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

% *Date of Judgment: 15th December, 2017*

+ W.P.(C) 6506/2017

YASHWANT SINGH Petitioner

Through: Mr.Vishal Maan, Advocate

versus

GOVT OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Siddharth Panda, Adv. for R-1 and
R-2.

Mr.Arjun Pant, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V.KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. The counsel for the Land Acquisition Collector (LAC) submits that it is not necessary to file the counter affidavit.
2. With the consent of the parties, the writ petition is set down for final hearing and disposal.
3. This is a petition under Article 226 of the Constitution of India filed by the petitioner. The petitioner seeks a direction to quash the order dated 17.03.2017 passed by the respondent no.2 whereby the application filed by the petitioner under Section 28-A of the Land

Acquisition Act, 1894 (hereinafter referred to as 'the Act') has been dismissed.

4. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 notification of the Act was issued on 04.11.2004. Thereafter an Award bearing no.1/2007-08 was passed on 06.08.2007. It is the case of the petitioner that the learned Additional District Judge (ADJ) decided a reference being LAC No.101/11 on 15.12.2002 and re-determined the market value of the acquired land at the rate of Rs.17,45,000/- per acre for category/Block-A and for category/Block-B at rate of Rs.17,01,375/- per acre. On 22.12.2010, the petitioner filed reference petition under Section 18 of the Act, which was rejected by an order dated 03.03.2011 by the then Land Acquisition Collector (SW) as being time barred. Although the reference was forwarded to the ADJ but the same was dismissed by the court of ADJ on 29.10.2011 on the ground that the same is barred by limitation. This led to filing of a petition under Section 28A of the Act before the LAC which also stands dismissed by the impugned order dated 17.03.2017.
5. Mr.Maam submits that LAC, despite the decision of the Constitution Bench in the case of ***Union of India and another vs. Hansoli Devi and others***, reported at AIR 2002 SC 3240, has rejected the application on the basis of a reference order dated 17.04.2001, but did not rely upon the final order and observed that the order in question has been referred to a larger bench. Mr.Maam contends that as per the decision rendered in the case of ***Hansoli Devi (supra)***, it has been held as under:

“6. Coming to the second question for reference the receipt of compensation with or without protest pursuant to the award of the Land Acquisition Collector is of no consequence for the purpose of making a fresh application under Section 28-A. If a person has not filed an application under Section 18 of the Act to make a reference, then irrespective of the fact whether he has received the compensation awarded by the Collectors with or without protest, he would be a person aggrieved within the meaning of Section 28-A and would be entitled to make an application when some other land owner's application for reference is answered by the reference Court. It is apparent on the plain language of the provisions of Section 28-A of the Act. Otherwise, it would amount to adding one more condition, not contemplated or stipulated by the Legislature itself to deny the benefit of substantial right conferred upon the owner.”

6. Mr.Panda, counsel for the LAC submits that in the decision of the five judges' Bench in the case of *Hansoli Devi* (*supra*) was not brought to the notice to the LAC, therefore, the impugned order may be set aside and the matter may be remanded back to the Land Acquisition Collector for fresh hearing.
7. Having regard to the submissions made and the stand taken by the counsel for the LAC, the impugned order of 17.03.2017 is set aside. The matter is remanded back to the LAC to enable him to hear and decide the matter afresh after hearing the parties.
8. We make it clear that we have not expressed any opinion on the merits of the case. Leave is granted to the parties to raise all the grounds. Mr.Maana submits that by a subsequent order dated 11.12.2014, the Supreme Court has further enhanced the compensation. It will be

open for the parties to bring to the notice of LAC the aforesaid order, who shall consider the same in accordance with law.

9. The writ petition stands disposed of in the above terms.

G.S.SISTANI, J

V. KAMESWAR RAO, J

DECEMBER 15, 2017

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