 28A will begin to run only from the date of the award, on the basis of which, redetermination of compensation is sought, especially in the context of the introduction of Section 28A, while the references were pending. We have to reiterate that ***Pradeep Kumari***[2] only contemplated invocation of Section 28A from an award under Section 26 on a reference made under Section 18 and not from an order in first appeal by the High Court.

12. A two Judge Bench doubted the proposition in ***Pradeep Kumari***[2] and referred it to a larger Bench. The Chief Justice of India, following the time-honoured principle of a two Judge Bench being disabled from making a reference of a larger Bench decision; though entitled to doubt it, placed the matter before the three Judge Bench itself, which was considered in ***Jose Antonio Cruz Dos R. Rodriguese and Another v. Land Acquisition Collector and Another***[4].

13. ***Jose Antonio Cruz***[4] was concerned with two questions as referred by the two Judge Bench. One, whether the award

[4] (1996) 6 SCC 746

of the Court would include the appellate order under Section 54, or would be restricted to an award made under Section 26 on a reference under Section 18. Then, the question as to whether each successive award or judgment and decree would give a fresh cause of action to file an application under Section 28A. Therein a certain parcel of land was sought to be acquired and following the procedure in the Act of 1894, the Land Acquisition Officer awarded compensation on 02.08.1972. A reference was made, in which the District Judge revised and enhanced the compensation. In two other awards, there was a larger enhancement granted. The High Court reduced the enhancement and passed an award in First Appeal. Within three months of the award of the High Court, an application under Section 28A was filed, which was dismissed on the ground of limitation from the award passed on reference, having expired. ***Pradeep Kumari***[2] was specifically noticed and the three Judge Bench in ***Jose Antonio Cruz***[4] looked at the words employed in Section 28A, which spoke of an amount of compensation allowed by a Court, in excess of the amount awarded by the Collector under Section 11 and found that it has reference only to a

Court to which a reference is made by a Collector under Section 18. It was held that the limitation, hence, would start to run from the date of the Reference Court's order and not from an order in appeal. The second question referred with respect to entitlement arising under Section 28A from successive awards or judgments and decrees, was held to be not arising in that case and hence, the Bench refused to answer the same.

14. Later, a different issue was referred to a Constitution Bench which was considered in ***Union of India and Another v. Hansoli Devi and Others***[5]. The questions referred and decided, is not relevant for our purpose, but we will refer to it briefly, with one intent. Therein, the referred questions were with respect to (i) whether dismissal of an application seeking the reference on the ground of delay amounts to not filing an application within the meaning of Section 28A and (ii) entitlement of a person whose application was dismissed on the ground of delay or on any other technical ground, to maintain an application under Section 28A of the Act of 1894.

[5] (2002) 7 SCC 273

The third question was as to whether a person who received the compensation without demur, could be considered 'a person aggrieved' under Section 28A. The Constitution Bench categorically found that the dismissal of an application seeking reference under Section 18, whatever be the ground, would come within the ambit of Section 28A and such landowner would be entitled to make an application thereunder. As to the third question referred, it was held that for the purpose of Section 28A, the receipt of compensation, with or without protest, is of no consequence and the landowner would definitely fall within the meaning of person aggrieved under Section 28A.

15. We referred to the Constitution Bench only to emphasize that the decisions in ***Pradeep Kumari***[2] and ***Jose Antonio Cruz***[4], was specifically noticed. It was found in Paragraph 6 that ***Jose Antonio Cruz***[4], observed that the question as to entitlement on the basis of successive awards, when arising in an appropriate case, could be referred. The five Judge Bench held that the said observation indicates that the three Judge Bench in ***Jose Antonio Cruz***[4] doubted the correctness of the ratio in ***Pradeep Kumari***[2]. The legal

proposition in ***Pradeep Kumari***[2] however still survives, as the same has not been considered or even referred to a larger Bench and we would defer to that. The ratio of Section 28A being possible of invocation within three months of any award passed by the Reference Court.

16. In ***Union of India and Another v. Hansoli Devi and Others***[6], a two Judge Bench reaffirmed the principle laid down in ***Jose Antonio Cruz***[4] that the limitation of three months has to be computed from the date of the award of the Reference Court, on the basis of which, redetermination is sought and not the order of the Appellate Court dealing with the appeal against the order of the Reference Court.

17. ***Popat Bahiru Govardhane and Others v. Special Land Acquisition Officer and Another***[7], was a case in which the appellants, who were landowners, did not seek reference under Section 18, while some others did, one of which, was decided on 03.04.2006. The appellants applied for a certified copy on 17.05.2006 and despite the copy being ready for delivery on 29.04.2006, obtained it only on 03.06.2006.

[6] (2010) 15 SCC 483
[7] (2013) 10 SCC 765

Application under Section 28A was filed on 18.08.2006, which was rejected on the ground of limitation. The argument of the appellants was that since Section 28A is a beneficial provision, it should be interpreted liberally, and limitation should be considered and determined on equitable grounds. Limitation, hence, should commence only from the date of knowledge of the order or award, was the argument. This Court rejected it on the settled legal proposition that the law of limitation, though, may affect a particular party harshly, nevertheless, it has to be applied with all its rigour when the statute so prescribes.

18. ***Bharatsing s/o Gulabsingh Jakhad and Others v. State of Maharashtra and Others***[8], again was a case in which the application of appellants for enhancement of compensation based on awards, which are pending in appeal before the High Court, was directed to be kept in abeyance till the appeal is finally decided by the High Court. Therein, the Collector proceeded to consider the application based on the award of the Reference Court and when there was an

[8] (2018) 11 SCC 92

enhancement made in appeal by the High Court, the fresh application filed was rejected. A two Judge Bench held that the principle of only a single application being maintainable, though unassailable, since the appeal against the award was pending before the High Court, the application under Section 28A ought to have been kept in abeyance by the Collector. This was in reiteration of the principle that invocation of Section 28A is possible only from an award of the Reference Court and if an appeal is filed from the order of the reference court, the consideration of the application shall be kept in abeyance so as to facilitate any enhancement granted by the High Court also inuring to the benefit of the applicant.

19. Now, we come to the second decision relied on in the impugned order i.e., ***Banwari and Others***[3], wherein the situation was identical to the present case. On acquisition being made, an award dated 01.03.2006 was passed by the Collector. Certain landowners preferred a reference which was rejected by the Reference Court by order dated 17.01.2012. The said landowners preferred a Regular First Appeal before the High Court, in which the compensation was redetermined and enhanced by the High Court on

02.05.2016. On 30.06.2016, an application under Section 28A was filed before the Collector, as the applicants had not sought for a reference under Section 18. A Division Bench of this Court held so in Paragraph 15 relying on ***Pradeep Kumari***[2]:

> "*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 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.*"

20. This Court by the aforesaid decision conferred entitlement on a landowner who has not sought for a reference under Section 18, to make an application under Section 28A, after an order being passed by the High Court in First Appeal from the order of the Reference Court. At first blush, this may look contrary to the decision in ***Jose Antonio***

Cruz[4] and even ***Pradeep Kumari***[2], by two different three Judge Benches and a two Judge Bench in ***Hansoli Devi***[6]. But, on closer scrutiny, the distinction is insofar as the reference under Section 18 by the other landowners having been rejected without any enhancement. The first enhancement was in First Appeal before the High Court, which identical facts come out in the instant case.

21. Going by the proposition in ***Banwari and Others***[3], it can be found that when a reference under Section 18 is rejected *in toto*, without any enhancement, no cause of action arises under Section 28A. Only in that circumstance, when there is an enhancement made by the High Court in First Appeal, the landowner who had not sought for a reference under Section 18, gets a benefit under Section 28A; the enhancement having been made at the first instance and the enabling provision under Section 28A having come to operation only on such enhancement being granted.

22. However, in the present case, what is glaring is that by Annexure P1-order, in First Appeal No.458 of 1982, the High Court merely relied on an order in First Appeal No.593 of 1982, which was passed on 08.07.2019. Annexure P1 did not

create an entitlement at the first instance to make an application under Section 28A as also it did not by itself grant any enhancement of compensation. In fact, it is very clear from Annexure P1 that the appellants therein were concerned with the acquisition in the same village, under the same notification, as in First Appeal No.593 of 1982; which identical claim is raised by the party respondents herein. The party respondent's claim under Section 28A, limitation of which commenced on 08.07.2019, stood barred on expiry of three months therefrom.

23. Here we have to immediately notice the decision in ***Popat Bahiru Govardhane and Others***[7], which held unequivocally that the date on which limitation commences under Section 28A, is the date of award and not the date of knowledge. The date of first enhancement by the High Court is on 08.07.2019, and the three-month limitation expires on 07.10.2019. There is no fresh limitation arising on 18.04.2022, when Annexure P1 was passed, merely following the earlier appellate order.

24. Learned Counsel for the party respondents had vehemently contended based on ***Pradeep Kumari***[2] that

when successive awards give rise to a fresh cause of action, the appellate orders, if made successively, should give rise to such entitlement under Section 28A, especially, in the context of the beneficial legislation. However, we are constrained to hold otherwise, noticing the context in which the successive awards were found to have given rise to fresh entitlement under Section 28A in ***Pradeep Kumari***[2].

25. In ***Pradeep Kumari***[2], after Section 28A was introduced, there were successive awards passed, the latter enhancing compensation, more than the earlier awards. The situation was such that, in the earlier references, the enhancement was lesser than that in the latter ones, wherein sufficient evidence was produced to commend a still higher compensation. Then again, the three Judge Bench noticed the difficulties insofar as a landowner in one village not being aware of a reference made with respect to a land in another village, covered by the same notification. This has no application to the present case, since the specific case of the party respondents was that their lands were in the same village, as the lands covered by the order in First Appeal No.458 of 1982, wherein the contention was identical with

reference to First Appeal No.593 of 1982, which was disposed of in 2019. The lands of the respondents herein, were in the same village as the lands in both the said appeals.

26. We cannot but also observe that the Constitution Bench in ***Hansoli Devi***[6] specifically spoke of the three Judge Bench having doubted the proposition of a Co-ordinate Bench in ***Pradeep Kumari***[2], with respect to successive awards giving rise to fresh cause of action, which question was not referred for consideration by a larger Bench only because that question did not arise in the said case; nor does it arise in the present case.

27. In the present case, we are bound by ***Banwari and Others***[3] which found the entitlement arising from an order made by the High Court in First Appeal, though, contrary to earlier Co-ordinate and a larger Bench decisions, but in the peculiar circumstance of the reference having been rejected and no cause of action under Section 28A having arisen on the rejection of the reference. We are also bound by the three Judge Bench decision in ***Pradeep Kumari***[2] with respect to successive awards and the context in which such a declaration was made; which context of lands in different

villages being covered by successive awards or a later award enhancing the earlier award, not arising in the present case.

28. Learned Counsel for the respondent then relies on a two Judge Bench decision of this Court in ***Andanayya and Ors. v. Deputy Chief Engineer and Ors.***[9], wherein the Division Bench relied on ***Babua Ram and Ors. v. State of U.P. and Anr.***[10], ***Bharatsing s/o Gulabsingh Jakhad***[8] and ***Pradeep Kumari***[2] to find that even a second application made under Section 28A of the Act, after an award is passed by the High Court would be maintainable, applying the doctrine of merger. We are unable to accept the said proposition, with respect, especially looking at Section 28A in its entirety. At the risk of repetition, sub-section (1) as has been held by this Court in the various decisions referred to by us, allows a land owner aggrieved by the award of the Collector, despite a reference not having been sought under Section 18, to make an application to redetermine the compensation; if in a reference by another land owner under the same notification,

[9] 2026 SCC OnLine SC 482
[10] (1995) 2 SCC 689

there has been enhancement of compensation by the Reference Court, within three months from the date of such award by the Reference Court. Sub-section (2) empowers the Collector to redetermine the compensation and make an award on an application under sub-section (1). Pertinently sub-section (3) enables the applicant under sub-section (1) to seek for a reference from an award under sub-section (2) of Section 28A, if he is not satisfied with the award.

29. Section 28A hence, can be invoked only from an award of the Reference Court. However, after the application is filed under Section 28A, if an appeal is pending before the High Court, the proper procedure would be for the Collector to keep it in abeyance as held in ***Bharatsing s/o Gulabsingh Jakhad***[8]. Yet again if an applicant makes an application under Section 28A within time and compensation is enhanced, as per the award of the Reference Court, then the applicant could seek for a reference under sub-section (3) and if later the appeal before the High Court is disposed of; further enhancing compensation, necessarily the Reference Court would be bound by such enhancement.

30. Be that as it may, the said issue does not have any application in the present case and hence despite doubting the proposition, where the learned Judges went a step ahead from ***Bharatsing***[8], we do not think a reference is expedient in the facts of the present case. This proposition, if accepted, would result in an application for enhancement based on the award in First Appeal, which stands contrary to the decision of a three Judge Bench in ***Jose Antonio Cruz***[4] and a two Judge Bench in ***Hansoli Devi***[6]. Even in ***Pradeep Kumari***[2], the three Judge Bench dealing with the appeal of Savitri Devi, invoking Section 28A on the basis of an order in First Appeal, allowed it only as against the award of the Reference Court dated 10.11.1986. ***Andanayya***[9] hence would be directly in conflict with two three Judge Bench decisions and a Coordinate Bench decision.

31. ***Babua Ram***[10] was overruled in ***Pradeep Kumari***[2], insofar as an application under Section 28A having been restricted to the first award made after a reference under Section 18. ***Pradeep Kumari***[2] held that successive awards of the Reference Court could also lead to an application under Section 28A. As we noticed in ***Pradeep Kumari***[2], one of the

appeals was concerned with the application made by Savitri Devi, who sought for enhancement as per the award of the High Court in a first appeal. The High Court while extending the benefit of the enhanced compensation, referred to an award made by the District Judge on 10.11.1986 in another Land Reference No.15 of 1984 (Para 2), impliedly rejecting the contention that an application would lie from an order in appeal by the High Court; which was upheld by this Court.

32. ***Babua Ram***[10] relied on by the learned Judges in ***Andanayya***[9]***,*** in paragraph 39 only noticed that if an application is filed within time from an award by the Reference Court enhancing the compensation and there is an appeal pending from that, the application be kept pending till the appeal is decided since there could be a benefit of further enhancement by the High Court conferred on the applicant by the doctrine of merger. This proposition, in fact recognises the disability of an applicant who has once filed an application under Section 28 A and got the compensation redetermined to file further application under Section 28A after the High Court passes the order in first appeal. The proposition would also go against the authoritative

pronouncement of ***Pradeep Kumari[2],*** a three Judge Bench specifically with respect to condition (vi) stipulated therein; of only one application under Section 28A, for redetermination of compensation by an applicant being permitted.

33. In support of the three Judge Bench in ***Pradeep Kumari[2]*** and ***Jose Antonio Cruz[4]*** and a two Judge Bench in ***Hansoli Devi[6]*** as to disentitlement of an application under Section 28A, from an order in appeal under section 54, when there is enhancement granted under Section 26, we again notice sub-section (3) of Section 28-A. Sub-section (3) provides for a further remedy of reference if the award passed under sub-section (2) is not acceptable; which definitely cannot arise when the enhancement is granted by the High Court in an appeal from the award, made under Section 26. Hence, the device of an application under Section 28A, from an order in appeal, when the reference is declined by the reference court, is a *caussus omissus*, ensuring the beneficial legislation not being stultified in the event of a reference under Section 18 being rejected as laid down in

Banwari and Ors.[3]; a situation not contemplated by the legislature, obviously.

34. We also have to emphasize that there is no question of successive orders in First Appeal, conferring fresh cause of action under Section 28A, since in First Appeal, the High Court being a Court of Record is bound by an order passed at the first instance, by a Coordinate Bench.

35. We, hence, allow the appeal, setting aside the impugned order and rejecting the application under Section 28-A of the Act of 1894.

36. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
SEPTEMBER 21, 2026.