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UNION OF INDIA
v.
HANSOLI DEVI & ORS.

SEPTEMBER 12, 2002

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[G.B. PATTANAIK, M.B. SHAH, DORAISWAMY RAJU, S.N. VARIAVA AND D.M. DHARMADHIKARI, JJ.]

Land Acquisition Act, 1894: Section 28-A—Scope and ambit of—Held, an application under Section 18 if not considered on ground of limitation, it would not tantamount to an effective application—Right of such applicant emanating from other reference to move an application cannot be denied.

C

Section 28-A—Aggrieved person—Meaning of—Held, the person who received compensation but not filed an application for making reference would be aggrieved person—He is entitled to file an application when other applications for reference are answered by the reference court otherwise it would amount to adding a condition, not contemplated by the Legislature.

D

Interpretation of Statutes: Statues—Anomalies, injustices and absurdities—Court may give meaning which would adhere to the purpose of statutes—However, when its language is unambiguous, it would not be open to the Courts to adopt hypothetical construction on the ground of consistency with the object and policy of the Statute.

E

Words and Phrases: 'effective application'—Meaning of in the context of Section 28-A of the Land Acquisition Act, 1894.

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A two-Judge Bench of this Court formulated the following questions pertaining to application/interpretation of Section 28-A of the Land Acquisition Act, 1894 for consideration by a Larger Bench.

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

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

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of the Land Acquisition Act? A

2. Whether a person who has received the compensation without protest pursuant to the award of the Land Acquisition Collector and has not filed an application seeking reference under Section 18 is "a person aggrieved" within the meaning of Section 28-A?

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Answering the questions referred to it, the Constitution Bench of the Court

HELD: 1.1 The genesis of the dispute can be referred to *Babua Ram and Ors.* **v.** *State U.P. and Anr.* **A Bench of two Judges came to hold that the period of three months prescribed under Section 28-A of the Land Acquisition Act, for making an application for re-determination of compensation must be computed from the date of earlier award of the Court made under Section 26 and not from the date of Judgment and decree of the Court of appeal. It was also held that successive awards made by the reference court at different times in respect of the land covered by the same notification do not furnish a fresh cause of action. A Bench of two Judges in** *Karnail Singh'* **case reiterated these views. The views expressed in these two judgments, however, stood over-ruled by a three Judge Bench in** *Union of India and Anr.* **v.** *Pradeep Kumari and Ors.* **It was held that the benefit of re-determination of the 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 coming into force of Section 28-A and the period of limitation of three months would start from the date of making of the award on the** *basis of which re-determination is sought.* **It was felt that there is nothing in sub-section (1) of Section 28-A to indicate that the right is confined in respect of the earlier award that is made by the Court. By restricting the benefit of Section 28-A to the first award, the benefit of higher amount of compensation on the basis of the subsequent award made by the Court would be denied to the persons, and that there is nothing in the wordings of Section 28-A to indicate that the legislature intended to confer a limited benefit. [331-A-E; 331-F; G]**

C D E F G

Babua Ram and Ors. **v.** *State of U.P. and Anr.,* **[1995] 2 SCC 689;** *Union of India and Ors.* **v.** *Karnail Singh and Ors.,* **[1995] 2 SCC 728 and** *Union of India and Anr.* **v.** *Pradeep Kumari and Ors.,* **[1995] 2 SCC 736, referred to.**

2.1. It is a cardinal principle of construction of statute that when H

A language of the statute is plain and unambiguous, then the Court must give effect to the words used in the statute and it would not be open to the Courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then B the Court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. [335-B, C; D, E]

Aswini Kumar Ghose v. *Arabinda Bose,* [1953] SCR 1 and *Quebec* C *Railway, Light Heat & Power Co.* v. *Vandray,* AIR (1920) PC 181, relied on.

Sussex Peerage case, (1844) 11 Cl & F.85 and *Kirkness* v. *John Hudson & Co. Ltd.,* [1955] 2 All ER 345, referred to.

2.2. The object of Section 28-A of the Act is to confer a right of D making a reference on those who might have not made a reference earlier under Section 18 and, therefore, ordinarily when a person makes a reference under Section 18 but that was dismissed on the ground of delay, he would not get the right of Section 28-A when some other person makes a reference and the reference is answered. But the Parliament having E enacted Section 28-A, as a beneficial provision, it would cause great injustice if a literal interpretation is given to the expression "had not made an application to the Collector under Section 18" in Section 28-A of the Act. The expression would mean that if the land-owner has made an application for reference under Section 18 and that reference is entertained and answered. In other words, it may not be permissible for a land owner F to make a reference and get it answered and then subsequently make another application when some other person gets the reference answered and obtains a higher amount. [335-B, C, D]

2.3. When an application under Section 18 is not entertained on the G ground of limitation, the same not fructifying into any reference, then that would not tantamount to an effective application and consequently the rights of such applicant emanating from some other reference being answered to move an application under Section 28-A cannot be denied. Accordingly, question No.1(a) is answered by holding that the dismissal of an application seeking reference under Section 18 on the ground of delay H would tantamount to not filing an application within the meaning of

Section 28-A of the Land Acquisition Act, 1894. [335-E, F, G] A

Union of India and Anr. v. *Pradeep Kumari and Ors.* [1995] 2 SCC 736, referred to.

2.4. When an application of a land owner under Section 18 is dismissed on the ground of delay, then the said land owner is entitled to make an application under Section 28-A, if other conditions prescribed therein are fulfilled. [335-H; 336-A] B

2.5. Receipt of compensation with or without protest pursuant to the award of the Land Acquisition Collector is of no consequence for the purpose of making a fresh application under Section 28-A. If a person has not filed an application under Section 18 of the Act to make a reference, then irrespective of the fact whether he has received the compensation awarded by the Collector with or without protest, he would be a person aggrieved within the meaning of Section 28-A and would be entitled to make an application when some other land owner's application for reference is answered by the reference court. It is apparent on the plain language of the provisions of Section 28-A of the Act. Otherwise, it would amount to adding one more condition, not contemplated or stipulated by the Legislature itself to deny the benefit of substantial right conferred upon the owner. C D E

3. Judicial discipline and propriety demand that a Bench of two Judges should follow a decision of a Bench of three Judges. But if a Bench of two Judges concludes that an earlier Judgment of three-Judge Bench is so very incorrect that in no circumstances can it be followed, then it requires to refer the matter before a Bench of three Judges; the Bench of three Judges if comes to the same conclusion, then a reference could be made to a Bench of five Judges. Thus, the very reference itself made by the two-Judge Bench was improper and the matter would have been sent to a Bench of three Judges for consideration. But since the questions involved are pending in many cases in different High Courts and certain doubts have arisen with regard to the interpretation to the provisions of Section 28-A of the Act, the questions were considered and answered by the larger Bench. [335-B, C; 329-C, D, E, F] F G

Pradip Chandra Parija and Ors., v. *Pramod Chandra Patnaik and Ors.*, [2002] 1 SCC 1, relied on and reiterated. H

A *Jose Antonio Cruz Dos R. Redriguese and Anr.* v. *Land Acquisition Collector and Anr.*, **[1996] 6 SCC 746, referred to.**

[Having answered the questions, the Constitution Bench directed that the appeals and Special Leave Petitions be placed before a Bench of two Judges for disposal]. [327-F]

B

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9477 of 1994.

From the Judgment and Order dated 4.1.93 of the Himachal Pradesh High Court in C.W.P. No 241/92.

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WITH

C.A. Nos. 9520-22 of 1994, C.A. No. 9478 of 1994, C.A. No. 9526-30 of 1994. C.A. Nos. 9523-25 of 2001, SLP (C) No. 5385-86 of 2001, SLP (C) 5383-84 of 2001 C.A. No. 8748 of 1995 SLP (C) Nos. 22360-61 of 2001.

D and C.A. No. 3515 of 1997 with C.A. No. 3516 of 1997.

Harish N. Salve, Soliciter General, N.N. Goswami, S.K. Bagga, S.K. Gambhir and Rakesh Dwivedi, Hemant Sharma, R.N. Poddar, Meenakshi Sakhardande, A. Singh, Sidhartha Choudhary, Gayatri Goswami, K.C. Kaushik,

E B.V. Balram Das for B. Krishna Prasad, Dhruv Mehta, Shalini Gupta, Seeraj Bagga, Awanish Sinha, Anil K. Sharma, J.M. Khanna, Guntur Prabhakar, Shalini Gupta, S. K. Mehta, Ajay Bansal (Dy. A.G. Punjab), R.S. Suri, Narin Prakash, Rahul Singh, Meenakshi Arora, Naresh K. Sharma, A.T.M. Sampath, V. Balaji, Rani Chhabra, D. Bharathi Reddy, Rajani, K. Prasad, C.V.S. Rao, K.R. Nagaraja, R.K. Prasad, Y. Prabhakara Rao, Amita Gupta, K.C. Kaushik

F and D.S. Mehra, for the appearing parties.

The Judgment of the Court was delivered by

PATTANAIK, J. In this bench of cases, the provision of Section 28-A of the Land Acquisition Act, 1894 [hereinafter referred to as the Act] ,crop

G up for consideration. Two learned Judges of this Court, in course of hearing of Civil Appeal No. 9477 of 1994 (*Union of India & Anr.* v. *Smt. Hansali Devi and Ors.*), Formulated two questions to be answered by a Larger Bench. The said questions are:

H "1. (a) Whether dismissal of an application seeking reference under

Section 18 on the ground of delay amounts to " not filing an application" within the meaning of Section 28-A of the Land Acquisition Act, 1894? A

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

2. Whether a person who has received the compensation without protest pursuant to the award of the Land Acquisition Collector and has not filed an application seeking reference under Section 18 is" a person aggrieved" within the meaning of Section 28-A? C

According to the learned Judges, the three Judges Bench decision of this Court in *Jose Antonio Cruz Dos R. Redriguese and Anr.* v. *Land Acquisition Collector and Anr.*, [1996] 6 SCC 746 requires reconsideration. At the outset, it may be stated that the Constitution Bench in *Pradip Chandra Parija and Ors.* v. *Pramod Chandra Patnaik and Ors.*, [2002] 1 SCC 1, held that judicial D discipline and propriety demands that a Bench of two learned Judges should follow a decision of a Bench of three learned Judges. But if a Bench of two learned judges concludes that an earlier Judgment of three learned Judges is so very incorrect that in no circumstances can it be followed, the proper course for it to adopt is, to refer the matter before it to a Bench of three E Learned Judges setting out the reasons why it could not agree with the earlier judgment and then the Bench of three learned judges also comes to the conclusion that the earlier judgment of a Bench of three learned Judges is incorrect, then a reference could be made to a Bench of five learned Judges. In view of the aforesaid Constitution Bench decision, the very reference itself made by the two learned judges was improper and we would have sent the F matters to a Bench of three learned judges for consideration. But since the questions involved are pending in many cases in different High Court and certain doubts have arisen with regard to the interpretation to the provisions of Section 28-A of the Act, we thought it appropriate to answer the two questions referred Section 28-A of the Land Acquisition Act reads thus: G

"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 H

A 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 B 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

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(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.

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(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 E such reference as they apply to a reference under Section 18.

The aforesaid provision was inserted by way of an amendment by Act 68 of 1984, which came into force w.e.f. 14.9.1984. Prior to the present reference in *Jose Antonio Cruz. Dos. R. Rodriguese and Anr.* v. *Land Acquisition Collector and Anr.*, [1996] 1 SCC 88 two learned judges of this Court had F referred the following two questions for being answered by a Larger Bench of five Judges. The said questions being:-

"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?

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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?

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The aforesaid order of the learned Judges indicate that they did not agree with the ratio of this Court in the case of *Union of India and Anr.* v. *Pradeep Kumari and Ors.*, [1995] 2 SCC 736. But the said two points stood answered by the three judges Bench in the case of *Jose Antonio Cruz Dos R. Rodriguese and Anr.* v. *Land Acquisition Collector and Anr.*, [1996] 6 SCC 746, as already stated. The genesis of the dispute can be referred to *Babua Ram and Ors.* v. *State of U.P. and Anr.*, [1995] 2 SCC 689, In Babua Ram, the provisions of Section 28-A of the Act came up for consideration and a Bench of two learned judges came to hold that the period of three months prescribed for making an application for re-determination of compensation must be computed from the date of earliest award of the Court made under Section 26 of the Land Acquisition Act and not from the date of Judgment and decree of the Court of appeal. It was also held that successive award made by the reference Court at different times in respect of the land covered by the same notification do not furnish a fresh cause of action. In the case of *Union of India and Ors.* v. *Karnail Singh and Ors.*, [1995] 2 SCC 728, a Bench of two learned Judges reiterated the aforesaid view expressed in *Babua Ram* and held that the earliest award of the reference Court by which the compensation awarded by the Land Acquisition Officer stood enhanced, would be the starting point of limitation of three months, enabling the land owners whose lands had also been acquired under the same notification and who had not made any reference under Section 18 of the Act earlier. The views expressed in the aforesaid two judgments however stood overruled by a three Judges Bench in the case of *Union of India and Anr.* v. *Pradeep Kumari and Ors.*, [1995] 2 SCC 736. In *Pradeep Kumari's* case, it was held that the benefit of re-determination of the 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 coming into force of Section 28-A and the period of limitation of three months would start from the date of making of the award on the basis of which re-determination is sought. The learned Judges felt that there is nothing in sub-section (1) of Section 28-A to indicate that the right is confined in respect of the earliest award that is made by the Court. The Court further held:

> ....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 re-determination of compensation on the basis of lesser amount of compensation awarded under the first award that is made

A 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."

The Court enumerated the conditions to be satisfied, where-after an application under Section 28-A can be moved. The said conditions being:

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"(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

C 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;

D (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 re-determination of amount of compensation is sought; and

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(vi) Only one application can be moved under Section 28-A for re-determination of compensation by an applicant."

As has been stated earlier in *Jose Antonio Cruz's case*, the High Court had followed the decision of this Court in *Union of India and Anr.* v. *Pradeep*

F *Kumari and Ors.*, referred to supra, but the two learned Judges doubted the correctness of the ratio in *Pradeep Kumari* and had referred the matter to a larger Bench of five learned Judges. When the cases had been placed before the learned Chief Justice, the Chief Justice was not persuaded to constitute a larger Bench of five learned Judges and on the other hand directed that the

G cases be placed before a three Judge Bench and then ultimately the three Judge Bench disposed of the matter by Judgment dated 20th November, 1996, since reported in [1996] 6 SCC 746. Out of the two questions referred to by the two Judge Bench, the Court answered the first question by observing that there is no difference of opinion on the question that the period of limitation would start to run from the date of reference Court order and the

H period of three months would start from the order of the reference Court and

not from the order of the Court passed in appeal against the same. On the second question, as to whether successive awards would give a fresh cause of action, as was held in *Pradeep Kumari's* case, the Court held that the three Judge Bench in *Pradeep Kumari's* case, had departed from the view taken earlier in two cases by two Judge Bench viz. in *Babua Ram* and *Karnail Singh* and further observed that if and when the question arises in an appropriate case, perhaps a reference to a five-Judge Bench may become necessary. The aforesaid observation indicates that the three Judges Bench in *Jose Antonio Cruz* doubted the correctness of the ratio in *Pradeep Kumari's* case that if successive awards are passed by the reference Court, then it is open to the person who wants to take the benefit of filing an application under Section 28-A to choose anyone of those awards and can make an application within three months from the date of the said award.

Learned Solicitor General, appearing for the Union of India submitted that the language of Section 28-A of the Act and the decisions of this Court referred to earlier, unequivocally point out that the expression "award of the Court under this chapter" would mean the award passed by the reference court and not the order passed by the High Court in appeal or any other order in further appeal therefrom. The Ld. Solicitor General also urged that looking at the purpose for which Section 28-A was brought on the statute book, it would be reasonable to construe that the date of the first award of the reference court when it comes to the knowledge of the person who had not earlier availed of making a reference under Section 18 and to that extent, the decision of the court in *Pradeep Kumari's* case is not correct. This contention of the learned Solicitor General was reiterated by Mr. Rakesh Dwivedi, the learned senior counsel, appearing for some of the states and several other counsels.

Mr. S.K. Gambhir, the learned senior counsel, appearing for the land owners, on the other hand contended that the legislative intent in bringing forth the amendment and inserting Section 28-A being to confer some benefits on the poor illiterate land owners, the court must not only liberally construe the provisions but also should construe the provisions in such a manner, even at the cost of doing violence to the language, so that the purpose for which the amendment was brought, can be achieved. According to the learned counsel, Section 28-A should be construed by deleting the expression "under this part" in sub-section (1) of Section 28 and by adding the word "or order" after the word "award" in the proviso. According to the learned counsel, thus construed, the application under Section 28-A can be filed even within three months from the appellate order or the second appellate order and it should

A not be restricted to the award of the reference court alone. Mr. Gambhir contended that both *Pradeep Kumari* as well as subsequent three Judge Bench decision in *Jose Antonio Cruz*, must be held to have been wrongly decided.

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

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

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It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words D used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In *Kirkness* v. *John Hudson & Co. Ltd.*, [1955] 2 All ER 345, Lord Reid pointed out as to what is the meaning of "ambiguous' and held that "provision is not ambiguous merely because it contains a word which in different context is capable of different meanings E and it would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning." It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices F and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, CJ in the case of *Aswini Kumar Ghose* v. *Arabinda Bose,* [1953] SCR 1, had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances G conceivably within the contemplation of the statute. In *Quebec Railway, Light Heat and Power Co.* v. *Vandray,* AIR (1920) PC 181, it had been observed that the Legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons. Similarly, it H is not permissible to add words to a statute which are not there unless on a

literal construction being given a part of the statute becomes meaningless. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these words would have been inserted by the draftsman and approved by the legislature had their attention been drawn to the omission before the Bill had passed into a law. At times, the intention of the legislature is found to be clear but the unskilfulness of the draftsman in introducing certain words in the statute results in apparent ineffectiveness of the language and in such a situation, it may be permissible for the court to reject the surplus words, so as to make the statute effective. Bearing in mind the aforesaid principle, let us now examine the provisions of the Section 28-A of the Act, to answer the questions referred to us by the Bench of the two learned Judges. It is no doubt true that the object of Section 28-A of the Act was to confer a right of making a reference, who might have not made a reference earlier under Section 18 and, therefore, ordinarily when a person makes a reference under Section 18 but that was dismissed on the ground of delay, he would not get the right of Section 28-A of the Land Acquisition Act when some other person makes a reference and the reference is answered. But the Parliament having enacted Section 28-A, as a beneficial provision, it would cause great injustice if a literal interpretation is given to the expression "had not made an application to the Collector under Section 18" in Section 28-A of the Act. The aforesaid expression would mean that if the land-owner has made an application for reference under Section 18 and that reference is entertained and answered. In other words, it may not be permissible for a land owner to make a reference and get it answered and then subsequently make another application when some other person gets the reference answered and obtains a higher amount. In fact in *Pradeep Kumari's* case the three learned Judges, while enumerating the conditions to be satisfied, whereafter an application under Section 28-A can be moved, had categorically stated - "the person moving the application did not make an application to the Collector under Section 18". The expression "did not make an application", as observed by this Court, would mean, did not make an effective application which had been entertained by making the reference and the reference was answered. When an application under Section 18 is not entertained on the ground of limitation, the same not fructifying into any reference, then that would not tantamount to an effective application and consequently the rights of such applicant emanating from some other reference being answered to move an application under Section 28-A cannot be denied. We, accordingly answer question No. 1(a) by holding that the dismissal of an application seeking reference under Section 18 on the ground of delay would tantamount to not filing an application within the meaning of Section 28-A of the Land

A Acquisition Act, 1894.

So far as question 1(b) is concerned, this is really the same question, as in question 1(a) and, therefore, we reiterate that when an application of a land owner under Section 18 is dismissed on the ground of delay, then the said land owner is entitled to make an application under Section 28-A, if B other conditions prescribed therein are fulfilled.

Coming to the second question for reference the receipt of compensation with or without protest pursuant to the award of the Land Acquisition Collector is of no consequence for the purpose of making a fresh application under Section 28-A. If a person has not filed an application under Section 18 of the C Act to make a reference, then irrespective of the fact whether he has received the compensation awarded by the Collectors with or without protest, he would be a person aggrieved within the meaning of Section 28-A and would be entitled to make an application when some other land owner's application for reference is answered by the reference Court. It is apparent on the plain D language of the provisions of Section 28-A of the Act. Otherwise, it would amount to adding one more condition, not contemplated or stipulated by the Legislature itself to deny the benefit of substantial right conferred upon the owner.

So far as the argument of learned Solicitor General on the correctness E of the *Pradeep Kumari's* case is concerned, it may be stated that the said question does not appear to be a question, which has been referred to this Constitution Bench. As has been stated earlier that question had been referred by a Bench of two learned Judges in *Jose Antonio Cruz's* case, [1966] 1 SCC 88, as question No. 2, but a Bench of three learned Judges in [1966] 6 SC F 746, while answered the first question, did not think it necessary to answer the second question, even though some doubts were raised about the correctness of the three Judge Bench decision in *Pradeep Kumari's* case. 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.

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The questions having thus being answered, these appeals and special leave petitions may not be placed before a Bench of two learned Judges for being disposed of.

S.K.S. Questions referred answered.