



REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2026
(Arising out of SLP (C) Nos. 2587 - 2593 of 2021)

ANDANAYYA AND ORS.

... APPELLANTS

VERSUS

DEPUTY CHIEF ENGINEER AND ORS.

... RESPONDENTS

J U D G M E N T

M. M. Sundresh, J.

1. Leave granted.
2. The appellants in the present appeals are the landowners who have lost their land in the acquisition proceedings. They are aggrieved by the impugned judgment of the Division Bench of the High Court of Karnataka, wherein the second application filed by them before the Collector, seeking re-determination of compensation, has been rejected. The appellants had earlier sought re-determination of compensation on the basis of the award of the Reference Court and now seek further re-

determination on parity with similarly placed landowners, in whose favor the High Court was pleased to pass an enhanced award.

3. We have heard the learned counsel appearing for the appellants and the learned Additional Solicitor General of India (ASG), as well as the learned Senior counsel appearing for the respondents. Documents filed, judgments relied upon, and the written submissions have been perused and duly taken on record.

FACTUAL BACKGROUND

4. Lands situated at Mavanoor Village, Hubballi Taluk, were acquired for the construction of the Hubballi-Ankola Broad Gauge Line. On 18.04.2002, a preliminary notification was issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the “Act”). On 31.03.2003, respondent No.2, who is the Land Acquisition Officer (hereinafter referred to as “the LAO”), passed an award under Section 11 of the Act, fixing compensation at Rs. 40,000/- per acre. Being dissatisfied with the amount awarded, some landowners sought a reference under Section 18 of the Act. The Reference Court awarded an

enhanced sum of Rs. 2,00,000/- per acre as compensation, *vide* judgment dated 17.11.2006.

5. The appellants, who did not seek a reference, filed an application under Section 28-A of the Act on 01.02.2007, within 90 days from the date of the award of the Reference Court, seeking re-determination of their compensation based upon the award of the Reference Court in LAC Nos. 1-5/2003. During the pendency of the said application, appeals were filed before the High Court by some of the landowners, as well as by respondent No.2, seeking enhancement and reduction of compensation, respectively. After the appeals filed by respondent No.2 were dismissed by the High Court, *vide* order dated 06.08.2012, the first application filed by the appellants under Section 28-A of the Act was allowed on 02.04.2013, and their compensation was re-determined on the basis of the award of the Reference Court, even though the appeals filed by the landowners were still pending and came to be allowed by the High Court only on 22.07.2013, further enhancing the compensation to Rs. 3,50,000/- per acre.

6. Upon receipt of knowledge of the award passed by the High Court, the appellants filed another application under Section 28-A of the Act on 25.11.2013, seeking re-determination of compensation on the basis of the enhanced award passed by the High Court in MFA No. 3289/2007 and MFA No. 3291/2007 dated 22.07.2013, presumably within the period of limitation, which is to be computed by excluding the time requisite for obtaining a copy of the award. In any case, the issue of limitation in filing the said application is not a matter of concern, before us, in the present appeals.
7. The second application made under Section 28-A of the Act was rejected by respondent No.2, *vide* order dated 30.11.2013, on the ground that the appellants had already accepted the earlier compensation on 02.04.2013, as enhanced by the Reference Court and, that, they did not bring the pendency of the appeals before the High Court challenging the award of the Reference Court to the notice of the competent authority, even though one set of appeals was filed by respondent No.2 itself. It is also observed that in the said order passed by respondent No.2, there is no indication of any delay on the part of the appellants in

filing the second application, particularly, in light of the proviso to Section 28-A(1) of the Act.

8. Aggrieved, the appellants filed writ petitions before the High Court. The learned Single Judge was pleased to find force in the submissions made by the appellants and, accordingly, the order of rejection was quashed with a direction to the official respondents to exercise the powers available under Section 28-A of the Act and re-determine the market value of the lands on the basis of the enhanced award passed by the High Court.
9. Aggrieved, the official respondents filed writ appeals, which have been allowed by the Division Bench, vide the impugned judgment, on the premise that re-determination under Section 28-A of the Act is available only in respect of an award passed by a Civil Court of original jurisdiction under Part-III of the Act, and that the judgment of an Appellate Court does not fall within the purview of Section 28-A of the Act. The said order has been passed by placing reliance upon a decision of this Court in **Ramsingbhai Jerambhai v. State of Gujarat, (2018)**

16 SCC 445. The appellants, thus aggrieved, have filed the present appeals.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

10. The learned counsel appearing for the appellants would submit that the decision which has been relied upon by the High Court in the impugned judgment in **Ramsingbhai Jerambhai (*supra*)** has been taken note of in **Banwari v. Haryana SIIDC, 2024 SCC OnLine SC 3685**, and found to be *per incuriam*, as it did not take into consideration the earlier decision of this Court in **Union of India v. Pradeep Kumari, (1995) 2 SCC 736**. It is his further submission that one has to see the object of the Act and, therefore, there cannot be any discrimination between poor landowners and other landowners who have received higher compensation, either from the Reference Court or the High Court. Section 28-A has been inserted into the Act by way of an amendment for this very purpose. In any case, respondent No.2 was well aware of the pendency of the appeals filed by the landowners before the High Court, at least at the time of allowing the earlier application under Section 28-A of the Act, as respondent No.2 was also a party to the said

appeals. Reliance has been placed on the decision of this Court in **Bharatsing v. State of Maharashtra, (2018) 11 SCC 92**, to buttress the submission that the Collector/LAO must stay his hands in the matter of re-determination of compensation under Section 28-A of the Act until the appeal is disposed of by the appellate forum, and that the re-determination must be made only on the basis of the final judgment of the appellate forum.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

11. The learned ASG and the learned Senior counsel appearing for the respondents would submit that the decision of this Court in the case of **Ramsingbhai Jerambhai (supra)**, has been rightly taken note of by the High Court in the impugned judgment. They would further submit that even in the case of **Pradeep Kumari (supra)**, which has been relied upon by the appellants, this Court was pleased to hold that only one application under Section 28-A of the Act is maintainable and, thus, the second application made by the appellants herein, after the judgment rendered by the High Court, would not be maintainable. The appellants,

having already accepted the earlier compensation as enhanced by the Reference Court, cannot seek re-determination once again.

DISCUSSION ON THE RELEVANT PROVISIONS OF THE LAND ACQUISITION ACT, 1894 (ACT NO. 1 OF 1894)

12. The Act is dual in nature. It is both expropriatory and beneficial. It is expropriatory in nature insofar as the acquisition proceedings are concerned, and beneficial, when it comes to the payment of compensation to the landowners. The Act contains both procedural and substantive provisions to give effect to the objectives envisaged under it. When it comes to the re-determination of compensation under Section 28-A of the Act, it is clearly spelt out in the Statement of Objects and Reasons of the Land Acquisition (Amendment) Act, 1984 that an endeavor should be made to give equal compensation to all the similarly placed landowners, and that procedural technicalities will have to be avoided for the same. The spirit of the enactment is encapsulated in the following paragraph of the Statement of Objects and Reasons:

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“(ix) Considering that the right of reference to the Civil Court under section 18 of the Act is not usually taken advantage of by inarticulate

and poor people and is usually exercised only by the comparatively affluent land owners and that this causes considerable inequality in the payment of compensation for the same or similar quality of land to different interested parties, it is proposed to provide an opportunity to all aggrieved parties whose land is covered under the same notification to seek re-determination of compensation, once any one of them has obtained orders for payment of higher compensation from the reference Court under section 18 of the Act.”

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(emphasis supplied)

Section 3(d) of the Act

“3. Definitions.—In this Act, unless there is something repugnant in the subject or context,—

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(d) the expression “Court” means a principal Civil Court of original jurisdiction, unless the [appropriate Government] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform functions of the Court under this Act;”

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(emphasis supplied)

13.Section 3(d) of the Act defines the expression ‘Court’. It means a court of first instance, which is otherwise a principal Civil Court of original jurisdiction. In other words, it is the first judicial forum in the scheme of the Act before which an adjudication takes place, to test the award passed by the Collector under Section 11 of the Act. This provision

clearly defines the Court that will have jurisdiction to decide cases where references are made under Section 18 of the Act. Therefore, the jurisdiction is consciously vested with a principal Civil Court of original jurisdiction. An exception has been carved out in cases where the Appropriate Government has appointed a special judicial officer to undertake the said exercise. Power is, thus, expressly conferred on the Appropriate Government to appoint a special judicial officer in order to perform the functions of a Court under this Act. This definition clearly indicates the intention of the legislature for a reference made under Section 18 of the Act to be treated as an original proceeding. It has also got no application to the Appellate Courts, namely, the High Court and the Supreme Court.

Section 28-A of the Act

“28-A. 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, require 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.”

(emphasis supplied)

14. Section 28-A of the Act provides for the re-determination of compensation in the case of landowners who have not made any reference under Section 18 of the Act, on the basis of the award passed under Part III of the Act alone. Now, it is pertinent to note that there can only be one award passed by the Court under Part III of the Act. In other words, the award passed by the High Court or this Court would also be an award under this provision, subject to the rider that the award pertains to Part III of the Act alone. The opening words of this Section, “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,” must be understood from the point of view of finality of the said award. Thus, one cannot say that the applicability of this provision is restricted to the award passed by the Reference Court alone. We would only clarify that, on a conjoint reading of Sections 3(d) and 28-A of the Act, the term ‘Court’ used in Section 28-A would include under its ambit the High Court and this Court as well. Any interpretation to the contrary would militate against the very objective of the Act, making Section 28-A of the Act redundant. If the object of the Act is to ensure equality between similarly placed landowners, re-determination cannot be done partially *qua* an award of the Reference Court alone as against that of the High Court or this Court.

Section 54 of the 1894 Act

“54. Appeals in proceedings before Court.—Subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to [the Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLIV thereof.”

(emphasis supplied)

15. At this juncture, it is pertinent to refer to Section 54 of the Act which speaks about appeals to the High Court and this Court. In fact, the heading of this provision would clearly indicate that the appeals are in proceedings before the Court. Therefore, the terms “High Court” or “Supreme Court”, used hereinabove, are to be understood with reference to their nomenclature and, thus, they are also Courts under the scope of Section 28-A of the Act. Once an award is passed by the High Court, the earlier one passed by the Reference Court ceases to exist, and stands subsumed within the award of the High Court. The same is the case when an award is passed by this Court. Neither the law nor the Act recognizes the existence of two awards emanating from the same proceedings, simultaneously. The aforesaid provision also throws more light on the definition of ‘Court’ under Section 3(d) of the Act, as it clearly says that the appeals are subject to the provisions of the Code of Civil Procedure, 1908, applicable to ‘appeals from original decrees.’ Therefore, it clearly indicates that Section 3(d) of the Act concerns itself with the Court of original jurisdiction in particular.

DOCTRINE OF MERGER

16. The principle governing the doctrine of merger already stands settled by this Court. Once an Appellate Court renders a decision by setting aside the judgment of the court below, the consequential decree or order passed by the Appellate Court merges with that of the court below. This is based on the principle that there can only be one decree or order in operation at a given point in time. In a judicial system that has its own hierarchy of forums, a decree or order passed by an appellate forum would certainly become the one binding on the parties, as the earlier decree or order passed by the forum below ceases to exist, on becoming subsumed or merged with the one passed by the appellate forum. We do not wish to delve much into the settled position of law except by placing reliance on the decision of this Court in **Surinder Pal Soni v. Sohan Lal (Dead) through Legal Representatives, (2020) 15 SCC 771**. The following paragraphs capture the essence of the aforesaid principle:

“11. Upon the decision of the appellate court, there was a merger of the judgment of the trial court with the decision which was rendered in appeal. Consequent upon the passing of the decree of an appellate

court, the decree of the trial court merges with that of the appellate court. The doctrine of merger is founded on the rationale that there cannot be more than one operative decree at a given point of time. The doctrine of merger applies irrespective of whether the appellate court has affirmed, modified or reversed the decree of the trial court. In *Kunhayammed v. State of Kerala* [(2000) 6 SCC 359], while explaining the doctrine of merger, this Court held thus : (SCC p. 370, para 12)

“12. The logic underlying the doctrine of merger is that there cannot be more than one decree or operative orders governing the same subject-matter at a given point of time. When a decree or order passed by an inferior court, tribunal or authority was subjected to a remedy available under the law before a superior forum then, though the decree or order under challenge continues to be effective and binding, nevertheless its finality is put in jeopardy. Once the superior court has disposed of the lis before it either way — whether the decree or order under appeal is set aside or modified or simply confirmed, it is the decree or order of the superior court, tribunal or authority which is the final, binding and operative decree or order wherein merges the decree or order passed by the court, tribunal or the authority below. However, the doctrine is not of universal or unlimited application. The nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or which could have been laid shall have to be kept in view.”

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15. More recently, the decision in *Chandi Prasad* [*Chandi Prasad v. Jagdish Prasad*, (2004) 8 SCC 724] was followed by a two-Judge Bench of this Court in *Shanthi v. T.D. Vishwanathan* [(2019) 11 SCC 419 : (2019) 4 SCC (Civ) 787] rendered on 24-10-2018 in the following terms: (*Shanthi* case [(2019) 11 SCC 419 : (2019) 4 SCC (Civ) 787], SCC OnLine SC para 7)

“7. ... When an appeal is prescribed under a statute and the appellate forum is invoked and entertained, for all intents and purposes, the suit continues. When a higher forum entertains an appeal and passes an order on merit, the doctrine of merger would apply. The doctrine of merger is based on the principles of the propriety in the hierarchy of the justice delivery system. The doctrine of merger does not make a distinction between an order

of reversal, modification or an order of confirmation passed by the appellate authority. The said doctrine postulates that there cannot be more than one operative decree governing the same subject-matter at a given point of time.”

(emphasis supplied)

JUDGMENTS RELIED UPON BY THE PARTIES

i. Babua Ram v. State of U.P., (1995) 2 SCC 689

“39. The next question is whether the Collector/LAO on receipt of the application under sub-section (1) of Section 28-A is bound to redetermine the compensation while the award and decree under Section 26 is pending consideration in the appeal in the High Court or appellate forum. If he does so, whether award under Section 28-A(2) is illegal? It is settled law that the decree of the trial court gets merged in the decree of the appellate court which alone is executable. The finality of the determination of the compensation is attained with the decree of the appellate forum, be it the High Court or this Court. Take for instance that ‘A’, ‘B’ and ‘C’ are interested persons in the land notified under Section 4(1) and the compensation determined in the award under Section 11. ‘A’ received the compensation without protest. ‘B’ and ‘C’ received the compensation under Section 31 under protest and sought and secured reference under Section 18. The court enhanced the compensation from the Collector's award of Rs 10,000 to Rs 20,000. ‘B’ did not file appeal under Section 54 while ‘C’ filed the appeal. The High Court, suppose, further enhances the compensation to Rs 25,000 or reduces the compensation to Rs 15,000 per acre. ‘A’ is a person aggrieved only to the extent of the excess amount awarded either by the award and decree of the court under Section 26 but he will not get the enhancement of further sum of Rs 5000 granted by the High Court in favour of ‘C’. The decree of the High Court is the executable decree made in favour of ‘C’. Unless redetermination is kept back till the appeal by the High Court is disposed of, incongruity would emerge. Suppose the State filed appeal in this Court under Article 136 against the High Court decree and this Court confirms the award of the Collector and sets aside the decree of civil court under Section 26 and of the High Court under Section 54. There is nothing left for redetermination. **With a view to save ‘A’ or ‘B’ or the State from the consequences of such incongruous situations, the Collector/LAO should stay his hands**

in the matter of redetermination of compensation till the appeal is finally disposed of and he should redetermine the compensation only on the basis of the final judgment and decree of the appellate forum. Adoption of such course, would not merely avoid the chance element in the claimants getting the amounts of redetermined compensation but also avoids needless burden on public exchequer. As soon as the award of the civil court is carried in appeal, it becomes obligatory for the Collector to keep the application/applications for redetermination of compensation filed within limitation pending, awaiting decision by the appellate forum and to redetermine the compensation on the basis of the final judgment and decree. Normally the LAO would file the appeal against the enhanced compensation in a decree of either the civil court or the High Court and will know their pendency. In the case of appeal filed by the interested persons, the latter should inform the Collector/LAO of the pendency of appeal or otherwise comes to know of it should keep the applications for redetermination, received under sub-section (1) of Section 28-A within limitation pending, awaiting the decision by the appellate court. Before proceeding with the determination, he should obtain an affidavit from the party making the application under Section 28-A that no appeal against the award made under Section 26 relied upon by him was filed or if had been filed was disposed of by the appellate court and to produce the certified copy of decree and judgment, if already disposed of.”

(emphasis supplied)

17. In the aforesaid decision, this Court was pleased to deal with the doctrine of merger in the context of Section 28-A of the Act by stating that the finality of the determination of compensation is attained only with the decree of the appellate forum. It also dealt with a scenario where an application under Section 28-A of the Act was being considered by the Collector when appeals challenging the award of the Reference Court were pending before the appellate forum. Accordingly,

it was held that the doctrine of merger shall become applicable in such a scenario and, thus, any request for re-determination under Section 28-A of the Act is to be kept pending, till the disposal of the pending appeals. Incidentally, this Court also held that Section 28-A of the Act can be invoked only on the basis of the first award passed by the Reference Court and not subsequent awards, as the limitation period begins to run from the date of the first award of the Reference Court.

ii. **Union of India v. Pradeep Kumari, (1995) 2 SCC 736**

“8. We may, at the outset, state that having regard to the Statement of Objects and Reasons, referred to earlier, the object underlying the enactment of Section 28-A is to remove inequality in the payment of compensation for same or similar quality of land arising on account of inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the Act. This is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court under Section 18 of the Act. Section 28-A is, therefore, in the nature of a beneficent provision intended to remove inequality and to give relief to the inarticulate and poor people who are not able to take advantage of right of reference to the civil court under Section 18 of the Act. In relation to beneficent legislation, the law is well-settled that while construing the provisions of such a legislation the court should adopt a construction which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it. The provisions of Section 28-A should, therefore, be construed keeping in view the object underlying the said provision.

9. A perusal of the provisions contained in sub-section (1) of Section 28-A of the Act would show that after an award is made under Part III whereby

the court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, a right accrues to a person interested in the other land covered by the same notification under sub-section (1) of Section 4 who is also aggrieved by the award of the Collector but who had not made an application to the Collector under Section 18, to move an application before the Collector for redetermination of the amount of compensation payable to him on the basis of the amount of compensation awarded by the court. This application for redetermination of the compensation is required to be made within three months from the date of the award of the court. **The right to make the application under Section 28-A arises from the award of the court on the basis of which the person making the application is seeking redetermination 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. By construing the expression “where in an award under this Part” in sub-section (1) of Section 28-A to mean “where in the first award made by the court under this Part”, the word ‘first’, which is not found in sub-section (1) of Section 28-A, is being read therein and thereby the amplitude of the said provision is being curtailed so as to restrict the benefit conferred by it. In the matter of construction of a beneficent provision it is not permissible by judicial interpretation to read words which are not there and thereby restrict the scope of the said provision.** (See : *Jnan Ranjan Sen Gupta v. Arun Kumar Bose* [(1975) 2 SCC 526, 530])

10. It is possible to visualise a situation where in the first 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.

11. Since the cause of action for moving the application for redetermination of compensation under Section 28-A arises from the award on the basis of which redetermination of compensation is sought, the principle that “once the limitation begins to run, it runs in its full course until its running is interdicted by an order of the court” can have no application because the limitation for moving the application under Section 28-A will begin to run only from the date of the award on the basis of which redetermination of compensation is sought.

12. We are, therefore, unable to agree with the view expressed in *Babua Ram* [(1995) 2 SCC 689 : JT (1994) 7 SC 377] and *Karnail Singh* [(1995) 2 SCC 728 : (1995) 1 Scale 21] that application under Section 28-A for redetermination of compensation can only be made on the basis of the first award that is made after the coming into force of Section 28-A. In our opinion, the benefit of redetermination of amount of compensation under Section 28-A can be availed of on the basis of any one of the awards that has been made by the court after the coming into force of Section 28-A provided the applicant seeking such benefit makes the application under Section 28-A within the prescribed period of three months from the making of the award on the basis of which redetermination is sought. The first contention urged by Shri Goswamy in support of the review petitions is, therefore, rejected.”

(emphasis supplied)

18. In the aforesaid decision, this Court was considering the invocation of Section 28-A of the Act when multiple awards, arising out of the same acquisition proceedings, granting different amounts, were passed by the

Reference Court. The object and legislative intent behind Section 28-A of the Act was considered *in extenso*. It was, accordingly, held that the re-determination of compensation need not necessarily be sought on the basis of the first award passed by the Reference Court alone, but can be sought on the basis of any one of the multiple awards passed by the Reference Court, as the limitation period begins to run from the date of the award on the basis of which re-determination is sought and not from the date of the first award. Thus, the views expressed by this Court in **Babua Ram (*supra*)** with respect to the invocation of Section 28-A of the Act only on the basis of the first award of the Reference Court when there are multiple ones, did not find acceptance in this judgment and came to be overruled.

19. While the above judgment, in laying down certain conditions, held that only one application is maintainable under Section 28-A of the Act, the said condition is confined to cases where multiple awards have been passed by the Reference Court. It does not apply to situation wherein, a second or subsequent application is preferred, seeking re-determination of compensation, based on the judgment of the Appellate Court. In other

words, the aforesaid ruling does not prohibit the filing of an application for re-determination of compensation on the basis of the judgment of the Appellate Court.

iii. Jose Antonio Cruz Dos R. Rodriguese v. Land Acquisition Collector, (1996) 6 SCC 746

“4. We may now refer to the case-law. A two-Judge Bench of this Court in *Babua Ram v. State of U.P.* [(1995) 2 SCC 689] 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* [(1995) 2 SCC 728] 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* [(1995) 2 SCC 736] 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* [(1995) 2 SCC 689] and *Karnail Singh* [(1995) 2 SCC 728] 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.

5. However, the counsel for the appellants drew our attention to an order made in the present proceedings by a two-Judge Bench in *Jose Antonio Cruz Dos R. Rodrigues v. Land Acquisition Collector* [(1996) 1 SCC 88] referring two questions to a five-Judge Bench, namely: (SCC pp. 89-90, para 4)

“1. Whether the award of the Court, i.e., civil court made under Section 26 on reference under Section 18 would also include judgment and decree of the appellate court under Section 54? [*Union of India v. Raghubir Singh*, (1989) 2 SCC 754; *G. Krishna Murty v. State of Orissa*, (1995) 2 SCC 733 and *State of Punjab v. Raghubir Singh*, 1995 Supp (2) SCC 679 are relevant for the point.]

2. Whether each successive award or judgment and decree (if answer on Question No. 1 is positive) would give cause of action to file application under Section 28-A; if so construed, does not such a construction violate the language used in Section 28-A when Parliament advisedly did not use such expressions?”

So far as the first question is concerned, there is no difference of opinion on the question that the period of limitation would start to run from the date of the Reference Court's order on the basis whereof the redetermination is sought. In the present case, the redetermination was sought on the basis of the Reference Court's order long after three months even from the time the last order had elapsed and hence the applications were clearly time-barred. We, therefore, do not see any need to keep these matters pending for decision by a five-Judge Bench.

6. On the second question, there was a difference of opinion as the three-Judge Bench in *Pradeep Kumari case* [(1995) 2 SCC 736] had departed from the view taken earlier in two cases by the two-Judge Bench. If and when that question arises in an appropriate case, perhaps a reference to a five-Judge Bench may become necessary.

7. For the above reasons, we see no merit in these appeals and dismiss the same but with no order as to costs.”

(emphasis supplied)

20. In the aforesaid decision, this Court was dealing with a different factual background, wherein, the application seeking re-determination of compensation was filed by the landowners after the expiry of the period of limitation of three months from the date of the award of the Reference Court. One of the questions which came to be framed by this Court during the proceedings was whether each successive award would give a cause of action to file an application under Section 28-A of the Act. This Court was of the opinion that it may be necessary to refer the said question to a five-Judge bench as and when such question arises in an appropriate case, as the three-Judge bench in **Pradeep Kumari (supra)** had departed from the view taken in the earlier decisions. We are of the view that such a reference may not be necessary as the principle of the doctrine of merger and the concept that an appeal constitutes only a continuation of the proceedings were not previously brought to the attention of this Court. Furthermore, the Statement of Objects and Reasons of the Act, particularly, para (ix), was also not taken into due consideration.

iv. **Bharatsing v. State of Maharashtra, (2018) 11 SCC 92**

“14. In the case of the appellants, when their Section 28-A application was decided, based on awards in LARs Nos. 123 and 129 of 1983, the very same awards were pending in appeal before the High Court. However, the Collector proceeded to consider their application and decided the same on 25-10-2000. Thereafter, fresh application under Section 28-A was filed on 27-5-2009 based on the judgment of the High Court dated 23-3-2009 [State of Maharashtra v. Sahebrao Kishanrao Rahane, 2009 SCC OnLine Bom 2383] . It was this application that was held to be not maintainable, being a second application.

15. Though there is no quarrel with the principle that only a single application is maintainable, in the instant case, unfortunately, the High Court omitted to take note of the fact that the appeals on the relied on awards were pending when the Section 28-A application was decided. That is the special and distinctive factual position in the instant case. It must also be kept in mind that Section 28-A is a beneficial provision.

16. The Section 28-A application dated 31-12-1992 based on the awards in LARs Nos. 123 and 129 of 1983 was decided on 25-10-2000 when the appeals therefrom were pending. The Collector ought to have kept the application pending till the appeals were decided on 23-3-2009. On principle, the High Court is correct and justified in the view taken in the impugned judgment [Bharatsing v. State of Maharashtra, 2015 SCC OnLine Bom 6306 : (2016) 5 Bom CR 450] that there cannot be successive applications under Section 28-A in view of Pradeep Kumari [Union of India v. Pradeep Kumari, (1995) 2 SCC 736]. But that is not the point arising for consideration here. No doubt, the second application dated 27-5-2009 for refixation in light of the appellate court judgment is not maintainable. However, since the Collector is also at fault in deciding the application when the matter was pending in appeal, we are of the view that in the peculiar facts of the instant case, the application dated 31-12-1992 should be considered afresh.”

(emphasis supplied)

21. In the aforesaid decision, this Court, while placing reliance upon the decision rendered in **Babua Ram (supra)**, reiterated that no decision

can be made on the application filed under Section 28-A of the Act during the pendency of any appeal. In fact, this decision would clearly show that even though an applicant makes a claim for a particular amount awarded by the Reference Court, there is no bar in law to seek an enhancement of compensation on the basis of the award of an appellate forum. In other words, the nature and extent of benefit to be granted is irrelevant, and what is of utmost importance is maintaining parity between similarly placed landowners.

22. We may also note that the stray observation made by this Court in **Bharatsing (*supra*)** to the effect that a second application made under Section 28-A of the Act after the judgment of the High Court is not maintainable, by placing reliance upon the earlier decision rendered in **Pradeep Kumari (*supra*)**, may not be in tune with the law laid down as, this Court, in **Pradeep Kumari (*supra*)**, was only dealing with a scenario where multiple awards were made by the Reference Court itself, as discussed hereinabove. Perhaps, this distinction was not brought to the notice of this Court while rendering the decision in **Bharatsing (*supra*)**.

iv. **Ramsingbhai (Ramsangbhai) Jerambhai v. State of Gujarat,**
(2018) 16 SCC 445

“3. It is clear from the opening words of the provision that the redetermination under Section 28-A is available only in respect of an “award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28-A (both inclusive). The “Court” referred to in Section 28-A of the Act is the Court as defined under Section 3(d) to mean “... a Principal Civil Court of Original Jurisdiction ...”. Thus, the judgment of the appellate court is not within the purview of Section 28-A. It is also to be noted that the appellate courts under Section 54 are under Part VIII of the Act whereas the redetermination is only in respect of the award passed by the Reference Court under Part III of the Act. [See *Jose Antonio Cruz Dos R. Rodriguese v. LAO*, (1996) 6 SCC 746]. In its recent judgment in *Bharatsing v. State of Maharashtra* [(2018) 11 SCC 92 : (2018) 5 SCC (Civ) 44], this Court has surveyed the decisions on this issue and reiterated the legal principle.

4. What the appellant seeks is redetermination of compensation under the Act in terms of the judgment in *Ramsingbhai v. State of Gujarat* of the High Court passed under Section 54 of the Act. In view of the settled legal position which we have explained above, the appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28-A of the Act based on the award of the Reference Court.”

(emphasis supplied)

23. In the aforesaid decision, this Court held that the re-determination of compensation under Section 28-A of the Act can be sought for only on the basis of the award of the Reference Court and cannot be further sought for on the basis of the award of the Appellate Court. We do not agree with this position of law as laid down by this Court for the following reasons. Firstly, the aforesaid decision of this Court has been

rendered without taking note of the one rendered earlier in **Pradeep Kumari** (*supra*). Secondly, this decision has not considered the relevant provisions in light of the object of the Act, particularly, para (ix) of the Statement of Objects and Reasons as extracted hereinabove. Certain other concepts such as the doctrine of merger and an appeal being only a continuation of the proceedings, were also not placed before it and, thus, were not given due consideration. Therefore, we are inclined to state that the aforesaid decision, not having considered the aforesaid material aspects, cannot be termed as a binding precedent.

v. Banwari v. Haryana SIIDC, 2024 SCC OnLine SC 3685

“7. This Court, speaking through a bench of three learned Judges, in the case of *Ramsingbhai (Ramsangbhai) Jerambhai* (*supra*), has observed thus:

“3. It is clear from the opening words of the provision that the redetermination under Section 28-A is available only in respect of an “award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28-A (both inclusive). The “Court” referred to in Section 28-A of the Act is the Court as defined under Section 3(d) to mean “... a Principal Civil Court of Original Jurisdiction ...”. Thus, the judgment of the appellate court is not within the purview of Section 28-A. It is also to be noted that the appellate courts under Section 54 are under Part VIII of the Act whereas the redetermination is only in respect of the award passed by the Reference Court under Part III of the Act. [See *Jose Antonio Cruz Dos R. Rodrigues v. LAO* [*Jose Antonio Cruz Dos R. Rodrigues v. LAO*, (1996) 6 SCC 746]]. In its recent judgment in *Bharatsing v. State of Maharashtra* [*Bharatsing v. State of*

Maharashtra, (2018) 11 SCC 92 : (2018) 5 SCC (Civ) 44], this Court has surveyed the decisions on this issue and reiterated the legal principle.

4. What the appellant seeks is redetermination of compensation under the Act in terms of the judgment in *Ramsingbhai v. State of Gujarat* [*Ramsingbhai v. State of Gujarat*, 2014 SCC OnLine Guj 5840 : AIR 2015 CC 1046] of the High Court passed under Section 54 of the Act. In view of the settled legal position which we have explained above, the appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28-A of the Act based on the award of the Reference Court.”

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9. It, however, appears that this Court in the case of *Ramsingbhai (Ramsangbhai) Jerambhai* (supra), has not noticed an earlier judgment rendered by this Court in *Pradeep Kumari* (supra).”

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11. It can thus be seen that this Court has held that the object underlying the enactment of Section 28-A of the 1894 Act is to remove inequality in the payment of compensation for same or similar quality of land arising on account of inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the 1894 Act. It was held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the Reference Court under Section 18 of the 1894 Act. It was held that while construing the provisions of such a legislation, the Court should adopt a construction which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it.

12. It has further been held by this Court that under Section 28-A of the 1894 Act, a right accrues to a person interested in the other land covered by the same notification under sub-section (1) of Section 4, where the Court allows a higher compensation to the similarly circumstanced persons who are covered by the said notification. It has been held that the application for redetermination of the compensation is required to be made within three months from the date of the award by the Court. It has been held that the right to make an application under Section 28-A of the 1894 Act arises from

the award of the Court on the basis of which the person making the application is seeking redetermination of the compensation. The Court further held that there is nothing in sub-section (1) of Section 28-A of the 1894 Act to indicate that this right is confined in respect of the earliest award that is made by the Court after coming into force of Section 28-A of the 1894 Act. This Court held that Section 28-A of the 1894 Act if read in such a manner, it will be contrary to the principles of construction of a beneficial provision. It is further held that by judicial interpretation, the Court could not read the words which are not there and thereby restrict the scope of a provision.

13. In paragraph 10 of the said case, this Court had referred to various eventualities that may occur if such a restrictive interpretation is given to the provision of Section 28-A of the 1894 Act. The Court observed that it has to be seen from the point of view of inarticulate and poor people. The Court held that the object underlying Section 28-A of the 1894 Act would be better achieved by giving the expression “an award” in Section 28-A of the 1894 Act, its natural meaning as meaning the award that is made by the Court in Part III of the 1894 Act after coming into force of Section 28-A.

14. This Court has laid down the conditions which are required to be satisfied for invoking the provisions of Section 28-A(1) of the 1894 Act as follows:

- (i) An award has been made by the Court under Part III of the Act after 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 move the application under Section 18;
- (v) The application is moved within three months from the date of the award on the basis of which redetermination of amount of compensation is sought; and
- (vi) Only one such application can be moved under Section 28-A for redetermination of the compensation by the applicant.

15. In the present case, it is not in dispute that the First Appeal which was allowed by the High Court vide judgment and order dated 2nd May 2016 was in respect of the land which was covered by the same notification under which notification the appellants' land is also covered. It is also not in dispute that the amount awarded by the High Court in the said First Appeal is in excess of the amount awarded by the Collector under Section 11 of the 1894 Act in the case of the land of the appellants. It is also not in dispute that the appellants had not made an application to the Collector under Section 18 of the 1894 Act. It is also not in dispute that the application made by the appellants under Section 28-A of the 1894 Act to the Collector was within a period of three months from the date of the judgment and order of the High Court.

16. From the perusal of the judgment of this Court in the case of *Pradeep Kumari* (supra), it is clear that the limitation for moving the application under Section 28-A of the 1894 Act will begin to run only from the date of the award on the basis of which redetermination of the compensation is sought. The appellants are seeking redetermination of the compensation on the basis of the judgment and order of the High Court in First Appeal No. 429 of 2023 dated 2nd May 2016. It is not disputed that the application of the appellants under Section 28-A of the 1894 Act is within a period of three months from 2nd May 2016.

17. We are, therefore, of the considered view that the case of the appellants is fully covered by the judgment of this Court in the case of *Pradeep Kumari* (supra).

18. It is further to be noted that the cases of *Pradeep Kumari* (supra) and *Ramsingbhai (Ramsangbhai) Jerambhai* (supra), both have been decided by a Bench strength of three learned Judges of this Court. The case of *Pradeep Kumari* (supra) is decided on 10th March 1995, whereas *Ramsingbhai (Ramsangbhai) Jerambhai* (supra), has been decided on 24th April 2018.

19. A perusal of the judgment rendered in *Ramsingbhai (Ramsangbhai) Jerambhai* (supra), would reveal that the said case does not take note of the earlier view taken by three learned judges of this Court in the case of *Pradeep Kumari* (supra).

20. In this respect, we may gainfully refer to the observations of a Constitution Bench of this Court in the case of *National Insurance Company Limited v. Pranay Sethi* [(2017) 16 SCC 680 : 2017 INSC 1068]. The relevant paragraphs of the judgment read as under:

“27. We are compelled to state here that in *Munna Lal Jain*, the three-Judge Bench should have been guided by the principle stated in *Reshma Kumari* which has concurred with the view expressed in *Sarla Verma* or in case of disagreement, it should have been well advised to refer the case to a larger Bench. We say so, as we have already expressed the opinion that the dicta laid down in *Reshma Kumari* being earlier in point of time would be a binding precedent and not the decision in *Rajesh*.

28. In this context, we may also refer to *Sundeep Kumar Bafna v. State of Maharashtra* [*Sundeep Kumar Bafna v. State of Maharashtra*, (2014) 16 SCC 623 : (2015) 3 SCC (Cri) 558] which correctly lays down the principle that discipline demanded by a precedent or the disqualification or diminution of a decision on the application of the per incuriam rule is of great importance, since without it, certainty of law, consistency of rulings and comity of courts would become a costly casualty. A decision or judgment can be per incuriam any provision in a statute, rule or regulation, which was not brought to the notice of the court. A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co-equal or larger Bench. There can be no scintilla of doubt that an earlier decision of co-equal Bench binds the Bench of same strength. Though the judgment in *Rajesh case* was delivered on a later date, it had not apprised itself of the law stated in *Reshma Kumari* but had been guided by *Santosh Devi*. We have no hesitation that it is not a binding precedent on the co-equal Bench.”

21. It can thus be seen that, this Court in unequivocal terms has held that an earlier decision of a Bench of particular strength would be binding on the subsequent Benches of this Court having the same or lesser number of judges.

22. While considering the rule of *per incuriam*, the Constitution Bench of this Court has held that a decision or judgment can be said to be *per incuriam* if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co-equal or larger Bench.

23. In any case, the judgment in *Pradeep Kumari* (supra) has been rendered by three learned Judges of this Court after considering the relevant provisions of the Statute and the principles of interpretation. However, the judgment in the case of *Ramsingbhai (Ramsangbhai)*

Jerambhai (supra) is a short judgment only referring to the text of Section 28-A(1) of the 1894 Act.”

(emphasis supplied)

24. In the aforesaid decision, this Court took into due consideration the earlier decisions rendered in **Pradeep Kumari (supra)** and **Ramsingbhai (supra)**. As discussed above, cogent reasons have been given for following the decision in **Pradeep Kumari (supra)**, while taking note of the fact that the subsequent decision in **Ramsingbhai (supra)** has been rendered without taking note of the earlier decision and thus, the latter was held to be *per incuriam*. Hence, we are in agreement with the aforesaid view.

LEGAL ANALYSIS

25. From the analysis made hereinabove on the relevant provisions of the Act and the judgments relied upon by the parties, we are inclined to hold that even a second application made under Section 28-A of the Act after the award passed by the High Court is maintainable and entitled to be considered by the Collector/LAO. We are of the view that, entertaining an earlier application filed under Section 28-A of the Act on the basis of the award of the Reference Court followed by the receipt

of money, shall not act as a bar for the same applicant to seek further re-determination of compensation on the basis of the award passed by the High Court or this Court.

26. It is the doctrine of merger that comes into application in such circumstances. The benefit of an enhanced compensation received by a landowner, consequent to the final award passed by the appellate forum, would also extend to similarly placed landowners who seek re-determination of compensation under Section 28-A of the Act. To put it differently, when 'A' obtains an award from the Reference Court, 'B' can also receive the benefit of the same by invoking Section 28-A of the Act. Similarly, when 'A' receives an enhancement from the High Court or this Court, 'B' is also entitled to receive the same enhancement, notwithstanding the earlier receipt of money under Section 28-A of the Act based upon the award of the Reference Court. The decision of this Court in **Pradeep Kumari (*supra*)** has to be understood and applied only in a context when multiple awards come to be passed by the Reference Court itself and not in the present context when a subsequent award is passed by the High Court or by this Court. Ultimately, the

object of Section 28-A of the Act is to maintain parity and equality between the similarly placed landowners in the payment of compensation. The question of estoppel, waiver or acquiescence would thus not arise, in view of the statutory prescriptions under Section 28-A of the Act.

FACTUAL ANALYSIS

27. Admittedly, the first application filed by the appellants under Section 28-A of the Act, seeking re-determination of compensation on the basis of the award of the Reference Court, was pending before the competent authority when the appeals challenging the said award were filed by the respondents and the other landowners before the High Court. Conveniently, the said application came to be allowed upon the dismissal of the appeals preferred by respondent No.2, while the appeals filed by the landowners were still pending before the High Court. This act of the respondent No.2 is contrary to the law laid down in **Babua Ram (supra)** and **Bharatsing (supra)**. Even otherwise, as held hereinabove, in the absence of any statutory prohibition, there is no bar for the appellants to seek re-determination of compensation on the basis

of the award of the High Court, even if they had previously filed an application after the award of the Reference Court. The fact that the appellants received the compensation, pursuant to the order passed on the earlier occasion, is irrelevant. The High Court, in our considered view, erred in placing reliance upon the subsequent decision of this Court in **Ramsingbhai Jerambhai** (*supra*) without taking note of the one rendered in **Pradeep Kumari** (*supra*).

28.In such view of the matter, the impugned judgment and order passed by the Division Bench of the High Court of Karnataka stands set aside. Consequently, the order of rejection passed by respondent No.2 dated 30.11.2013 also stands set aside with a direction to the respondents to re-determine the compensation in favor of the appellants in light of the judgment of the High Court dated 22.07.2013 in MFA Nos. 3289 and 3291 of 2007, within a period of eight weeks from the date of receipt of a copy of this judgment.

29.The appeals stand allowed, accordingly.

30. Pending application(s), if any, shall stand disposed of.

..... **J.**
(M. M. SUNDRESH)

..... **J.**
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
MARCH 25, 2026