

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 7524 OF 2013

SUGRIV NARAYAN PAWAR, L.RS. RUKHMINIBAI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. N.P. Bangar
AGP for Respondents: Smt. S.S. Raut.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 17th JUNE , 2016.

PER COURT:

- 1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.
- 2] Mr. Bangar, learned counsel for the petitioner states that the petitioner had filed an application under Section 28A of the Land Acquisition Act. The same was allowed. The SLAO, calculated the amount of Rs. 29.60,250/- as the amount, the petitioner was entitled to. Out of the said amount, the amount of Rs. 22,18,917/- only was paid to the petitioner. The remaining amount was not paid. The petitioner applied for the remaining amount, however, the Commissioner negated the claim of the petitioner for the remaining amount on the ground that the said interest on Solatium as was granted to the petitioner was prior to the judgment of the Apex Court in *“Sunder Vs. Union of India” reported in (2001)7 SCC 211.*
- 3] Learned counsel for petitioner submits that the amount was already granted by the petitioner by the SLAO in proceedings under Section 28A of the Land Acquisition Act. As such, the Commissioner was not justified in relying on the opinion given by the Law and Justice Department.
- 4] Learned AGP submits that the award under Section 28A was

passed in the year 2000. The judgment in the case of *Sunder* referred to supra, was delivered in 2001. The cases already decided could not have been reopened as has been clarified in the subsequent judgment of the Apex Court in the case of “*Chhanga Singh vs. Union of India*” reported in *AIR 2012 SC 2879*. The order is rightly passed.

5] We have considered the submissions canvassed by; the learned counsel for the respective parties. There cannot be any dispute that the interpretation made to the judgment in the case of *Sunder* referred to Supra. Even the Apex Court in the matter of *Chhanga Singh* referred to Supra, has observed that cases which are already closed prior to 2001 cannot be reopened on the basis of the judgment of the Apex Court in the case of *Sunder*. However, in the present case, in an award passed in the year 2000, the SLAO has already awarded the benefit to the petitioner. As such, it is not a case of re-opening a closed matter. Said aspect has been lost sight of by the respondents.

6] Considering the above, the impugned order is quashed and set aside. Respondent shall make payment to the petitioner as per the award passed under Section 28A dated 25.1.2000 (Exhibit A) expeditiously and preferably within a period of four months. Rule made absolute in above terms. Writ petition is accordingly disposed of. No costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-