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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3765/2018**

SMT. SAVITA GUPAT

.....Petitioner

Through: **Mr. Jyotirmay Vasishth and Mr.
Mr. Sumit, Mr. Lalit, Advs.**

versus

UNION OF INDIA

.....Respondent

Through: **Mr. Sidharth Panda, Mr. Anil
Pandey, Advs. for LAC**

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

18.11.2024

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1. This writ petition has been preferred seeking the following reliefs:-

“(a) Directing the respondent to dispose of/ decide the application of the petitioner filed on 9.3.2015, u/s 28-A of the Land Acquisition Act, 1894 as amended upto date, ——— at an early date, in the interest of justice.

(b) Pass such any other order/s or direction/s which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case in the interest of the Justice.”

2. The direction which is principally sought is for the disposal of an application stated to have been made by the petitioner on 09 March 2015 purportedly under Section 28A of the **Land Acquisition Act, 1894**¹. The said application is premised on the order of the Reference Court dated 03 December 2014 passed in **S.S. Dhillon Vs. UOI & Ors**².

3. However, we are informed that the aforesaid judgment of the

¹ LA Act



Reference Court presently forms subject matter of challenge in **Union of India v. S.S. Dhillon & Anr.**³ [LA APP. No. 52/2017] and which remains pending on the board of this Court.

4. We bear in mind the following pertinent observations which appear in the judgment of the Supreme Court in **Kendriya Karamchari Sehkari Grah Nirman Samiti Limited, Noida v. State of Uttar Pradesh and Another**⁴:-

“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 under Section 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 under Section 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 under Section 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.

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44. In our opinion, therefore, the Collector was right in not deciding the application in view of the fact that the order passed by the Reference Court was challenged by the New Okhla Industrial Development Authority (NOIDA) by filing first appeals before the High Court. The High Court had entertained the appeals and also passed interim order.

² LAC No. 27/2012

³ LA. APP. No. 57/2017

⁴ (2009) 1 SCC 754



45. The contention of the appellants before the High Court that Government Orders dated 14-1-1994 and 13-6-2001 were illegal, arbitrary and ultra vires has no force. In fact, those government orders are in consonance with law laid down by this Court in *Babua Ram* and other cases. We, therefore, see no infirmity in the action of the Collector in not deciding the applications.”

In view of the aforesaid, we find no justification to issue the prerogative writs as prayed for.

5. Accordingly, we dispose of the writ petition with liberty reserved to the petitioner to pursue its application under Section 28A, dependent upon the outcome of *S.S. Dhillon & Anr.* The said application may be revived and pursued subject to the final decision that may be rendered thereon.

6. All rights and contentions of parties on merits are kept open.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 18, 2024/neha