

3. Learned counsel for the petitioner has submitted that the petitioner's earlier application was rejected vide order dated 13 June, 2006 i.e. at Exh.B, not on merit but for none payment of Court fee. In the circumstance, according to learned counsel for the petitioner, in view of

the law laid down by the Supreme Court in the case of ***Union of India and another Vs. Hansoli Chand Das and Others (2002) 7 SCC 273***, the impugned order is not sustainable.

4. Having considered the submission made by the learned counsel for the parties and having gone through the impugned order as also earlier rejection order, we find that the petitioner's application was earlier rejected on the ground of non payment of requisite Court fee, and was not that the application was entertained and decided on merits. In the circumstances, in view of the judgment of the Supreme Court in ***Union of India and another Vs. Hansoli Chand Das and Others (supra)***, the rejection of the petitioner's application cannot be ground which will come in the way of the petitioner and the authority for deciding the application filed under section 28A. The Supreme court in paragraph 9 has observed that keeping in mind that the amendment is beneficial in nature and it would cause great injustice if a literal interpretation given to the expression “had not made an application to the Collector under section 18” in section 28A of the Act. The Supreme Court has observed that the expression “did not make an application”, would mean “did not make an effective application which had been entertained by making a reference”.

5. In these circumstances, we are of the view, the impugned order cannot be sustained and as such hereby quashed. As a result we are granting relief in terms of prayer clause (b). The authority shall re-determine the amount of compensation in accordance with law as expeditiously as possible.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)