

In the High Court of Punjab and Haryana, at Chandigarh

1.

Civil Writ Petition No. 8456 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Smt. Shanti and Others

... Respondent(s)
2.

Civil Writ Petition No. 8855 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Partap Singh and Others

... Respondent(s)
3.

Civil Writ Petition No. 8856 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Bhagwan Sahai and Others

... Respondent(s)
4.

Civil Writ Petition No. 9061 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Rattan Singh and Another

... Respondent(s)
5.

Civil Writ Petition No. 9113 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

2

Panchayat Deh, Gram Panchayat Village Rajokala, Tehsil and District
Palwal and Others

... Respondent(s)

6. Civil Writ Petition No. 9590 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Bansi and Another

... Respondent(s)

7. Civil Writ Petition No. 11353 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Smt. Shyamwati and Others

... Respondent(s)

8. Civil Writ Petition No. 11398 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Jagdish and Another

... Respondent(s)

9. Civil Writ Petition No. 11384 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Deep Kishor and Others

... Respondent(s)

10. Civil Writ Petition No. 12172 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Devi Singh Chauhan and Others

... Respondent(s)

11. Civil Writ Petition No. 12558 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Harpal and Another

... Respondent(s)

12. Civil Writ Petition No. 12658 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Inder Singh and Others

... Respondent(s)

13. Civil Writ Petition No. 12573 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Vijay Anand and Another

... Respondent(s)

14. Civil Writ Petition No. 13863 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

4

Gram Panchayat, Ratipur and Others

... Respondent(s)

AND

15.

Civil Writ Petition No. 14602 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Khajan Singh and Others

... Respondent(s)

DATE OF DECISION: 06.09.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Baldev Raj Mahajan, Senior Advocate
with Mr. Pritam Singh Saini, Advocate
for the petitioner(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana.

Mr. Amandeep Singh Talwar, Advocate
for the respondents.

Mr. Abhishek Jindal, Advocate
for respondent No.1 (In CWP-12573-2020).

Mr. Vipul Sharma, Advocate
for Mr. Kunal Dawar, Advocates
for respondent No.1 and 2 (In CWP-8855-2020).

Mr. Devender Kumar, Advocates
for respondent No.1 (In CWP-9061-2020) and
for respondent No.1 to 5 (In CWP-14602-2020).

Mr. Bharat Bhushan and Mr. Vaibhav Prashar, Advocates
for respondent No.1 to 5 (In CWP-11353-2020).

Mr. Rajiv Sharma, Advocate
for respondent No.1 to 38 (In CWP-12658-2020).

Mr. Manoj Kumar Sood, Advocates

Mr. Adarsh Jain, Advocate.

Anil Kshetarpal, J.

1. In these writ petitions, the following identical questions arise for consideration:-

- I) Whether the owner of the acquired land is entitled to apply for re-determination of the market value of the acquired land u/s 28-A of the Land Acquisition of Act 1894 particularly when the reference court does not enhance the market value of the acquired land of various other owners, however, the High Court in exercise of appellate powers under Section 54 of the 1894 Act or the Supreme Court enhances the market value of acquired land of various other owners?
- II) Whether the limitation for filing an application under section 28-A of the 1894 Act begins to run from the date of the judgment passed by the High Court in exercise of powers under Section 54 of the 1894 Act or the Supreme Court?

2. It would be noted here that while adjudicating the aforesaid issues in *Union of India and Another v. Pardeep Kumari and Others (1995) 2 SCC 736*, the Supreme Court held that the application under Section 28-A of the 1894 Act can be filed within a period of three months only on the basis of any award passed by the reference Court while deciding the reference sent to him under Section 18 of the 1894 Act. The relevant discussion is in para 10, which is extracted as under:-

award that is made by the court after the coming into force of Section 28-A the enhancement in the amount of compensation by the said award is not very significant for the reason that the person who sought the reference was not able to produce adequate evidence in support of his claim and in another reference where the award was made by the court subsequently such evidence is produced before the court and a much higher amount is awarded as compensation in the said award. By restricting the benefit of Section 28-A to the first award that is made by the court after the coming into force of Section 28-A the benefit of higher amount of compensation on the basis of the subsequent award made by the court would be denied to the persons invoking Section 28-A and the benefit of the said provision would be confined to redetermination of compensation on the basis of lesser amount of compensation awarded under the first award that is made after the coming into force of Section 28-A. There is nothing in the wordings of Section 28-A to indicate that the legislature intended to confer such a limited benefit under Section 28-A. Similarly, there may be a situation, as in the present case, where the notification under Section 4(1) of the Act covers lands falling in different villages and a number of references at the instance of persons having lands in different villages were pending in the court on the date of coming into force of Section 28-A and awards in those references are made by the court on different dates. A

person who is entitled to apply under Section 28-A belonging to a particular village may come to know of the first award that is made by the court after the coming into force of Section 28-A in a reference at the instance of a person belonging to another village, after the expiry of the period of three months from the date of the said award but he may come to know of the subsequent award that is made by the court in the reference at the instance of a person belonging to the same village before the expiry of the period of three months from the date of the said award. This is more likely to happen in the cases of inarticulate and poor people who cannot be expected to keep track of all the references that were pending in court on the date of coming into force of Section 28-A and may not be in a position to know, in time, about the first award that is made by the court after the coming into force of Section 28-A. By holding that the award referred to in Section 28-A(1) is the first award made after the coming into force of Section 28-A, such persons would be deprived of the benefit extended by Section 28-A. Such a construction would thus result in perpetuating the inequality in the payment of compensation which the legislature wanted to remove by enacting Section 28-A. The object underlying Section 28-A would be better achieved by giving the expression “an award” in Section 28-A its natural meaning as meaning the award that is made by the court in Part III of the Act after the coming into force of Section 28-A. If the said

expression in Section 28-A(1) is thus construed, a person would be able to seek redetermination of the amount of compensation payable to him provided the following conditions are satisfied:

- (i) An award has been made by the court under Part III after the coming into force of Section 28-A;*
- (ii) By the said award the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference;*
- (iii) The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates;*
- (iv) The person moving the application did not make an application to the Collector under Section 18;*
- (v) The application is moved within three months from the date of the award on the basis of which the redetermination of amount of compensation is sought; and*
- (vi) Only one application can be moved under Section 28-A for redetermination of compensation by an applicant”.*

3. Thereafter, again the matter was considered by a larger Bench in ***Jose Antonio Cruz Dos R. Rodriguese and Another v. Land Acquisition Collector and Another (1996) 6 SCC 746***. The larger Bench confirmed the opinion of the Court in ***Pardeep Kumari’s case (supra)***. The relevant discussion is in para 3 and 4, which is extracted as under:

“3. Before examining the decisions of this Court on which

the High Court has placed reliance, we deem it appropriate to first examine the plain language of Section 28-A extracted earlier. Section 28-A was inserted as the last section in Part III entitled “Reference to Court and Procedure thereon” by Act 68 of 1984. Part III begins with Section 18 which provides that if an interested person does not accept the award made by the Collector under Section 11 of the Act, he may, by a written application to the Collector, require that the matter be referred for determination of the court. Section 2(d) defines the expression ‘Court’ to mean the principal civil court of original jurisdiction unless a Special Judicial Officer has been appointed. Therefore, the court referred to under Section 18 can only mean the principal civil court of original jurisdiction. Section 23 then sets out the matters to be taken into consideration in determining the compensation to be awarded for the acquired land, and Section 24 indicates the matters to be omitted from consideration. Section 26 provides that the award shall be in writing signed by the Judge which shall be deemed to be a decree within the meaning of clauses (2) and (9) of Section 2 of the Civil Procedure Code, 1908. Section 27 provides for costs to be awarded and Section 28 provides for payment of interest on excess compensation. We then come to Section 28-A. The first part of the section begins with the words “Where in an award under this part, Court allows to the applicant any amount of compensation in excess of the amount

awarded by the Collector under Section 11” which clearly indicate that the legislature was talking of an award made under the provisions of Part III, i.e., an award under Section 11 and therefore, in that context, reference to ‘Court’ can only mean the court to which a reference is made by the Collector under Section 18. This position is further clarified when the section refers to compensation awarded in excess of the amount awarded under Section 11 of the Act. The second part of the section then addresses “the persons interested in all the other land covered by the same notification ... and who are also aggrieved by the award” and permits them to make a written application to the Collector “within three months from the date of the award of the Court” requiring him to redetermine the amount of compensation on the basis of the amount awarded by the Court, notwithstanding the fact that they had not sought a reference under Section 18 of the Act. Thus, the newly added section seeks to give the same benefit, which a person who had sought a reference and had secured the Court’s award for a higher amount of compensation had received, to those who had, on account of ignorance or financial constraints, not sought a reference under Section 18. In the latter part of the section also, reference is to the award under Section 11 and later, to the award of the Reference Court under Section 18 of the Act. Therefore, the court referred to therein is again the court referred to in Section 2(d) of the Act, i.e., the principal civil

court of original jurisdiction. The plain language of Section 28-A, therefore, prescribes the three months' period of limitation to be reckoned from the date of the award by the Court disposing of the reference under Section 18, and not the appellate court dealing with the appeal against the award of the Reference Court.

4. *We may now refer to the case-law. A two-Judge Bench of this Court in Babua Ram v. State of U.P. dealt with this precise question and held that the period of limitation begins to run from the date of the first award made on a reference under Section 18 of the Act, and successive awards cannot save the period of limitation; vide paragraphs 19 and 20 of the reporter. This view was reiterated by the same Bench in Union of India v. Karnail Singh wherein this Court held that the limitation of three months for an application for redetermination of compensation must be computed from the date of the earliest award made by a civil court, and not the judgment rendered by an appellate court. This was followed by the decision of a three-Judge Bench in Union of India v. Pradeep Kumari wherein it was held that the benefit under Section 28-A can be had within three months from the date of the award of the Reference Court on the basis whereof redetermination is sought. The earlier two decisions in the case of Babua Ram and Karnail Singh were overruled on the limited question that they sought to confine the right to seek redetermination to the*

earliest award made by the Court under Section 18 of the Act after the introduction of Section 28-A into the Act. There is, however, no doubt that the period of limitation has to be computed from the date of the Court's award under Section 18 on the basis whereof redetermination is sought. Admittedly, in both the cases at hand, the applications for redetermination of compensation under Section 28-A were made long after the expiry of three months from the date of the award of the Court which constituted the basis for seeking redetermination. We are, therefore, of the opinion that the High Court was right in taking the view that both the applications were time-barred".

4. Recently, once again in ***Ramsinghai (Ramsangbhai) Jerambhai v. State of Gujarat and Another AIR 2018 Supreme Court 2629, Bharatsing and Others v. The State of Maharashtra and Others (2017) SCC Online SC 1453 and Union of India v. Hansali Devi (2010) 15 SCC 483***, the Supreme court has reiterated the opinion expressed in ***Pardeep Kumari's case (supra)***.

FACTS:

5. Through these writ petitions given in the caption of the judgment, the petitioner-Haryana State Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as "HSIIDC"), prays for issuance of a writ in the nature of certiorari to quash identical orders passed by the District Revenue Officer-cum-Land Acquisition Collector, Palwal purportedly in exercise of power under Section 28-A of

@ ₹ 32,60,500/- per acre on basis of different orders passed by the High Court while following the decision of re-determination by the Supreme Court of India.

Some Common facts in all these writ petitions are as under:-

6. The State of Haryana issued notification under Section 4 of the 1894 Act, proposing to acquire a vast tract of land for the construction of Kundali-Manesar Express Highway. On 24.04.2016, the Land Acquisition Collector announced the award by offering to pay the market value of the acquired land @ ₹12,50,000/- per acre along with the statutory benefits. The contesting respondents did not file the applications under Section 18 of the 1894 Act for referring to the Court to determine the market value, however, certain other landowners applied under Section 18 to refer the matter to the Court. The reference Court dismissed the reference petitions vide a judgment dated 31.03.2011. However, the numerous regular first appeals filed assailing the correctness of judgment of reference court were filed in the High Court, which were decided while delivering the main judgment in *Usha Rani and Others v. State of Haryana and Others (Regular First Appeal No. 2322 of 2011, decided on 28.03.2016)*. The High Court enhanced the market value of the acquired land from ₹12,50,000/- per acre to ₹48,57,000/- per acre. The landowners as well as the HSIIDC filed appeals before the Supreme Court which were disposed of on 21.09.2017, while reducing the amount of market value of the acquired land from ₹48,57,000/- per acre to ₹32,62,500/- per acre.

7. The High Court entertained certain Regular First Appeals which were filed after the final decision of the Supreme Court on 21.09.2017.

Thereafter, these appeals were disposed of in terms of assessment of the market value as determined by the Supreme Court.

Now let's note the facts of each writ petition:-

8. In **Civil Writ Petition No. 8456 of 2020**, the contesting respondents filed an application under Section 28-A of the 1894 Act on 28.11.2018 on the basis of the judgment passed by the High Court on 05.10.2018 in ***Ved Prakash and others v. The State of Haryana and others (Regular First Appeal No. 4094 of 2018, decided on 05.10.2018)*** which was allowed. Although no date on the application has been specified, nevertheless it is clear from the stamp affixed on the reference application as well as the notice sent by the Land Acquisition Collector dated 13.12.2018 that the application was submitted on 28.11.2018. The order dated 03.12.2018 is extracted as under:-

“The applicant has filed the application as per the decision dated 05.10.2018 passed in RFA No. 4094 of 2018 in LAC No. 52 of 2008, which has been received in the office on 29.11.2018. Therefore, the notice of hearing under Section 28-A for 20.12.2018 at 11.00 AM is presented for signature”.

9. In **Civil Writ Petition No. 8855 of 2020**, the date of the reference application under Section 28-A of the 1894 Act has not been disclosed, however, the contesting respondents, while moving an application, relied upon the order passed in ***Nand Ram and Another v. State of Haryana and Others (Regular First Appeal No. 3085 of 2018, decided on 17.07.2018)***. The Land Acquisition Collector allowed the application

vide an order dated 01.02.2019.

10. In **Civil Writ Petition No. 8856 of 2020**, on 28.12.2018, the contesting respondents applied to the Land Acquisition Collector, Palwal under Section 28-A of the 1894 Act on the basis of the judgment passed in ***Ved Prakash and others v. The State of Haryana and others (Regular First Appeal No. 4094 of 2018, decided on 05.10.2018)*** which was allowed on 05.02.2019.

11. In **Civil Writ Petition No. 9061 of 2020**, on 30.11.2018, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in ***Ved Prakash's case (supra)*** which was allowed by the Land Acquisition Collector on 05.02.2019.

12. In **Civil Writ Petition No. 9113 of 2020**, on 28.06.2016, the application under Section 28-A of the 1894 Act was filed while placing reliance upon the judgment of the High Court in ***Usha Rani and Others v. State of Haryana and Others (Regular First Appeal No. 2322 of 2011, decided on 28.03.2016)*** which was allowed on 01.02.2019.

13. In **Civil Writ Petition No. 9590 of 2020**, on 21.01.2019, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in ***Ved Prakash's case (supra)*** which was allowed by the Land Acquisition Collector on 01.02.2019.

14. In **Civil Writ Petition No. 11353 of 2019**, on 30.11.2018, the contesting respondents filed an application under Section 28-A while relying upon the judgment passed by the High Court in ***Ved Prakash's case (supra)***

which was allowed on 01.02.2019.

15. In **Civil Writ Petition No. 11384 of 2020**, on 21.01.2019, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in ***Sunder Lal's case (supra)*** which was allowed by the Land Acquisition Collector on 03.06.2019.

16. In **Civil Writ Petition No. 11398 of 2020**, on 21.01.2019, the contesting respondent applied under Section 28-A of the 1894 Act while placing reliance on the order passed in ***Sunder Lal's case (supra)*** which was allowed on 01.02.2019.

17. In **Civil Writ Petition No. 12172 of 2020**, on 23.11.2017, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the Supreme Court in ***Special Leave Petition No. 6513-6530 of 2017***, which was decided on 21.09.2017. The application was allowed by the Land Acquisition Collector on 05.02.2019.

18. In **Civil Writ Petition No. 12558 of 2020**, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the Supreme Court which was dismissed on 01.02.2019. Thereafter, the Land Acquisition Collector reviewed its own order and redetermined the market value vide an order dated 01.03.2019 while basing its order on the decision in ***Sunder Lal's case (supra)***.

19. In **Civil Writ Petition No. 12658 of 2020**, the date of submitting an application under Section 28-A of the 1894 Act has not been disclosed, however, the contesting respondents filed the application with the

assertion that the High Court, while deciding *Usha Rani's case (supra)*, enhanced the market value of the land of various other owners which was acquired vide the same notification. The contesting respondents after getting the certified copy of the judgment of the High Court on 01.07.2016, filed the application before the Land Acquisition Collector which has been allowed vide an order dated 05.02.2019.

20. In **Civil Writ Petition No.12753 of 2020**, on 21.01.2019, the contesting respondent filed an application under Section 28-A of the 1894 Act, which was dismissed by the Land Acquisition Collector on 01.02.2019. Thereafter, on 01.03.2019, the contesting respondent filed another application for referring the matter to the District Judge under Section 28-A(3) of the 1894 Act. Thereafter, on 27.05.2019 the Land Acquisition Collector reviewed its own order dated 01.02.2019 and allowed the application U/s 28-A the 1894 Act while redetermining the amount of market value by placing reliance upon the order passed *Sunder Lal v. State of Haryana (Regular First Appeal No. 3978 of 2019, decided on 25.10.2018)*.

21. In **Civil Writ Petition No. 13863 of 2020**, on 23.01.2019, the contesting respondent filed an application under Section 28-A while relying upon the judgment in *Sunder Lal's case (supra)* which has been allowed on 10.12.2019.

22. In **Civil Writ Petition No. 14602 of 2020**, on 28.12.2018, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in *Ved Prakash's case (supra)* which was allowed by the Land Acquisition Collector on 05.02.2019.

23. Heard the learned counsel for the parties and with their able assistance, perused the paper book.

24. Mr. Baldev Raj Mahajan, the Learned Senior Counsel, while drawing the attention of the Court to the language used by the Parliament in Section 28-A of the 1894 Act, contends that the application could be filed only if the Court, while deciding the reference under Section 18, enhances the market value of the acquired land. He submitted that in the present case, the reference Court dismissed the applications. Hence, he contends that the applications under Section 28-A of the 1894 Act were not maintainable.

25. On the other hand, the learned counsel representing the respondents contends that the Land Acquisition Collector has correctly passed the award on the ground that the applications were filed within 90 days of the judgment passed by the High Court in the various appeals noticed above.

26. At this stage for convenience, it is appropriate to extract Section 28-A of the 1894 Act, which reads as under:-

“28A. Re-determination of the amount of compensation on the basis of the award of the Court. -

(1) where in an award under this part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by

written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, required that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18”.

27. It is evident that the Land Acquisition Collector has entertained and proceeded to allow the application under Section 28-A of the 1894 Act, on the basis of the orders passed in ***Usha Rani's case*** (*supra*) & other subsequently filed appeals in the High Court, post the final determination

it is obvious that such application for re-determination of the amount of compensation is maintainable only if the reference court under Part-III of the 1894 Act assesses the amount in excess of the amount awarded by the Collector under Section 11 of the 1894 Act. Part-III of the 1894 Act starts with Section 18 and ends with Section 28-A. In the High Court, the regular first appeals are filed under Section 54 of the 1894 Act, which falls in Part-VIII of the 1894 Act. Thus, the application under Section 28-A of the 1894 Act cannot be filed on the basis of the judgment passed in Part-VIII. Unquestionably, in certain judgments, the Supreme Court has held that when an application under Section 28-A has been filed within the period prescribed from the award of the reference court and it comes to the notice of the Collector that a further appeal filed before the High Court or the Supreme Court is pending, at that point of time, the Collector should keep its decision in abeyance to await for final determination from the Court. Nonetheless, in considered opinion of this bench, it has nowhere been held that the application under Section 28-A can be entertained on the basis of the judgment passed by the High Court or the Supreme Court. In the present case, as noticed above, the applications under Section 18 of the 1894 Act were dismissed by the Reference Court. Thus, the various applications filed under Section 28-A of the 1894 Act, on the basis of various orders passed by the High Court, were not maintainable.

28. In all these cases, the Land Acquisition Collectors have also overlooked the fact that neither the applications under Section 28-A have been filed within a period of three months from the date of judgment of the Reference Court nor the reference Court enhanced the compensation.

29. The learned counsel representing the respondents relies upon the judgment passed in *Premji Nathu v. State of Gujarat and Another (2012) 5 SCC 250*. This Bench has carefully read the judgment. In this case, the Supreme Court in the context of calculating limitation for filing an application under Section 18 of the 1894 Act, held that unless the State proves the delivery of copy of the award, the limitation for filing an application under Section 18 would not begin to run. Hence, the aforesaid judgment does not lay down that the application under Section 28-A can be filed on the basis of the appellate orders.

30. Similarly, the learned counsel further relies upon the judgment of the Supreme Court in *Samiyathal and Others v. Special Tehsildar and Others 2015 (2) RCR (Civil) 441*. In this case, the reference Court assessed the market value at ₹20/- per square yard, which was reduced in appeal to ₹8/- per square yard by the High Court. Some of the landowners filed the Special Leave Petition, whereas the others did not. In the facts of those cases, the Supreme Court, in exercise of the powers under Article 142 of the Constitution of India, ordered payment of uniform compensation to those owners who did not file Special Leave Petition before the Supreme Court. This case is not with regard to interpretation of Section 28-A of the 1894 Act.

31. The next judgment relied upon by the learned counsel is in *Narendra and Others v. State of Uttar Pradesh and Others 2017(4) RCR (Civil) 828*. In the aforesaid judgment, the High Court restricted the benefits to some of the owners to the extent of ₹ 115/- per square yard, whereas the

High Court took a view that since the landowners had demanded compensation @ ₹115/- per square yard, consequently, they cannot be granted more than what has been demanded. The Supreme Court, after considering the provisions of the 1894 Act, held that the Court is required to determine the just and appropriate market value and it is not bound by what has been demanded. Thus, the Supreme Court allowed the appeal.

32. The next judgment relied upon by the learned counsel is in ***B.Prabhakar Rao and Others v. State of Andhra Pradesh (1985) Suppl. SCC 432***. This judgment is dealing with the question of discrimination with regard to the age of retirement in service law. Hence, it has no application.

33. The learned counsel representing the respondent further relies upon a Five Judge Bench judgment in ***Union of India v. Hansoli Devi (2002) 7 SCC 273***. In the aforesaid case, the Supreme Court examined the provisions of Section 28-A of the 1894 Act in the context of the dismissal of an application under Section 18 of the 1894 Act on the ground of delay. It has been held that the dismissal of the application under Section 18 on the ground of delay has the effect as if no application under Section 18 has been filed. The last judgment relied upon by the learned counsel representing the respondents is in ***Malluru Malappa (Dead) v. Kuruvathappa and Others (2020) 4 SCC 313***. The Supreme Court, while explaining the scope of Order XLI Rule 31 and Section 96 and 10 of CPC held that the appeal is the continuation of the proceedings of the original Court. The aforesaid judgment also does not deal with the provisions of Section 28-A of the 1894 Act.

neither the application under Section 28-A of the 1894 Act is maintainable on the basis of the judgment of the Appellate Court nor the limitation to file an application under Section 28-A would begin to run its judgment. Consequently, in all these writ petitions, the respective applications filed by the respondents under Section 28-A of the 1894 Act were not maintainable. Hence, all the 15 writ petitions are allowed and the various awards/orders passed by the District Revenue Officer-cum-Land Acquisition Collector, Palwal, allowing the application under Section 28-A of the 1894 Act, are quashed.

(Anil Kshetarpal)
Judge

September 06, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No