



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 13348 OF 2024
(Arising out of SLP(C) No.12221 of 2022)

BANWARI AND OTHERS **...APPELLANTS(S)**

VERSUS

**HARYANA STATE INDUSTRIAL
AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED (HSIIDC)
AND ANOTHER** **...RESPONDENT(S)**

J U D G M E N T

B.R. GAVAI, J.

1. Leave granted.
2. This appeal challenges the judgment and order dated 25th November 2021 passed by the learned Single Judge of the High Court of Punjab and Haryana at Chandigarh in CWP No. 19814 of 2021 (O&M), whereby the writ petition filed by respondent No.1 under Articles 226/227 of the Constitution of India praying for a writ of certiorari for quashing the order passed by the District Revenue Officer-

cum-Land Acquisition Collector, Jhajjar (hereinafter referred to as “LAC”) dated 15th September 2020, came to be allowed.

3. The facts, in brief, giving rise to the present appeal are as under:

3.1 By a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “1894 Act”) dated 17th November 2004, the land of the appellants admeasuring 8 Kanal 17 Marla of village Majri, Tehsil Bahadurgarh, District Jhajjar was acquired for Kundli Manesar Palwal Expressway. By an award dated 1st March 2006, a compensation of Rs.12,50,000/- per acre was determined.

3.2 Aggrieved by the said award, similarly circumstanced land-owners preferred a reference for enhancement of compensation before the learned Additional District Judge, Jhajjar under Section 18 of the 1894 Act. Vide order dated 17th January 2012, the said reference was dismissed.

3.3 The said land-owners preferred a Regular First Appeal (RFA) being No. 429 of 2013 before the High Court of Punjab and Haryana. Vide judgment and order dated 2nd May 2016, the High Court of Punjab and Haryana allowed the said RFA

and enhanced the compensation to Rs.19,91,300/- along with statutory benefits.

3.4 Immediately thereafter the appellants on 30th June 2016 filed an application under Section 28-A of the 1894 Act before the LAC, Jhajjar as reference was not filed by the appellants.

3.5 Vide order dated 15th September 2020, the LAC held that the appellants were entitled to the benefit of the judgment and order of the High Court in RFA No. 429 of 2013 dated 2nd May 2016 and enhanced the compensation payable to the appellants to Rs.19,91,300/- per acre along with statutory benefits as awarded by the High Court to the similarly circumstanced land-owners.

3.6 Being aggrieved thereby, respondent No.1 preferred a writ petition before the High Court. The High Court vide impugned judgment and order, relying on its earlier judgment in CWP No. 8456 of 2020 titled “**Haryana State Industrial and Infrastructure Development Corporation Limited v. Smt. Shanti and Others**” decided on 6th September 2021, allowed the writ petition and set aside the order dated 15th September 2020 passed by the LAC. In its

earlier judgment, the High Court has placed reliance on the judgments of this Court including the case of **Ramsinghai (Ramsangbhai) Jerambhai v. State of Gujarat and Another**¹, whereby this Court has held that the application under Section 28-A of the 1894 Act can only be filed within a period of three months from any judgment of the Reference Court under Section 18 of the 1894 Act, arising from the same acquisition but not from the date of judgment of this Court or the High Court.

3.7 Being aggrieved thereby, the appellants have approached this Court.

4. We have heard Shri Piyush Sharma, learned counsel appearing for the appellants and Shri Rajat Sangwan, learned counsel appearing for the respondents.

5. Learned counsel for the appellants submits that the High Court has erred in relying on the judgment of this Court in the case of **Ramsinghai (Ramsangbhai) Jerambhai** (supra), inasmuch as the said judgment does not take into consideration the earlier judgment of this Court in the case of **Union of India and Another v. Pradeep**

¹ (2018) 16 SCC 445 : 2018 INSC 405

Kumari and Others². He, therefore, submits that the appeal be allowed.

6. *Per contra*, learned counsel for the respondents would submit that the High Court has rightly relied on the judgment of this Court in the case of ***Ramsinghai (Ramsangbhai) Jerambhai*** (supra). He, therefore, submits that the appeal be dismissed.

7. This Court, speaking through a bench of three learned Judges, in the case of ***Ramsinghai (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. Rodriguese v. LAO* [*Jose Antonio Cruz Dos R. Rodriguese 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

² (1995) 2 SCC 736 : 1995 INSC 180

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 *Ramsinghai v. State of Gujarat* [*Ramsinghai v. State of Gujarat*, 2014 SCC OnLine Guj 5840 : 2015 AIR 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.”

8. It can thus be seen that, this Court has held that as the appellant therein was seeking redetermination of compensation on the basis of the judgment of the High Court passed under Section 54 of the 1894 Act, he was not entitled to such a relief. It was held that the application under Section 28-A of the 1894 Act had to be made within a period of three months from the date of the award passed by the Court under Part-III of the Act and the appellate courts are not within purview of Section 28-A of the 1894 Act.

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

10. In the case of ***Pradeep Kumari and Others*** (supra),

though the award of LAC therein was not challenged by Pradeep Kumari, the similarly circumstanced persons whose land was acquired had made references. In one of the references, an award was made on 21st February 1987. Immediately within a period of three months, the said Pradeep Kumari filed an application under Section 28-A of the 1894 Act before LAC for claiming the benefit of the said award. On the said application, the Collector made an order dated 14th March 1988 awarding an additional amount of compensation on the basis of the award of the Reference Court dated 21st February 1987. Feeling aggrieved by the said order of Collector, the Union of India filed a writ petition before the High Court of Himachal Pradesh. The High Court dismissed the writ petition. Civil Appeals were filed before this Court, challenging the judgment of the High Court. The same were dismissed. Aggrieved still, Review Petitions were filed. This Court, speaking in a combination of three learned Judges, observed thus:

“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.

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.”

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 and Others*** (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 and Others*** (supra).

18. It is further to be noted that the cases of ***Pradeep Kumari and Others*** (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 and Others*** (supra) is decided

on 10th March 1995, whereas ***Ramsinghai (Ramsangbhai) Jerambhai*** (supra), has been decided on 24th April 2018.

19. A perusal of the judgment rendered in ***Ramsinghai (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 and Others*** (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 and Others***³. 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

³ (2017) 16 SCC 680 : 2017 INSC 1068

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 and***

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

24. As already discussed hereinabove, the provisions of Section 28-A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of **Pradeep Kumari and Others** (supra). In the said case, it has been held that the Statement of Objects and Reasons of Section 28-A would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for giving benefit to 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. It has been 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 Act. The same benefit would be available to the other landholders under Section 28-A. It has been held that Section 28-A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the principle of interpretation which would be required to be adopted is the one 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.

25. We are, therefore, inclined to allow the appeal. The impugned judgment and order of the High Court dated 25th November 2021 is quashed and set aside and the order of the LAC dated 15th September 2020 is upheld.

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

.....**J.**
(B.R. GAVAI)

.....**J.**
(K.V. VISWANATHAN)

NEW DELHI;
DECEMBER 10, 2024.