

and that of Ludhiana city. To ensure probity and transparency in the affairs of the Committee, we direct it to publish the action taken report quarterly so that in case any citizen or a well meaning group is aggrieved he can again approach this Court for redressal of the grievance. We do hope and expect that in the light of what has been noticed in this judgment and the observations made, the above said Committee duly constituted under the chairmanship of Chief Secretary shall perform its part and achieve desired results.

All pending applications are also disposed of.

S. Gupta

Before Rajesh Bindal, J.

KANTA,—Appellant

versus

STATE OF HARYANA AND ANOTHER,—Respondents

RFA No. 7660 of 2011

29th February, 2012

Land Acquisition Act, 1894 - Ss. 4, 6, 18 & 28A - Landowner seeking enhancement of compensation - Seeking parity with other landowners by relying on Supreme Court judgments - Whether party seeking re-determination of compensation under Section 28A of the Act entitled to enhanced compensation as per award of Reference Court or as per final amount granted by the Court in appeal - Held, yes - (2009) 17 SCC 79 State of Orissa v. Chitrasen Bhoi follows Section 28A meant to relieve hardship to poor indigent and inarticulate interested persons who generally failed to avail remedy under Section 18 of the Act - (2010)10 SCC 650 V. Ramakrishna Rao v. Singareni Collieries Company Ltd. and another applied

Held, That the scope of the provision of Section 28-A of the Act has been dealt with by Hon'ble the Supreme Court in State of Orissa and others Vs. Chitrasen Bhoi (2009) 17 SCC 74, wherein it was held that under Section 28-A of the Act the landowners are entitled to enhanced compensation as is even granted by the appellate court.

(Para 6)

Further held, That in V. Ramkrishna Rao Vs. Singareni Collieries Company Limited and another (2010) 10 SCC 650, Hon'ble the Supreme Court held that by introducing Section 28-A in the Act, the Legislature intended to relieve hardship to the poor, indigent and inarticulate interested persons who generally fail to avail of remedy of reference under Section 18 of the Act. In fact, under the said provision they are entitled for enhanced compensation decreed by the reference court and further as the decree is modified in appeal by higher court.

(Para 7)

Navneet Singh, Advocate for the landowner.

H.S. Lalli, Additional Advocate General, Haryana.

RAJESH BINDAL, J.

(1) The landowner is in appeal seeking enhancement of compensation for the acquired land.

(2) Briefly the facts of the case are that vide notification dated 17.05.1990 issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act"), the Government of Haryana sought to acquire land measuring 162.15 acres situated in the revenue estate of village Patti Musalmanan, Sonapat, Tehsil and District Sonapat for development and utilization thereof for residential and commercial area in Sector-12 at Sonapat. The same was followed by notification dated 16.05.1991, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector') assessed the market value of the acquired land @ ' 2,00,000/- per acre. Dissatisfied with the award of the Collector, the landowner filed application under Section 28-A (3) of the Act for re-determination of compensation. On reference, the learned court below allowed the application filed by the landowner vide order dated 5.10.2011 in favour of the landowner and awarded compensation as per order dated 12.1.2009 passed in LAC case No. 1 of 8.9.1995, titled as *Sanjay etc. Vs. State of Haryana*.

(3) Learned counsel for the landowner submitted that the claim made in the present appeal is squarely covered by the judgment of Hon'ble the Supreme Court in Civil Appeal No. 3677 of 2010— *Udho Dass Vs. State of Haryana and others*, decided on 21.4.2010, whereby the

compensation for the land acquired vide same notification was enhanced to ' 225/- per square yard. He further submitted that once the proceedings regarding assessment of compensation by same notification had attained finality upto Hon'ble the Supreme Court. The reference court should have awarded same amount of compensation to the landowners.

(4) On the other hand, learned counsel for the State submitted that the landowner has already received sufficient amount of compensation by seeking re-determination of compensation under Section 28-A of the Act vide order dated 5.10.2011. He further submitted that a co-owner is entitled to get re-determination of compensation only on the basis of award given by the reference court under Section 18 of the Act. She cannot claim further enhancement given by the High Court or the Supreme Court.

(5) The issue to be determined by this Court is as to whether a party who is seeking re-determination of compensation under Section 28-A of the Act is entitled to the enhanced compensation as per the award of the learned reference court or as per the final amount granted by court in appeal?

(6) The scope of the provision of Section 28-A of the Act has been dealt with by Hon'ble the Supreme Court in **State of Orissa and others versus Chitrasen Bhoi (1)**, wherein it was held that under Section 28-A of the Act the landowners are entitled to enhanced compensation as is even granted by the appellate court. Relevant paragraphs 15, 22 and 23 thereof are reproduced hereunder:-

“15. The scope of the provisions of Section 28-A of the Act was considered by this Court in *Mewa Ram v. State of Haryana* and the Court placed emphasis particularly on Para 2(ix) of the Statement of Objects and Reasons of the Amendment Act, 1987 which provided for a special provision for inarticulate and poor people to apply for redetermination of the compensation amount on the basis of the court award in a land acquisition reference filed by comparatively affluent landowner. The Court observed as under (SCC p. 153 para 4)

(1) 2009 (17) SCC 74

4.Section 28-A in terms does not apply to the case of the petitioners they do not belong to that class of society for whose benefit the provision is intended and meant i.e. inarticulate and poor people who by reason of their poverty and ignorance have failed to take advantage of the right of reference to the civil *court* under Section 18 of the Land Acquisition Act, 1894.

This court approved and reiterated the law laid down in *Mewa Ram in Scheduled Caste Coop. Land Owning Society Ltd. v. Union of India*.

22. In *Union of India v. Munshi Ram* this Court has laid down the law that such an application is maintainable provided a person has not filed an application under Section 18 of the Act. The Court held that Section 28-A seeks to confer the benefit of enhanced compensation on those owners who did not seek reference under Section 18 of the Act. In fact, under the said provision they are entitled for enhanced compensation decreed by the Reference Court and further as the decreed amount stands modified in appeal by the higher courts.
23. Therefore, it is evident that an application under Section 28-A has to be dealt with by the Land Acquisition Officer keeping in mind the aforesaid settled legal propositions.” (emphasis supplied)

(7) In **V. Ramkrishna Rao versus Singareni Collieries Company Limited and another (2)**, Hon’ble the Supreme Court held that by introducing Section 28-A in the Act, the Legislature intended to relieve hardship to the poor, indigent and inarticulate interested persons who generally fail to avail of remedy of reference under Section 18 of the Act. In fact, under the said provision they are entitled for enhanced compensation decreed by the reference court and further as the decree is modified in appeal by higher court. The relevant paragraphs of the said judgment are reproduced hereunder:-

“11.This section is aimed at removing inequality in the payment of compensation in lieu of acquisition of land under the same

notification. To put it differently, this section gives a chance to the landowner, who may not have applied under Section 18 for determination of market value by the court to seek redetermination of the amount of compensation, if any other similarly situated landowner succeeds in persuading the Reference Court to fix higher market value of the acquired land. Therefore, Section 28-A has to be interpreted in a manner which would advance the policy of legislation to give an opportunity to the landowner who may have, due to variety of reasons not been able to move the Collector for making reference under Section 18 of the Act to get higher compensation if market value is revised by the Reference Court at the instance of other landowners, whose land is acquired under the same notification. Of course, this opportunity can be availed of by filing an application within the prescribed period.

13. In Union of India v. Munshi Ram a two-judge Bench considered the meaning of the word “redetermination” appearing in Section 28-A and held that compensation payable to the landowner under Section 28-A should be on a par with what is finally payable to those who sought reference under Section 18 of the Act and if the compensation payable to the latter category is reduced by the superior court, the one who gets higher compensation under section 28-A may be directed to refund the excess amount. What was emphasised by the two-Judge Bench was that redetermination of the amount of compensation under Section 28-A must be commensurate with the compensation payable to those who had sought reference under Section 18 and if the higher court reduces the amount of compensation payable in terms of the order of the Reference Court, then those making application under Section 28-A must be asked to refund the excess amount.
14. A somewhat similar view was expressed in *Kendriya Karamchari Sehkari Grah Nirman Samiti Ltd. v. State of U.P.* in the following words:
 40. It is true that once the Reference Court decides the matter and enhances the compensation, a person who is otherwise

eligible to similar relief and who has not sought reference, may apply under Section 28-A of the Act. If the conditions for application of the said provision have been complied with, such person would be entitled to the same relief which has been granted to other persons seeking reference and getting enhanced compensation. But, it is equally true that if the Reference Court decides the matter and the State or acquiring body challenges such enhanced amount of compensation and the matter is pending either before the High Court or before this Court (the Supreme Court), the Collector would be within his power or authority to keep the application under Section 28-A of the Act pending till the matter is finally decided by the High Court or the Supreme Court as the case may be. The reason being that the decision rendered by the Reference Court enhancing compensation has not attained 'finality' and is sub judice before a superior court.

15. If sub-section (3) of Section 28-A is interpreted keeping in view the object sought to be achieved by enacting the provision for removing inequality in the matter of payment of compensation, it must be held that a person who is not satisfied with an award made under Section 28-A (2) can make an application to the Collector under Section 28-A (3) for making a reference to the court as defined in Section 3(d) of the Act and this right cannot be frustrated merely because as a result of redetermination made under Section 28-A (2) read with Section 28-A (1) the applicant becomes entitled to receive compensation on a par with other landowners. There is nothing in the plain language of Section 28-A (3) from which it can be inferred that a person who has not accepted the award made under Section 28-A (2) is precluded from making an application to the Collector with the request to refer the matter to the court. Of course, the court to which reference is made under Section 28-A(3) will have to bear in mind that person who has not sought reference under Section 18 cannot get compensation higher than the one payable to those who had sought reference under that section.”

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(8) In view of the settled principles, it is clear that on satisfying the conditions for making an application under Section 28-A of the Act the person interested shall be entitled to the same relief as has been granted to other persons seeking reference and getting enhanced compensation in further appeals. They are entitled for enhanced compensation decreed by the reference court and further as modified in appeal by the higher court. The compensation payable to the landowner under Section 28-A should be on a par with what is finally payable to those who sought reference under Section 18 of the Act and if the compensation payable to the latter category is reduced by the superior court, the one who gets higher compensation under section 28-A may be directed to refund the excess amount.

(9) For the reasons indicated above, the landowners are held entitled to get enhanced amount of compensation as has been granted by Hon'ble the Supreme Court in *Udho Dass's* case (supra), whereby the compensation for the land acquired vide same notification was enhanced to Rs. 225/- per square yard along with statutory benefits.

(10) Ordered accordingly.

S. Gupta

Before Mehinder Singh Sullar, J.

HARCHARAN SINGH AND OTHERS,—Petitioners

versus

SATVINDER SATARA,—Respondent

Crl.M. No. M-18643 of 2010

3rd January, 2012

Code of Criminal Procedure, 1973 - S.482, - Indian Penal Code, 1860 - S. 467, 468 & 120-B - Indian Registration Act, 1908 - S.82 - Transfer of Property Act, 1882 -S.44 & 45 - Quashing of complaint leveling charges under section 40, 52, 79 & 80 IPC and Section 82 of Registration Act - Co-sharers - Civil suit pending - Accused/petitioner not served in Civil Suit - Sold their share - It is well settled principle of law that the matter which essentially involves