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

Date of Judgment: 18th April, 2018

+ W.P.(C) 11985/2016
CHAMAN SINGH & ORS Petitioners

Through: Mr.Anuroop P.S., Advocate.

versus

LAND ACQUISITION COLLECTOR (EAST) & ORS
..... Respondents

Through: Mr.R.K. Sharma, Advocate for
respondent/LAC/L&B Department.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S. SISTANI, J. (Oral)

1. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking quashing of order dated 27.07.2015 passed by the Court of Land Acquisition Collector (in short 'LAC')/Additional District Magistrate (in short 'ADM') (East), L.M. Bundh, Shashtri Nagar, Geeta Colony, Delhi by which their petition under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') stands dismissed on the ground that the applicant had filed an application under Section 18 of the Act for reference which stands rejected.

2. The necessary facts to be noticed by the disposal of this writ petition are that the petitioners claim to be owners of acquired land comprised in Khasra Nos.404/272 min 14 biswas and 408/272 min 1 bigha 16 biswas situated in the revenue estate of Village Chilla Saroda Banger, Delhi.
3. Counsel for the petitioner submits that it is no longer *res integra* that a person whose land is acquired and who has filed a reference under Section 18 of the Act can approach the LAC by filing a reference under Section 28-A provided his earlier reference has been rejected for technical reasons including delay. Counsel has placed reliance on a decision of the full bench of the Supreme Court of India titled as *Union of India & Anr. vs Hansoli Devi & Ors*, reported in AIR 2002 SCC 3240.
4. Counsel appearing for the LAC submits that there is some confusion with regard to Khasra numbers in the petition under Section 18 of the Act which was filed earlier.
5. Counsel for the petitioner submits that although there is no confusion, however, the question with regard to the Khasra numbers may be considered by the LAC at the time of hearing the reference under Section 28-A of the Act.
6. We have heard counsels for the parties.
7. In the case of *Union of India* (supra), two questions were formulated to be answered by the Constitution Bench being 1-(a) & (b) which read as under:

“1.(a) Whether dismissal of an application seeking reference under Section 18 on the ground of delay amounts to “not filing an application” within the meaning of Section 28-A of the Land Acquisition Act, 1894?

(b) Whether a person whose application under Section 18 of the Land Acquisition Act, 1894 is dismissed on the ground of delay or any other technical ground is entitled to maintain an application under Section 28-A of the Land Acquisition Act?”

8. The aforesaid questions would be covered by the subject matter of the writ petition. Paragraphs 4 and 5 of *“Union of India vs Hansoli Devi”* (supra) read as under:

“4. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of statute. The rule stated by Tindal, C.J. in Sussex Peerage case, (1844) 11 Cl and F 85, still holds the field. The aforesaid rule is to the effect:

“ If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver.”

It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In Kirkness v. John Hudson & Co. Ltd, 1955 (2) All ER 345, Lord Reid pointed out as to what is the meaning of “ambiguous” and held that “a provision is not ambiguous merely because it contains a word which in different context is capable of different meanings and it would be hard to find anywhere a sentence of any length which does not contain

such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning." It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, C.J. in the case of Aswini Kumar Ghose v. Arabinda Bose, 1953 SCR 1, had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In Quebec Railway Light Heat and Power Co. v. Vandray, AIR 1920 PC 181, it had been observed that the Legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons. Similarly, it is not permissible to add words to a statute which are not there unless on a literal construction being given a part of the statute becomes meaningless. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these words would have been inserted by the draftsman and approved by the legislature had their attention been drawn to the omission before the Bill had passed into a law. At times, the intention of the legislature is found to be clear but the unskilfulness of the draftsman in introducing certain words in the statute results in apparent ineffectiveness of the language and in such a situation, it may be permissible for the court to reject the surplus words, so as to make the statute effective. Bearing in mind the aforesaid principle, let us now examine the provisions of the Section 28-A of the Act, to answer the questions referred to us by the Bench of the two learned Judges. It is no doubt true that the object of Section 28-A of the Act to confer a right of making a reference, who might have not made a reference earlier under Section 18 and, therefore, ordinarily when a person makes a reference

under Section 18 but that was dismissed on the ground of delay, he would not get the right of Section 28-A of the Land Acquisition Act when some other person makes a reference and the reference is answered. But the Parliament having enacted Section 28-A, as a beneficial provision, it would cause great injustice if a literal interpretation is given to the expression "had not made an application to the Collector under Section 18" in Section 28-A of the Act. The aforesaid expression would mean that if the land-owner has made an application for reference under Section 18 and that reference is entertained and answered. In other words, it may not be permissible for a land owner to make a reference and get it answered and then subsequently make another application when some other person gets the reference answered and obtains a higher amount. In fact in Pradeep Kumari's case the three learned Judges, while enumerating the conditions to be satisfied, whereafter an application under Section 28-A can be moved, had categorically stated "the person moving the application did not make an application to the Collector under Section 18". The expression "did not make an application", as observed by this Court, would mean, did not make an effective application which had been entertained by making the reference and the reference was answered. When an application under Section 18 is not entertained on the ground of limitation, the same not fructifying into any reference, then that would not tantamount to an effective application and consequently the rights of such applicant emanating from some other reference being answered to move an application under Section 28-A cannot be denied. We, accordingly answer question No.1(a) by holding that the dismissal of an application seeking reference under Section 18 on the ground of delay would tantamount to not filing an application within the meaning of Section 28-A of the Land Acquisition Act, 1894.

5. So far as question 1(b) is concerned, this is really the same question, as in question 1(a) and, therefore, we reiterate that when an application of a land owner under Section 18 is

dismissed on the ground of delay, then the said land owner is entitled to make an application under Section 28-A, if other conditions prescribed therein are fulfilled”.

9. It is not disputed before us that the reference petition filed by the petitioners under Section 18 of the Act was rejected on the ground of delay. Thus, in our view the case of the petitioner would be fully covered by the decision of the full bench.
10. Accordingly, the present writ petition is allowed. The rule is made absolute.
11. The matter is remanded back to the Court of the LAC to be decided in accordance with law laid down by the Constitution Bench in “*Union of India vs Hansoli Devi*” (supra) on 09.05.2018 at 03:00PM. The legal objections of the respondents are kept open.
12. The parties are directed to appear before the LAC on 09.05.2018 at 03:00 PM. In case, time and date are not suitable to LAC, fresh notice will be issued to the petitioners at the address mentioned in the writ petition prior to aforesaid date.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

APRIL 18, 2018/afa/ssc