

RAMSINGBHAI (RAMSANGBHAI) JERAMBHAI

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v.

THE STATE OF GUJARAT AND ANR.

(Civil Appeal No. 4885 of 2018)

APRIL 24, 2018

**[KURIAN JOSEPH, MOHAN M. SHANTANAGOUDAR AND
NAVIN SINHA, JJ.]**

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Land Acquisition Act, 1894 – s.28A – Re-determination of the amount of compensation on the basis of the award of the court – Application u/s 28A for re-determination of the compensation within a period of 3 months from the date of judgment of the High Court or Supreme Court passed in appeal u/s.54 – Entitlement of – Held: Re-determination u/s.28A is available only in respect of an award passed by the court under Part III – Court referred to in s. 28A is the principal civil court of original jurisdiction – Thus, the judgment of the appellate court not within the purview of s.28A – Appellant not entitled to such a relief – His entitlement, is only in terms of s.28A based on the award of the Reference Court.

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Dismissing the appeal, the Court

HELD: The redetermination under Section 28A of the Land Acquisition Act, 1894 is available only in respect of an “Award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28A (both inclusive). The “court” referred to in Section 28A 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 28A. 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. However, if the State/authorities/claimants have approached the higher Courts for reduction/enhancement of quantum of compensation, as the case may be, the Collector, under Section 28A of the Act, shall wait till a decision is finally rendered and thereafter award the compensation as per the modified verdict of higher Courts. The appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28A of the Act based on the award of the Reference Court. [Paras 3-5][1021-C-D, E-F]

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A *Jose Antonio Cruz Dos R. Rodriguese & another v. Land Acquisition Collector & another (1996) 6 SCC 746 : [1996] 8 Suppl. SCR 910; Bharatsing and others v. The State of Maharashtra and others (2017) SCC Online SC 1453 – relied on.*

B **Case Law Reference**
[1996] 8 Suppl. SCR 910 relied on Para 3
(2017) SCC Online SC 1453 relied on Para 3

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C From the Order dated 26.08.2014 of the High Court of Gujarat at Ahmedabad in SCA No. 15980 of 2012.

Nachiketa Joshi, Ms. Sucheta, Ujjaval Kumar, Chetan Uppal, Advs., for the Appellant.

D Shamik Sanjanwala, Ms. Jesal Wahi, Ms. Vishakha, Ms. Mamta Singh, Ms. Hemanatika Wahi, Advs., for the Respondents.

The judgment of the Court was delivered by

KURIAN, J. 1. Leave granted.

E 2. Whether an application under Section 28A of the Land Acquisition Act, 1894 (for short “the Act”) for redetermination of the compensation can be filed within a period of 3 months from the date of judgment of the High Court or Supreme Court passed in appeal under Section 54 of the Act is the question that arises for consideration in this case.

3. Section 28A(1) of the Act reads as follows :-

F “ 28A. **Re-determination of the amount of compensation on the basis of the award of the Court.** –(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-

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determined on the basis of the amount of compensation awarded by the Court: A

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.” B

(Emphasis supplied)

It is clear from the opening words of the provision that the redetermination under Section 28A is available only in respect of an “Award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28A (both inclusive). The “court” referred to in Section 28A 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 28A. 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. Rodriguense & another v. Land Acquisition Collector & another¹). In its recent judgment in Bharatsing and others v. The State of Maharashtra and others², this Court has surveyed the decisions on this issue and reiterated the legal principle. C D

4. However, if the State/authorities/claimants have approached the higher Courts for reduction/enhancement of quantum of compensation, as the case may be, the Collector, under Section 28A of the Act, shall wait till a decision is finally rendered and thereafter award the compensation as per the modified verdict of higher Courts. E

5. What the appellant seeks is redetermination of compensation under the Act in terms of the judgment 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 28A of the Act based on the award of the Reference Court. F

6. The appeal is accordingly dismissed. Pending application (s), if any, shall stand disposed of. No costs. G

Nidhi Jain

Appeal dismissed.

¹ (1996) 6 SCC 746

² (2017) SCC Online SC 1453