

CASE NO.:
Appeal (civil) 3515 of 1997

PETITIONER:
The State of Tripura & Anr.

RESPONDENT:
Roopchand Das & Ors., Sudhir Debnath & Ors.

DATE OF JUDGMENT: 03/12/2002

BENCH:
Doraiswamy Raju & Shivaraj V. Patil.

JUDGMENT:
J U D G M E N T

RAJU, J.

These two appeals involve common and identical questions of law and are dealt with together. In C.A.No. 3515 of 1997, the challenge is to the judgment dated 21.1.97 of the Gauhati High Court, Agartala Bench, made in Civil Rule No.12 of 1997, whereunder the High Court, applying the earlier decision rendered in Civil Rule 10 of 1997, directed, while setting aside the order dated 18.9.96 of the Land Acquisition Collector, the said Collector to consider the petitions filed by the respondent-landowners under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as "The Act") on merits and in accordance with law, holding them to be within the period of limitation stipulated therefor. The appeal in C.A. No.3516/1997 is against the above noticed earlier decision in Civil Rule 10 of 1997 dated 21.1.97.

So far as C.A. No.3515 of 1997 is concerned, relying upon the Reference Court's Award dated 19.9.94 in case Nos. Misc. L.A.29/92 and 30/92, the respondents sought by a petition filed on 16.12.94 for re-determination of the compensation for their lands invoking Section 28-A of the Act. The Land Acquisition Collector rejected the claim by his order dated 18.9.96 on the ground that the same was not filed within the stipulated period of three months inasmuch as, according to the Collector, the period of limitation had to be calculated from 25.5.94, an earlier Award of the Reference Court in respect of the lands covered by the same Notification under Section 4 (1) of the Act and not with reference to the latest or subsequent Awards of the Reference Court. So far as the appeal in C.A. 3516 of 1997 is concerned, the Land Acquisition Collector, was moved by the landowners for re-determination of compensation in respect of their lands invoking Section 28-A of the Act, with reference to an award of the Reference Court made on 5.5.94 in respect of cases Misc.L.A. 34-36/1992 and on 8.6.94 in Misc. Cases Nos.40, 41, 45 & 46/1992. The petition was filed on 1.8.94. But the Land Acquisition Collector by his order dated 18.9.96, rejected the same as time-barred on the view that in respect of the lands covered by the very same Notification under Section 4(1) of the Act, there was an earlier Award passed by the Reference Court on 21.12.93 itself in Misc. Case Nos.37, 38, 39, 42, 43 and 44/1992 and that the period of limitation has to be calculated from the earliest of the Awards, which in this case, as per Collector, was on 21.12.93.

The fact that if the latest Awards are taken into account, the claim made under Section 28-A of the Act is well within time, is not in controversy and the Land Acquisition Collector himself noticed the said aspect. But in view of his opinion that of the Awards by the

Reference Court when more than one passed on different dates are available in respect of lands covered by the same Notification, for purposes of computing the three months period stipulated in Section 28-A of the Act, the date of the earliest one would be relevant and not the subsequent or latest, the claims came to be rejected. It was this reasoning of the Land Acquisition Collector that did not meet with the approval of the High Court, in our view rightly too, in the light of the decision of this Court in *Union of India and Anr. vs. Pradeep Kumari and Ors.* [(1995) 2 SCC 736].

Heard, the learned counsel appearing on either side, who reiterated the stand taken for the respective parties before the High Court. This Court in the decision in *Pradeep Kumari and Ors.* (supra) categorically held that "the right to make the application under Section 28-A of the Act arises from the award of the Court on the basis of which the person making the application is seeking re-determination of the compensation. There is nothing in Sub-section (1) of Section 28-A to indicate that this right is confined in respect of the earliest award that is made by the court after the coming into force of Section 28-A." Any construction to the contra introducing such words, not found engrafted in the very provision would amount to curtailing the amplitude of the provision resulting virtually in restricting a benefit conferred, particularly of a beneficent provision normally not permissible by judicial interpretation. It was also held therein that there is nothing in the wordings of Section 28-A to indicate that the legislature intended to confer any such limited benefit thereunder which would have the inevitable consequence of denying the benefit of higher amount on the basis of the subsequent award. Such an interpretation as would restrict the benefit of Section 28-A to the first of the Award in the series and in point of time, was also considered to result more in the perpetuation of the inequality in the payment of compensation, which the legislature specifically intended to remove by enacting the provision and that, therefore, the object underlying Section 28-A would be better served and achieved by giving the word "an award" in Section 28-A its natural meaning, as meaning any one of the award(s) made by the court under Part-III, after the coming into force of Section 28-A. That apart, in our view, even the later part of Section 28-A which stipulates, "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", leaves the choice to the person making such an application for re-determination, without confining or restricting the area of choice of such person to any one or the other, though it could be availed of only once and not as many number of times as there are so many awards.

The principles laid down by a bench of three learned Judges of this Court in *Pradeep Kumari and Ors.* (supra) was also followed in yet another decision of a bench of three learned Judges in *Jose Antonio Cruz Dos R. Rodriguese and Anr. vs. Land Acquisition Collector and Anr.* [(1996) 6 SCC 746], observing as hereunder:

"4. We may now refer to the case-law. A two-Judge Bench of this Court in *Babua Ram vs 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 vs 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 vs 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 Ram¹ and Karnail Singh² 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." (Emphasis supplied)

The correctness of Pradeep Kumari's case (supra) on this aspect when sought to be raised before the Constitution Bench in the batch of cases, including the appeals before us in Union of India & Another vs. Hansoli Devi & Others reported in [(2002) 7 SCC 273], it was observed, "But since that question has neither been referred to us under the order of reference made in the present case nor does it arise in the case in hand, we refrain from answering the same." A Review Petition filed by the appellants herein before the Constitution Bench in these appeals, viz., R.P.(C) 1437-38 of 2002, has also been dismissed. In the light of the above, we see no merit in the challenge made to the orders of the High Court. The appeals, consequently, fail and shall stand dismissed. No costs.