

Babua Ram And Ors vs State Of U.P. And Anr on 4 October, 1994

Author: K. Ramaswamy

Bench: K. Ramaswamy, N. Venkatachala

CASE NO.:

Appeal (civil) 132 of 1992

PETITIONER:

Babua Ram and Ors.

RESPONDENT:

State of U.P. and Anr.

DATE OF JUDGMENT: 04/10/1994

BENCH:

K. Ramaswamy & N. Venkatachala

JUDGMENT:

JUDGMENT 1994 Supp(2) SCR 148 with Civil Appeals 1067-80, 2030-31 and 4823 of 1992 and 91, 563, 6675-89, 6690-95, 6699-6709, 6715, 6732-52, 6754-83, 6798-6842, 6844-64, 6876-89, 6897, 6899-6917, 7076, 7121 and 7137 of 1994 Arising out of SLP Nos. 17164, 17268 and 21652 of 1993
JUDGMENT K. Ramaswamy, J.

1. Notification issued under Section 4(1) of the Land Acquisition Act, 1894, (for short 'the Act') proposing acquisition of large extents of land situated in Auri and Anpara villages of U.P., was published in the State Gazette on July 1, 1978 for public purpose, namely, establishment of thermal power plant. The Special Land Acquisition Officer gave two awards of the respective villages on June 28 and July 25, 1979. The amounts were said to have been paid to the claimants on diverse dates between October 7, 1979 to August 8, 1983. One Krishna Kumar on receiving the compensation under protest on June 28, 1979 made an application under Section 18 for reference to the civil court. The Addl. District Judge-II, Mirzapur, in his award and decree dated May 25, 1985 enhanced the compensation to Rs. 25,000/- per bigha with enhanced statutory benefits under Land Acquisition (Amendment) Act 68 of 1984 (for short "Amendment Act"). The State carried the matter in Appeal No. 306/85 to the High Court which is pending disposal. On August 5, 1985, the appellants moved the Special Land Acquisition Officer under Section 28-A to redetermine and award compensation at par with Krishna Kumar. They also simultaneously moved the High Court under Article 226 to direct the Special L.A.O. to decide their applications under Section 28-A. The High. Court by its order dated January 28, 1987, when directed Special L.A.O to do the same, the latter rejected their applications on two grounds, namely, the appellants are not aggrieved persons and that the decree and award made in favour of Krishna Kumar was pending appeal in the High Court. They again

challenged it in Civil Misc. Writ Petition No. 7276/87 and by the impugned judgment dated October 24,1991, the Division Bench dismissed the writ petition holding that the appellants are not aggrieved persons within the meaning of Section 28-A read with Section 11, 18 & 31 of the Act.

C.A. Nos. 6675-89/94 of 1994 (@ S.L.P. Nos. 507-21/94):

Goa, Daman & Diu Industrial Dev. Corpn. Appellant VS Appa Shankar Rao Naik Etc.
Etc. Respondents Coram: K. Ramaswamy and N. Venkatachala, JJ.

2. Leave granted.

3. The facts are that the Notification under Section 4(1) of 'the Act' was published in the State Gazette on November 17,1982. The Addl. Deputy Collector and Land Acquisition Officer awarded compensation on October 25, 1985 and the respondents received compensation without protest. But one of the claimants with protest received the compensation and on his reference under Section 18, the Addl. District Judge by his award and decree dated October 25,1990, enhanced the compensation. The State carried the matter in appeal. In the meanwhile, on January 19, 1991, the respondents moved an application under Section 28-A of the Act to redetermine the compensation as awarded by the District Judge. The appellant being beneficiary, objected to its maintainability contending that the respondents are not aggrieved person. In the meanwhile, the High Court set aside the decree of the District Judge and remitted the case for fresh determination. We are informed that the Court awarded at Rs. 1 per sq. meter. The Land Acquisition Officer by his proceedings dated November 13,1992, rejected their application finding that the respondents are not aggrieved persons and no application after remand was made. The respondents filed writ petitions No. 350/93 and batch questioning the correctness of the order passed by the L.A.O. The High Court allowed the writ petitions holding that the respondents are persons aggrieved and that since applications have already been filed under Section 28A(1) within three months from the date of award of the civil court dated January 25, 1990 there was no need for them to make fresh applications.

C.A. No. 132 of 1992 with C.A. No. 4823, 1067-80, 2030-31 of 1992 Union of India Appellant VS Chandgi and Anr. Respondents Coram: K. Ramaswamy and N. Venkatachala, JJ.

4. Notification under Section 4(1) was published on March 22, 1985 and the award under Section 11 was made on May 28,1985. The Addl. District Judge, by his award and decree dated 30.8.89 enhanced the compensation, on reference under Section 18, at the instance of others, at a sum of Rs. 59,290/- per acre. The State filed an appeal under Section 54 which is pending disposal. The respondents made an application under Section 28-A on 3.10.89 to which the appellants, beneficiaries under the acquisition, had objected to the petition contending, inter alia, that the respondents are not aggrieved persons, the appeal against the award of the Addl. District Judge was pending, yet the Collector overruling the objections, by his award dated May 1,1990 has enhanced the compensation to Rs. 59,290/- per acre with interest @ 6% per annum from the date of filing the

application. Therefore, the appellant filed an application under Section 28-A(3) seeking reference and by his proceedings dated 5.2.91, the Collector rejected the request for reference under Section 18. The appellant carried in revision to the High Court in C.R. No. 2313/91 and the High Court Punjab and Haryana by its order dated 17.7.91 summarily dismissed the petition.

5. On April 27, 1994, this Court, while noticing divergence of opinion expressed by different High Courts on the scope of Section 28-A, issued notice to all the State Governments and the Central Government, since the decision will have effect on all the Governments and directed them to appear and file their written arguments. Notice was also issued to the learned Solicitor-General to assist the Court. Though notices were served accordingly on all the State Governments and the Central Government, only the Central Government and some of the State Governments have entered appearance through their counsel. However, none has filed written arguments till date despite opportunity afforded therefore.

6. It is contended for the State Governments that Section 28-A since speaks of persons "interested" and "aggrieved", a claimant who received compensation without protest, becomes disentitled to make an application under Section 18 because of the second proviso to Sub-section (2) of Section 31. He being a non-protester cannot be an aggrieved person. A claimant who receives compensation under protest but makes no application under Section 18, becomes a person aggrieved under Section 28-A of the Act and is entitled to seek redetermination for higher compensation. The question of redetermination of compensation would arise only if an award under Section 11 had been made by the Land Acquisition Officer/Collector after the Amendment Act had come into force, namely, September 24, 1984. In other words, their contention was that Section 28-A is prospective in operation and has no application to any award made by the Collector/L.A.O., prior to the Amendment Act had come into force. It was also contended that such an application should be made within three months from the date of the award of the court, i.e., civil court on reference under Section 18 and not on each successive award or a decree in appeal. The limitation of three months should be computed from the date of the award of the civil court, first in point of time and that neither the subsequent award under Section 26 or the judgment or decree of the High Court under Section 54 or of this Court, does furnish any cause of action nor does the limitation of three months under Section 28-A start running from the later dates. When an appeal was filed by the State/beneficiary against the award and decree of the civil court, the Collector/L.A.O. has to await the decision of the High Court or of this Court before redetermining the compensation under Section 28A(2). Be it the award made before the Act came into force, or the award of the court made after the Amendment Act has come into force, no application under Section 28-A would lie. The award of the court envisaged under Section 28-A can only be of the civil court made on a reference under Section 18 and not the judgment and decree of the High Court or of this Court. The claimants who did not receive compensation under protest or unsuccessful applicants under Sections 18 or 54 of the Act or under Article 136 etc. are not the persons aggrieved when the compensation was further enhanced under Section 26 or by the High Court under Section 54 or by this Court. It was also contended that the person aggrieved under Section 28-A, must be one who has an interest in the land which is sine qua non to claim for higher compensation. Even one who was handicapped due to illiteracy, ignorance or poverty had to receive the compensation only under protest. Only that class of persons who would have received the compensation under protest could be aggrieved

persons to avail of the right to claim redetermination of compensation. Section 28A is transitional one and does not apply to future awards. The Collector when redetermined the compensation under Section 28A(2), the beneficiary being person interested not having accepted the award, such person becomes entitled to seek reference under Section 28-A(3).

7. Shri Harish Salve, the learned senior counsel, who argued for the claimants, contended that when compensation was enhanced by court, be it court of original or appellate jurisdiction, for the land in the neighbourhood of the claimant acquired under the same Notification, such claimant also becomes entitled to receive higher compensation to his land by making an application under Section 28-A in that behalf, the grant of higher compensation would furnish the cause of action even to the non- protester claimant to make an application under Section 28-A(1) for redetermination. Payment of inadequate compensation provides him grievance to seek redetermination. Therefore, he is an aggrieved person, whether received compensation with or without protest or omitted to pursue the right and remedy under Section 18 or 54 or under Article 136. The right to receive adequate compensation is the object of the Amendment Act as it was intended to relieve hardship of the poor or inarticulate claimants who receive inadequate compensation as stated in the Statement of Objects and Reasons of the Bill and the financial Memorandum annexed to it. Therefore, whether a claimant received the compensation under protest or without protest, the moment the claimant of the neighbouring land gets higher compensation, he also becomes entitled to make an application under Section 28-A for redetermination. Appeal is a continuation of the original proceedings under Section 18. The limitation begins to run as soon as higher compensation is awarded either by the civil or by the High Court or by this Court. Excluding the time taken for obtaining a copy of the judgment, within three months thereafter, the application in writing should be made for redetermination. As the L.A.O. is enjoined to redetermine the compensation on the basis of the enhanced award of compensation made under Section 26 by the court after September 24, 1984, an award made under Section 11 even before coming into force of Section 28A, would also be liable to be reopened. Each or successive awards or decree of the Court, original or appellate jurisdictions would furnish fresh cause of action to those who had not sought reference under Section 18 or appellate remedies. An unsuccessful applicant for reference under Section 18, who did not avail of appellate remedies, cannot unjustly be denied payment of compensation on parity with his affluent neighbour who had been given higher compensation, be it under Section 26 or 54 of the Act or Article 136 of the Constitution etc. Denial would be invidious discrimination between persons similarly situated, violating Article 14 when the remedy was intended to be given by the legislature to the poor and inarticulate who usually do not take advantage of the remedy of reference to higher forums. Sections 28-A(2) and (3) throw sufficient light in the interpretation of Section 28-A(1), 11, 18 and 31. Payment of equal compensation to all the people having interest in the lands acquired under the same Notification is the quintessence and running thread to avail of the right and the remedy provided for under Section 28-A for redetermination of the compensation by the aggrieved persons. It was also contended that the finality of the disposal of the reference under Sections 18 and 54 or Article 136 crystallises the quantum of compensation payable to the lands under acquisition and that should not only furnish the remedy to lay claim but also starting point to compute the limitation. This beneficial interpretation would subserve the purpose of Section 28-A. A harmonious interpretation to advance the object of Section 28-A should be adopted to achieve the legislative animation of according parity in payment of compensation to all claimants who have an interest in

the lands under the acquisition. Restricted interpretation canvassed for the State frustrates the object of the right and remedy given by Section 28-A of the Act. Section 28-A is not a transitional provision but one enacted to give benefit in perpetuity even to non-protester of the right and remedy of redetermination when his neighbour secured higher compensation.

8. Before considering the sweep and effect of Section 28-A, it would be profitable to advert to the scheme of compensation awardable to a land acquired pursuant to the Notification published under Section 4(1) and declaration made under Section 6 thereof. By issuing notices under Section 9 & 10 to persons interested in the acquired land, they are required to put forth their claims for compensation payable therefore. The Collector defined under Section 3(c) who issues such notices is enjoined by s. 11 to hold an enquiry on the claims for making an award of the compensation which in his opinion should be allowed for the land. In determining the amount of compensation, the Collector shall be guided by the provisions of Sections 23 and 24, as is enjoined by Section 15. However, such award cannot be made by the Collector without the prescribed approval of the appropriate government or of such officer as the appropriate government may authorise in this behalf because of the proviso. However, Sub-section (2) of s. 11 empowers the collector, without any further enquiry, to make an award in terms of an agreement, where such agreement is made by writing by persons interested in the land on appearing before him. The award shall be made within the period of limitation fixed by s. 11-A. That award required to be filed in his office and shall be final and conclusive evidence between the Collector and the persons interested as regards matters specified in Section 12. When the award is made, the Collector shall give immediate notice to such of the interested persons as are not present personally or by their representatives. Section 31 mandates the Collector to tender payment of the compensation awarded by him to the persons interested thereto according to the award and to pay to them unless prevented by one or more of the contingencies enumerated in Sub-sections (2) and (3) or the latter sub-section or by reason of a reference made under Section 30. By operation of second proviso to Sub-section (2) "provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under Section 18". On making such payment under Section 18 when the application has been made within 6 weeks from the date of the Collector's award by the interested person present or represented before the Collector when the award was made and, in other cases, within 6 weeks from the date of the receipt of the notice from the Collector under Sub-section (2) of Section 12 or within 6 weeks from the date of the Collector's award whichever period shall first expire. Under Section 16, unless possession of the acquired land was taken under Section 17, the Collector shall take its possession and such land thereafter vests in the State absolutely free from all encumbrances.

9. The person receiving compensation under protest because of the first proviso to Section 31(2), gets right under Section 18(1) to make an application in writing to the Collector requiring him to refer the matter to the Court for determination of his claim for compensation and the Collector/L.A.O. in such an event, is enjoined to refer the matter with the required particulars. Court has been defined in Section 3(d) to mean principal Civil Court of original jurisdiction unless the appropriate Government has appointed, a special Judicial Officer within specified local limits to perform the functions of the Court under the Act. Under the respective Civil Courts Act of each State, different Courts have been conferred with original civil jurisdiction like the Courts of civil

judges or Sub-ordinate Judges in South India, the Addl. District Judge in other States or Special or Senior Civil Judges etc. The Civil Court will follow the procedure prescribed in Part III of the Act and C.P.C. in determining the compensation as envisaged under Section 23 of the Act and determine the market value of the lands acquired and award the compensation in terms of the provision of the Act. The details thereof are not material for the present purpose. However, by operation of Section 25 the amount of compensation to be awarded by the Court shall not be less than the amount awarded by the Collector under s. 11. Under Section 26, the Civil Court shall make its award as enjoined in Sub-section (1) and it is a decree under. Sub-section (2) thereof.

10. In *Raja Harish Chandra Raj Singh v. The Dy. Land Acquisition Officer and Anr.* : [1962]1SCR676 the Dy. Collector on making an award on March 19, 1950, did not notice of award to the appellant. On January 13, 1953, on coming to know of the making of the award, the appellant made an application on February 24, 1953 under Section 18 requesting the Collector to refer the matter for determination by the Court. That application was dismissed as barred by limitation. In dealing with question of limitation, this Court held that the decision of the Collector under Section 11 is in respect of the amount of compensation which should be paid to the person interested in the property acquired. Legally such award cannot be treated as a decision. It is in law an offer or tender of the compensation determined by the Collector to the owner of a property acquired. If the owner accepts the offer, no further proceeding is required to be pursued, the amount is paid and compensation proceedings comes to an end. If, however, the owner does not accept the offer, Section 18 gives him the statutory right of having the question determined by court and it is the amount of compensation which the court may determine that would bind both the owner and the Collector. The Collector does not determine the amount with legal authority but if the court determines the amount judicially, the acquisition proceedings would be concluded. The award, therefore, was considered as a tender or offer made by the Collector on behalf of the Government to the owner of the property for acceptance. Although the Government is bound by the proceedings of the Collector, the persons interested are not concluded by the findings in the award. Therefore, he makes the offer binding on the Government as well as on the owner of the property. Communication of the award is required to be done if he is not present at the time of the making of the award or none represented them. Service of notice of award is made mandatory. Therefore, this Court held that "the date of the award cannot be determined solely by reference to the time when the award is signed by the Collector or delivered by him in his office; it must involve the consideration of the question as to when it was known to the party concerned either actually or constructively. The date of the award should be construed in that perspective. The knowledge of the party affected by the decision of the Collector, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. The communication of the award to the party concerned, actually or constructively, is therefore, necessary. If the award is pronounced in the presence of the party whose rights are affected by, it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced, the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. If the party is represented, the party is presumed to have the knowledge of the date. In other cases, the communication to the party is necessary." Knowledge of the party affected by the award either actual or constructive is essential to satisfy the requirements of fairness and principles of natural justice. The legal position enunciated in *Harish*

Chander's case being the law under Article 141 and the legislature being presumptively aware of this legal position, has altered the law by enacting Section 28A by the Amendment Act.

11. The State having regard to the Directive Principles of State Policy in Part IV of the Constitution which has to undertake diverse measures in a massive scale to promote public welfare and to accelerate economic development has to inevitably acquire land needed for public purposes - industrial development, housing, educational institutions etc. Cases of land acquisition of land have become far more numerous than ever before. Exercising the power of eminent domain when the State takes recourse to acquisition of lands of the individuals or institutions for public purpose, to balance the right of the individual whose land is acquired for promotion of the public purpose, the deprived owner of the land is required to be adequately compensated for his own rehabilitation keeping in view the sacrifice he makes in the larger public interest. Taking into consideration the stark realities that many a poor and inarticulate owner of acquired land are not usually taking advantage of the reference provided in Section 18 for obtaining adequate compensation for their acquired lands, Parliament while bring about certain amendments to the Act, has enacted Section 28-A through the reintroduced 1984-Bill, with the object mentioned in para 2(IX) of the Statement of Objects and Reasons, which says:

considering that the right of reference to the civil court under Section 18 of the Act is not usually taken advantage by poor and inarticulate 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 persons, it was proposed to provide an opportunity to all aggrieved parties whose land is covered under the same Notification to seek redetermination of compensation, once any one of them has obtained orders of payment of higher compensation from the reference court under Section 18 of the Act." In para 3 of the Financial Memorandum, it is stated thus:- "Clause (19) of the Bill seeks to commensurate a new Section 28A of the Act which provides that if a party in a land acquisition proceeding obtains the orders of the court under Section 18 of the Act for higher compensation, another person whose lands are covered under the same Notification under Section 4(1) of the Act and who may have reasons to be similarly aggrieved by the award of the Collector, may file to the Collector for redetermination of their amount of compensation payable to them on the basis of the amount of compensation awarded by the Court.

12. The Statement of Objects and Reasons, as seen eloquently manifests the legislative animation in enacting Section 28A of the Act. This Court in *Utkal Contractors & Joinery Pvt. Ltd. v. State of Orissa* : [1987]3SCR317, held that the safest guide to the interpretation of statutes is the reason for it, which can be discovered through the external and internal aids, the external aids are Statement of Objects and Reasons when the Bill was presented in Parliament and internal aids are the preamble, the scheme and the provisions of the Act. The Statement of Objects and Reasons can be referred to ascertain the mischief sought to be remedied by the statute vide *S.C. Prashar, Income Tax Officer v. Vasantsen Dwarkadas* :

[1963]49ITR1(SC) , Shivnarayan Kabra v. State of Madras : 1967CriLJ946 , Workmen of Firestone Tyre & Rubber Co. of India v. Management and Ors. : (1973) ILLJ278SC ; and in A.C. Sharma v. Delhi Administration. :

1973CriLJ902 .

13. In *Jia Lal v. The Delhi Administration* : [1963] 2SCR864 at 877, a Constitution Bench held that the Statement of Objects and Reasons is not admissible in evidence for construing the statute. In *Aswini Kumar Ghosh and Anr. v. Arabinda Bose and Anr.* : [1953] 4SCR1 , another Constitution Bench held that the Statement of Objects and Reasons only would explain what reasons induced the mover to introduce the Bill in the House and what objects he sought to achieve. They may or may not correspond to the objectives, the majority of members had in view when they passed it into law. The Bill may have undergone radical changes during its passage through the House or Houses, and there is no guarantee that the reasons which led to its introduction and the objects thereby sought to be achieved have remained the same throughout till the Bill emerges from the House as an Act of the Legislature, for they do not form part of the Bill and are not voted upon by the members. Therefore, it would not be an aid for the construction of the statute. In *Union of India and Anr. v. Majur Mahajan Mandal and Ors.* : (1977) IILLJ266SC at 554 para 28, this Court held that the statement of objects and reasons would be looked into when there is ambiguity in the language used in the statute.

14. Now let us see the text of Section 28-A. It reads as follows:

28-A. Redetermination 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 redetermined 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 Section 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under Section 18.

15. A bare reading of Sub-section (1) of Section 28-A would indicate that wherein an award under this Part, (Part III consists of Section 18 to 28), Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under s. 11, the persons interested in all other lands covered by the same Notification under Section 4(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 writing make an application to the Collector within three months from the date of the award of the Court requiring that the amount of compensation payable to them may be redetermined on the basis of the amount of compensation awarded by the court. The proviso gives a right to exclude the time taken from the day on which the award was pronounced and the time required to obtain a copy of the award in computation of three months within which the application for redetermination has been made in writing to the Collector under Sub-section (1) of Section 28-A. The basis for redetermination is the award of the Court and the compensation awarded therein. Sub-section (2) thereof enjoins the Collector to issue notice to all the persons interested, i.e. the applicant, the State and the beneficiary, if any, to give them reasonable opportunity of being heard in the inquiry conducted thereon and to make the award determining the amount of compensation payable to the applicants under Sub-section (1). Sub-section (3) gives a right to the applicant either to accept the award or to accept the compensation under protest. In the latter case he has been given a right under Sub-section (3) to make a written application to the Collector to refer the matter for determination under Section 18 to the Court. The provisions of Sections 18 to 28, as far as may be, apply to such references. Thus, Section 28-A is a complete Code in itself providing substantive right to an interested owner who received compensation under Section 18 without protest for higher compensation, and remedy has been provided to make a written application within the prescribed period. The non-obstante clause lifts the rigour of the bar created by Section 18(1) and the second proviso to Section 31 and makes him eligible to be at par with his neighbour to claim parity for compensation to the land similarly situated as the land covered by the court award.

16. The first question that arises for determination is, who is a person "aggrieved" within the meaning of Section 28-A(1) of the Act. Para 2(IX) of the Statement of the Objects and Reasons read with para 3 of the Financial Memorandum would indicate that Section 28-A was introduced for the first time in the second Bill to benefit poor and inarticulate people who by reason of their poverty, ignorance and illiteracy fail to take advantage of their right of reference to the Civil Court under Section 18. By operation of second proviso to Sub-section (2) of Section 31 and Section 18(1), though such people are interested persons, if due to their ignorance, illiteracy or indigence, receive compensation for their lands without protest, would be denied of their right to obtain higher compensation while the comparatively affluent land owners of their neighbouring lands who take

advantage of the reference under Section 18 would get higher compensation determined by the court. Hence Section 28-A makes the award under Section 26, the foundation for obtaining higher compensation by poor and inarticulate people. In *Mewa Ram v. State of Haryana* :

[1986]3SCR660 , this Court held that the right and remedy under Section 28- A was meant for that class of persons who were poor and inarticulate and by reason for their poverty and ignorance, should have failed to take advantage of the right of reference to the court for higher compensation under Section 18. However, this Court concluded that to avail of the remedy under Section 28-A, the conditions laid down or therein were to be fulfilled.

17. In *K. Rangiah V. Special Dy Collector (Land Acquisition)* : AIR1982SC877 : this Court observed that in an acquisition proceedings, lands situated in the same locality and in the neighbouring locality when are possessed of the same comparable advantages, the owner of the former lands are entitled to the same rate of compensation as the owners of other lands as determined by the judgment of the High Court which had become final as otherwise, it would be inequitable and discriminatory. In other words, the owners of the lands possessing the same kind and same quality etc. are entitled to parity in payment of compensation for their lands. Section 28-A(1) is intended to overcome the hurdle created by Section 18(1) and 2nd proviso to Section 31(2) in the matter of obtaining equal compensation for similar acquired lands. Equal compensation for similar acquired lands could be got by all the interested persons, if their lands are acquired under the same Notification. In other words, if an owner fails to avail of the right and remedy under Section 18(1), Section 28-A(1) grants an extra right and remedy for redetermination of the compensation payable to him for his land on the basis of an award of the court giving to an owner of another land covered by the same Notification under Section 4(1) and under the same award. The payment of higher compensation to his neighbouring land owner makes an applicant an aggrieved person to claim redetermination of the compensation payable to him for his land. The person aggrieved is, therefore, in this context, would mean a person who had suffered legal injury or one who has been unjustly deprived or denied of something, which he would be interested to obtain in the usual course or similar benefits or advantage or results in wrongful affectation of his title to compensation.

18. In *Collins English Dictionary*, the word "aggrieved" has been defined to mean "to ensure unjustly especially by infringing a person's legal rights". In *Webster Comprehensive Dictionary, International Edition* at page 28, aggrieved person is defined to mean "subjected to ill-treatment, feeling an injury or injustice. Injured, as by legal decision adversely infringing upon one's rights". In *Strouds Judicial Dictionary, Fifth Ed., Vol. 1, pages 83-84*, person aggrieved means "person injured or damaged in a legal sense". In *Black's Law Dictionary, Sixth Ed. at page 65*, aggrieved has been defined to mean "having suffered loss or injury; damnified; injured", aggrieved person has been defined to mean "One whose legal right is invaded by an act complained of, or whose pecuniary interest is directly and adversely affected by a decree or judgment. One whose right of property may be established or divested. The word "aggrieved" refers to a substantial grievance, a denial of some personal, pecuniary or property right, or the imposition upon a party of a burden or obligation."

19. The person aggrieved must, therefore, be one who has suffered a legal grievance because of a decision pronounced by Civil Court giving higher compensation for an acquired lands similar to his own while he is denied of such higher compensation for his land because of operation of Section 18 read with Section 31 of the Act resulting in affectation of his pecuniary interest in his acquired land is directly and adversely in that award of the Collector made under s. 11, he becomes as such aggrieved person and entitled to avail of the right and remedy conferred upon him under Section 28A(1) to make good his denied right to receive compensation in excess of the amount awarded by the Collector/L.A.O. Acceptance of the contention of Shri G.L. Sanghi, learned senior counsel and his companions, that person who under protest received payment of compensation for their lands but failed to avail of the right and remedy under Section 18 waiting in the wings for success of the land owners of the adjoining lands to get higher compensation under Section 28-A(1) as person aggrieved robs the poor and inarticulate who by reason of their poverty or ignorance failed to avail of the right and remedy under Section 18, and creates not only invidious discrimination between same class of person similarly situated but would be highly unjust arbitrary offending Article 14 of the Constitution, apart from flying in the face of express animation of the statute as espoused in its Statement of Objects and Reasons and the Financial Memorandum. In this context, we make it clear that we have looked into Statement of Objects and Reasons and the Financial Memorandum to know what is in that induced the introduction of the Bill but not as an aid to interpret Section 28-A(1). Therefore, we have no hesitation to hold that any interested person in the land acquired under the same Notification published under Section 4(1) who failed to avail the right and remedy under Section 18(1) read with second proviso to Section 31(2), becomes a person aggrieved under Section 28-A(1) of the Act, when the owner of the another land covered by the same notification is awarded higher compensation by the Civil Court on a reference got made by him under Section 18.

20. The next question is as to when the period of limitation of three months begins to run under Section 28-A and whether successive awards made by Civil Court at different times in respect of the land covered by the same Notification furnish separate causes of action for making applications under Section 28A. Let us consider the meaning of the words "an award under this part" referred to in Section 28-A(1) which is Part III of the Act. The heading to that part begins by reference to court and its procedure. The "court" means a principal civil court of original jurisdiction or a special judicial officer appointed to perform the functions of the court under the Act as becomes clear as is noticed already. What are the matters to be considered in determining the compensation on a reference made to it under Section 18, is detailed in Section 23 while matters to be neglected in determining such compensation is indicated in Section 24. By operation of Sub-section (2) of Section 26, the award made determining the amount of compensation shall be deemed to be a decree while the statement of the grounds of every such award is deemed to be the judgment, for the purpose of CPC. The above perspectives from Part III make it clear that the award of the court is that of the civil court of original jurisdiction in that part. It is a decree for the purpose of an appeal under Section 54 which falls in part VIII of the Act (Miscellaneous). The decree as defined in Section 2(2) C.P.C. is the decree of the High Court, which shall be appealable to the Supreme Court under Articles 132, 133 and 136 read with Order 45 C.P.C. Hence, the award of the court referred to in Sub-section (1) of Section 28-A is only the award of the civil court of original jurisdiction or of judicial officer performing the functions of such court under the Act on reference received by it under Section 18 and an award and decree pronounced under Section 26 of the Act. Since, the

judgment and decree of the High Court under Section 54 or of this Court do not come in Part III of the Act, they stand excluded from an award envisaged under Sub-section (1) of Section 28-A. The aggrieved interested person, therefore, is entitled to the right and remedy of making an application under Section 28A for redetermination of compensation for his acquired land only on the basis of the award of the civil court or judicial officer which is a judgment and decree under Section 26 when such award grants compensation in excess of the amount awarded by the Collector under s. 11. When such an application is made in writing by the aggrieved person, notwithstanding the fact of his having received compensation under Section 31 without protest and of not availing the right and remedy of the reference under Section 18, the redetermination of the compensation under Section 28A(1) is required to be done.

21. The question then is when exactly the period of limitation starts running for making an application in writing under Sub-section (1) of Section 28-A. A bare reading of Sub-section (1) along with its proviso would indicate that the making of the award by the civil court or judicial officer which becomes the judgment and decree under Section 26, is the starting point from which the period of limitation allowed for making an application under Section 28A. However, the person aggrieved in computing the period of three months allowed for making an application under Section 28-A would be entitled to exclude the day on which the award was pronounced by the court or the judicial officer and the time requisite for obtaining the certified copy of the award which is a judgment and decree under Section 26. In other words, the proviso to Sub-section (1) of Section 28-A excludes the requisite time taken for obtaining the copy of the award and in computation of the period of three months from the date of the award, the time required to obtain a certified copy of the award should be excluded. Limitation begins to run from the date the award was pronounced by the court under Section 26. It is well-settled that the law of limitation limits the time after which a suit or other proceeding cannot be entertained in a court of justice or before appropriate authority, 'though it does not affect the substantive rights of the parties. Once the limitation begins to run, it runs in its full course until its running is interdicted by an order of the court. Explanation to Section 11 provides internal evidence in this behalf to make the point poignantly clear which states that in computing two years period to make award under s. 11, the period during which any action or proceeding to be taken in pursuance of the declaration under Section 6 is stayed by an order of a court, should be excluded. The legislature prescribed three months' limitation to quicken diligence like caveat emptor and provided to a non-protester right to redetermination provided the application in writing is made to the Collector within three months from the date of the award of the civil court of original jurisdiction, excluding the requisite time taken to obtain a copy of the award. In other words, the right and remedy provided by Section 28-A(1) stands extinguished with the expiry of three months from the date of the award under Section 26. It is true that in a given set of facts, there could be more than one reference under Section 18 at the behest of different claimants of the lands covered by Section 4(1) Notification and the court may make successive awards at various times. Compensation given in the respective awards may vary and may be higher than the one given in an earliest award. In the teeth of the express language in Sub-section (1) of Section 28-A, limitation of three months once expires in respect of earliest award by efflux of time, none of the later awards could provide any assistance to revive the lapsed time under Section 28-A(1) nor provide fresh cause of action or successive causes of action when multiple awards are made at different times or dates. Application under Section 28-A(1) may be made at the instance of the

self-same person or different persons. Any other interpretation would amount to re-writing the proviso to Sub-section (1) of Section 28A. The judgment and decree of the Court of appeal either under Section 54 or under Section 96 of CPC or under Articles 132, 133 or 136 of the Constitution does not furnish fresh cause of action nor provide fresh limitation to make application under Section 28-A(1) of the Act as has already been held in that they are not covered under Part III of the Act. May be that they are continuation of original decree made in Section 26(2) and in law the executable decree is that of the Supreme Court of the High Courts. But the legislature has conferred right of reopening the award under s. 11 only when the civil court under Section 26 awarded higher compensation in Part HI to a person having an interest in the land covered by the same Notification under Section 4(1) and an application in writing if made within limitation.

22. The next question is when the person aggrieved is entitled to invoke Section 28A(1) ? If an award under s. 11 was made prior to September 24, 1984 and reference made thereon under Section 18 was decided either before that date or thereafter or if an award under s. 11 was made after September 24, 1984 and the reference made thereon to court under Section 18 was decided after that date. At one point, we were inclined to agree that Section 28-A operates from April 30, 1982, the date on which the first Land Acquisition (Amendment) Bill, 1982, was introduced in the Parliament but para 3 of the Financial Memorandum made it explicit that the original Bill did not contain Section 28-A. On a review, Section 28-A was introduced for the first time in 1984 Bill. Admittedly, the Amendment Act 68 of 1984 has come into force on September 24, 1984. Section 28-A was not given retrospective effect unlike Section 34 of the Act, as amended by Section 20 of the Amendment Act. Section 30(3) of the Amendment Act gives retrospective effect to Section 34 to award interest in any proceedings, at any stage, of determining computation as provided in Clauses (a) and (b) of Section 30(3) of Amendment Act. By operation of Section 30(1) of the Amendment Act Section 23(l-A) was given prospective operation under Section 30(1)(a) and limited retrospective operation as transitional provision and confined the right to interest therein to the award of the Collector pending on April 30, 1982 and made before the commencement of the Amendment Act or the civil court covered by Section 30(1)(b). In these cases we are not concerned with the interpretation of Section 23(l-A) read with Section 30(1) of the Act. So it is unnecessary to enter into elaborate discussion. In *Union of India v. Raghubir Singh (Dead) by Lrs. etc.* :

[1989]178ITR548(SC) construing the wide language in Sub-section (2) of Section 30 of the Amendment Act, this Court held that the enhanced solatium by 30 per cent under Section 23(2) as amended by Section 15(b) of the Amendment Act would apply to an award of the collector or a decree of the civil court pending between April 30, 1982 and September 24, 1984 and the High Court or the Supreme Court, in appeal would award enhanced solatium or interest under Section 28 as amended by Section 18 of the Amendment Act and does not apply to appeals pending in the High Court or this Court. In other words, despite the wide language of Sub-section (2) of Section 30 of the Amendment Act (Transitional provisions), this Court had given restricted interpretation. This is the internal evidence available from the Amendment Act itself.

23. Now we consider the external aid to get at the crux of the question. When the language is not only plain but admits of but one meaning, the task of interpretation can hardly be said to arise. Such

language best declares, without more, the intention of the legislature and is decisive on it. Therefore, when the language is clear and capable of only one meaning, anything enacted by the legislature, must be enforced, even though it be absurd or result in startling consequences. The endeavour, therefore, must be to collect the meaning of the statute from the expressions used therein rather than from any notions which may be entertained by the court as to what is just or expedient. When two interpretations are possible, the task of the court would be to find which one or the other interpretation would promote the object of the statute, serves its purpose, preserve its smooth working and prefer the one which subserves or promotes the object to the other which introduces inconvenience or uncertainty in the working of its system.

24. The purpose of interpretation is, therefore, to ascertain the intentions of the legislature and to make it effective. If the statute is ambiguous or its meaning is uncertain, interpretation is resorted to for ascertaining what the legislature meant by the words in the statute, although they do not express the legislative intent clearly and perfectly. In other words, if the statute is plain, certain and free from ambiguity, a bare reading of it suffices and its interpretation can never arise. In discovering the legislative intent, courts are not exercising legislative power but apply the rules of common sense applying certain legal principles.

25. Sub-s.(1) of Section 28A reads that where 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 s. 11, the person interested in all other lands covered by the same notification under Section 4(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 redetermined on the basis of the amount of the compensation awarded by the Court. A person interested becomes aggrieved, when for other lands covered by the same notification under Section 4(1) of the Act, the court awards compensation in excess of the compensation awarded under s. 11 to him for his land and to others for their land. Such aggrieved persons who had not made an application to the Collector under Section 18 earlier becomes entitled to invoke Section 28-A. Therefore, the verb 'allows' indicates that the right to an aggrieved person under Section 28-A(1) arises only when the reference court grants compensation in excess of the amount awarded under s. 11 i.e. after September 24, 1984. It is prospective in operation after the Act had come into force. The amount "awarded" speaks of past tense. In other words there must be an award in existence under Section 26 made after the Amendment Act come into force. The right and remedy to claim redetermination accrues to an interested aggrieved persons after September 24, 1984. The proviso amplifies it when it speaks of exclusion of the time taken to obtain copy of the award under Section 26 till it is supplied, i.e. it operates in future. It is, therefore, clear that Section 28-A does not apply to an award under Section 26 made prior to September 24, 1984.

26. Whether it would apply to pending reference made after September 24, 1984? The language is not unambiguous. Therefore, the need for its interpretation to find the legislative intention arises. Section 28-A not only provides right and remedy for redetermination of the compensation but also prescribes limitation within which it could be availed of and the procedure under Section 28-A(2) to make the award. It also gives the further rights of reference by Sub-section (3). The procedural part

thereof on reference under Section 28-A(3) is relegated to what is envisaged in Sections 18 to 28. It is thereby a complete Code in itself. The language of past tense to certain words and present tense to certain words emphasised hereinbefore would appear to indicate that Section 28-A does operate prospectively. Having made Section 30 of the Amendment Act (Transitional Provisions) with retrospective effect some without limitation, others with limited retrospectivity and the third confining only to the award of the Collector, and being aware of enacting Section 28A, legislature had not given to Section 28-A retrospectivity. In other words Section 28-A is prospective in its operation.

27. The question therefore is under what circumstances the award under s. 11 is liable to reopen under Section 28-A and redetermination is done? Normally the legislative purpose is to remedy some existing evil or to correct some defect in existing law or to create a new right and remedy. Section 18 or Section 31 have not been amended. Non-availing of right of reference to claim higher compensation has been lost either by receiving compensation from the Collector without protest or failed to make an application within the prescribed limitation due to poverty, indigence or inarticulation. Without suitably amending Sections 18 and 31, Section 28-A was enacted creating new rights and remedies as a complete Code in itself.

28. Maxwell on the Interpretation of Statutes, 11th E. at p. 79, it is stated thus:-"general words and phrases, therefore, however wide and comprehensive they may be in their literal sense,' must, usually, be construed as being limited to the actual objects of the Act. It would be "perfectly monstrous" to construe the general words of the Act so as to alter the previous policy of the law. In construing the words of an Act of Parliament we are justified in assuming the legislature did not intend to go against the ordinary rules of law, unless the language they have used obliges the court to come to the conclusion that they did so intend". Craies on Statute Law, 7th Ed. at p. 177, it is stated that but in some cases a limitation may be put on the construction of the wide terms of a statute. At p. 178 it is stated that one of the safest guides to the construction of sweeping general words, which it is difficult to apply in their full literal sense, is to examine other words of like import in the same instrument, and to see what limitations must be imposed on them. If it is found that a number of such expressions have to be subjected to limitations or qualifications, and that such limitations or qualifications are of the same nature, that forms a strong argument for subjecting the expression in dispute to a like limitation or qualification. In Bennion's Statutory Interpretation at p. 385, it is stated that however the true view is not that strict and liberal construction are in themselves interpretative criteria. They are simply methods or techniques by which the court applies the interpretative criteria. In Statutory Interpretation by Cross at p. 145 in the Chapter presumption against unclear changes in the law, it is stated that the name prescription against unclear changes in the law goes back to the days when, by far, the greater proportion of law was common law and statutes were, for the most part, thought of as minor emendations of that law. In modern times it is possible to make a traversery of the presumption by stating it in some such form as that "it is to be presumed that a statute alters the common law as little as possible." At p. 146 it is stated that no useful purpose would be served by multiplying examples, but it should be pointed out that "the presumption applies to changes in statute law".

29. Craies on Statute Law, 7th Ed. at p. 177, it is stated that but in some cases a limitation may be put on the construction of the wide terms of a statute. At p. 178 it is stated that one of the safest guides to the construction of sweeping general words, which it is difficult to apply in their full literal sense, is to examine other words of like import in the same instrument, and to see what limitations must be imposed on them. If it is found that a number of such expressions have to be subjected to limitations or qualifications, and that such limitations or qualifications are of the same nature, that forms a strong argument for subjecting the expression in dispute to alike limitation or qualification. In Bennion's Statutory Interpretation at p. 385, it is stated that however the true view is not that strict and liberal construction are in themselves interpretative criteria. They are simply methods or techniques by which the court applies the interpretative criteria. In Statutory Interpretation by Cross at p. 145 in the Chapter presumption against unclear changes in the law, it is stated that the name "presumption against under changes in the law" goes back to the days when, by far, the greater proportion of law was common law and statutes were, for the most part, thought of as minor emendations of that law. In modern times it is possible to make a travesty of the presumption by stating it in some such form as that "it is to be presumed that a statute alters the common law as little as possible." At p. 146 it is stated that no useful purpose would be served by multiplying examples, but it should be pointed out that "the presumption applies to changes in statute law."

30. Crawford's Interpretation of Laws at p. 277, quoting Dwaris from his treatise it is stated that all new laws, though penned with the greatest of technical skill and passed upon the fullest and most mature deliberation, are considered as more or less obscure and equivocal until their meaning be fixed and ascertained by a series of particular discussions and adjudications. At p. 283 it is stated that in ascertaining the legislative intent, where a statute is susceptible to two or more interpretations, should surely be accepted by the courts as constituting the one intended by the law-makers, "which operates most equitably, justly and reasonably as determined by our existing standards of proper conduct and by our conceptions of what is right and what is wrong, of what is just and what is unjust". At p. 296 it is stated that at one time the doctrine of equitable construction was applied by the courts, but as such it has now been generally abandoned. By virtue of this doctrine, the letter of the law might be disregarded and its provisions extended to cases which were within the same mischief which the law undertook to remedy, even though they were not expressly included, or cases might be excepted from the statute, although covered by its terms, where they were not fairly included, on considerations of justice and reason.

31. The construction or interpretation, must therefore, be construed with reference to its intended purpose and the scope of meaning of the statute must be determined by the language used therein. Necessary implications may be read into the statute. True implications, sense and spirit are as much a part of the language which makes up the statute as the meanings of the various words as a part of it. The statute must, therefore, be analysed and expressed meaning ascertained. Whether liberal or strict construction will be given depends largely upon a finding whether the given determinate was intended from the alternative part of the statute, the type and its nature. Often in some statute if the same parts are subjected to different types of construction, whether liberal or strict construction is a means by which the scope of the statute is expounded or restricted in order to convey the legislative meaning. According to Crawford, "if that be the proper position to be accorded to strict or liberal construction, it would make no difference whether statute involved was penal, criminal, remedial or

in derogation of any rights as a distinction based upon its classification would then mean nothing." Strict or liberal construction, therefore, should be used as a tool in the process of ascertaining the legislative intent when it is in doubt. Otherwise they will have little or no value. This is a part of interpretive process assigned to the court as a subject to make the legislative intent, clear, effective and efficacious.

32. In *Union of India and Anr. v. Raghubir Singh (dead) by Lrs. etc.* : [1989]178ITR548(SC) in para 32 the Constitution Bench, considering the scope of Section 30(2) of the Amendment Act had applied restricted interpretation to the words of width employed in Section 30(2) holding that Section 30(2) clearly intended to refer to the awards made by the Collector or Court between April 30, 1982 and September 24, 1984. In other words Section 30(2) of the Amendment Act extends the benefit of enhanced solatium to cases where the award by the Collector or the Court is made between April 30, 1982 and September 24, 1984 or the appeals arising from such awards and decided by the High Court and the Supreme Court whether the decisions of the High Court or the Supreme Court are rendered before September 24, 1984 or after that date. All that is material is that the award by the Collector or by the Court should have been made between April 30, 1982 and September 24, 1984. In para 33 at p. 781 it was further elaborated that the Amendment Act had not been made generally retrospectively with effect from any particular date, and such retrospectivity as appears is restricted to certain areas covered by the Parent Act and must be discovered from the specific terms of the provision concerned. Since it is necessary to spell out the degree of retrospectivity from the language of the relevant provision itself, close attention must be paid to the provisions of Section 30(2) for determining the scope of retrospective relief intended by Parliament in the matter of enhanced solatium." As stated earlier the Constitution Bench had given restricted interpretation and cut down the width of the language of Section 30(2) to be in conformity with the legislative intent. In *Nyadar Singh v. Union of India and Ors.* : (1988)IILLJ506SC this Court held that even though the statute itself may not use in limiting language the interpretative factors relevant to the provision may impose such a limitation. In *Maharashtra State Financial Corporation v. Jaycee Drugs and Pharmaceuticals Pvt. Ltd. and Ors.* : [1991]1SCR480a this Court held that legislature does not effect a fundamental alteration in general system or policy of law without expressing such intention with irresistible clearness. In *State of Orissa and Ors. v. Sukanti Mohapatra and Ors.* : (1993)IILLJ297SC in para (a), it was held that rules of relaxation should be construed strictly. In *AC. Sharma v. Delhi Administration* : 1973CriLJ902 at 483 this Court held that the legislature does not intend to make any substantial alteration in the existing law beyond what it expressly declares or beyond the minimum scope and object of the statute. In *D.S. Nakara v. Union of India* : (1983)ILLJ104SC relied on by *Shri Salve*, and followed in *D.C.M. Ltd. v. Union of India* : [1983]3SCR438 that a statute is not properly called a retrospective statute because a part of the requisite for its action is drawn from a time antecedent to its passing. So it was held that the statute is not retrospective in operation. A statute is not retrospective merely because it effects existing rights nor it is retrospective merely because a part of the requisites for its action is drawn from a time antecedent to its passing. However, in *K.S. Paripooman v. State of Kerala S.L.P. (C) No. 5514-17/90 etc.*, dated September 12, 1994, a Constitution Bench per majority interpreting Section 23(1A) and Section 30 of Transitory Provisions and the Scheme of the Amendment Act held that Section 23(1A) does not apply to the award of the Collector or Civil Court made prior to April 30, 1982 and restricted to the cases covered by Sections 30(1)(a) and (b). In other words it again

reiterated the restricted interpretation given in Raghuveer Singh's case.

33. At this juncture, it is necessary to dispose of yet other contention argued on behalf of the States that Section 28-A is only a transitional provision applicable to pending cases only. If the legislature intended, after the Amendment Act had come into force, legislature did not intend to preserve the remedy of reference under Section 18, if successful at the first instance and if one or several claimants had reference and became successful to provide second remedy of reopening the concluded award that had become final upsetting budgetary estimates to large projects, to go out of gear, create uncertainty and there would be no finality to an award under s.11. The interpretation, therefore, should lean in favour of the construction that Section 28-A be treated as transitional provision. Otherwise Section 28-A itself would be violative of Article 14. The contention is not well-founded. Section 30 of the Amendment Act expressly treated differently the provision contained therein and the operation of the Amendment Act in its application to be transitional provisions as the marginal note thereof itself clearly stated as such. Had the legislature intended to treat Section 28-A also as a transitional provision, nothing prevented the legislature to expressly state so. The omission thereof by necessary implication leads to the conclusion that the legislature did not intend that Section 28-A as transitional provision. The language in which Section 28-A as couched would indicate that it was intended to operate in perpetuity. It is true that reopening an award made under s. 11 after the Amendment Act came into force would unsettle the finality of s. 11 award and the budgetary estimates made for acquisition get upset but the legislature being the giver of the law, has chosen to give prospective operation and the consequences that would flow from the operation of Section 28-A is inescapable. The court while interpreting Section 28-A, cannot avoid to give effect to the consequences that would flow from the operation of Section 28-A. It is for the parliament to remedy the situation, if a situation not intended by it is brought about the legislation.

34. Thus considered from the internal and external aids of interpretation, we are of the view that an award made under s. 11 is final and cannot be reopened by having recourse to Section 28-A if an award was made under Section 26 on reference under Section 18 before Sept. 24, 1984. Therefore, if an owner of the land or person interested in compensation of the land acquired by the same Notification under Section 4(1) had not sought reference under Section 18 in respect to an award made under s. 11 by the Collector L.A.O., but if on a reference made under Section 18 prior to Sept. 24, 1984 in respect of land covered by the same notification any award made under Section 26, prior to the Amendment Act had come into force, the award under s. 11 is not liable to be reopened for redetermination of compensation even through three months's period has not expired by September 24, 1984 for to hold otherwise would amount to giving retrospective operation to Section 28-A. Any other non-protester claimant will not be entitled to get an award reopened under s. 11 though on reference at the instance of one or other of the owner or interested person had the benefit of determination of higher compensation by an award made under Section 26 before Sept. 24, 1984 on his reference under Section 18 made prior to Sept. 24, 1984. An award under s. 11 made prior to Sept. 24, 1984 and a reference under Section 18 sought and secured was pending in the civil court on September 24, 1984 and civil court determines higher compensation on or after Sept. 24, 1984, persons interested in other land covered by the same Notification under Section 4(1) would be entitled to make an application/applications in writing to the Collector to redetermine the compensation and to make an award under Section 28-A(2) on the basis of the award and decree

under Section 26. It would be so, for that would not amounts to retrospective reopening of an award made under Section 11 but drawing antecedents facts from a pending reference for giving effect to the prospective operation of the provisions in Section 28-A(1) consistent with the language as explained earlier and the object of the amendment.

35. The next question is at whose instance and in what circumstances an award under s. 11 would be reopened consequent on the court enhancing the compensation in a reference under Section 18. A peep into provisions in Sub-section (1) of Section 4 and onwards upto the making of the award of the court under Section 26, would furnish us the clue for answering the question. Section 4(1) Notification gives the, right to the State to propose acquisition of the lands for the specified public purpose and enables its officers to enter upon land and take measurements, draw up the map and take other particulars required by them. Section 6 declaration or successive declarations are conclusive evidence that particular land is needed for the public purpose and the appropriate government becomes entitled to acquire the land in the manner provided in the Act. The award under s. 11(1) requires specific numbers of "the respective interests of persons claiming compensation (pursuant to their statement under Section 10 indicating (i) the true area of the land; (ii) the compensation which in his opinion should be allowed for the land; (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, whether they were represented or appeared before the Collector or not. On receiving the compensation under protest and making the application within the prescribed period for limitation, the interested person should specify the nature of is objections whether (a) to the measurement of the land (b) the amount of compensation (c) the persons to whom it is payable or (d) the apportionment of the compensation among the persons interested made by the Collector. On receipt of the objection/objections, the Collector by operation of Section 19, make the reference to the court furnishing the information in writing to the court of the circumstances enumerated in Clauses (a) to (d) of Sub-section (1) of Section 19 together with the Schedule attached thereto under Sub-section (2) thereof. Under Section 20, the notice to be issued to the person interested, other than non-protesters to specify the date on which the court will proceed to determine the objection specified in Section 21. The notice shall be served on all persons interested in the objection - vide Section 20(b), if the objection relates to the area of the land or to the amount of compensation, the notice also shall be served on the Collector. Section 21 expressly restricts the scope of the proceedings and consideration of the interest of the persons affected only to the extent of "Objection" and the determination is restricted to those objects only. If the objections relate to "determination of compensation' and the civil court enhances compensation, on the basis of excess compensation awarded under Section 26, the other person interested in other lands covered by the same Notification, are entitled to an award under Section 28-A(1) and (2). If it relates to any other objection, Section 28-A becomes inapplicable and, therefore, the award of the Collector under s. 11, unless properly challenged, by a reference under Section 18, should not be reopened.

36. As regards claim for higher compensation, Sub-section (1) of Section 28-A envisages the awarding of higher compensation by the court on reference under Section 18 in excess of the amount awarded under s. 11 by the Collector. The aggrieved person must be the person interested in all other lands covered by the same Notification of Section 4(1) and the amount of the compensation determined by the court is relatable to the land similarly situated, possessed of the same value or

potentialities etc. Despite their failure to seek and secure reference under Section 18, they became entitled to make an application in writing to the Collector within the prescribed three months' limitation. Therefore, any other non-applicant is not entitled to the benefit of the award of the Collector made on redetermination under Sub-section (1) of Section 28-A. The contention of B.D. Aggrawal, learned Counsel for the claimants, that all persons despite their failure to make an applications for redetermination of the compensation, are entitled to compensation under the redetermined award under Sub-section (1) of Section 28-A, is without substance. It is accordingly rejected. Sub-section (1) of Section 28-A would apply only to a person who had failed to seek and secure reference under Section 18 when one or other persons similarly interested in the land covered under the same Notification published under Section 4(1) received on reference under Section 18 higher compensation in an award under Section 26 and should make a written application under Section 28A(1). The Collector then is enjoined to redetermine the compensation in the manner laid in Section 28-A(1) and to make an award under Section 28-A(2).

37. The next question is whether an interested person who sought and secured reference under Section 18 but was either unsuccessful and filed no appeal or had carried in appeal but unsuccessful, would be entitled to redetermination when the compensation was enhanced by the appellate court either under Section 54 or on further appeal under Articles 132, 133 and 136 of the Constitution. In Mewa Ram's case, this Court held in paragraph 5 that Section 28-A provides for the determination of amount of compensation subject to the conditions laid down therein are fulfilled. For such redetermination, the forum is the Collector and the application has to be made before him within 30 days from the date of the award under Section 26 and the right is restricted to persons who had applied for reference under Section 18 of the Act. If these conditions are satisfied, the petitioners could have availed of the remedy provided under Section 28-A of the Act. In *Scheduled Caste Co-operative Land Owning Society, Bhatinda v. Union of India and Ors.* : AIR1991SC730, this Court held that "it is obvious on a plain reading of Sub-section (1) of Section 28-A that it applies to only to those claimants who had failed to seek reference under Section 18 of the Act. The redetermination has to be done by the Collector on the basis of the compensation awarded by the Court. In the reference under Section 18 of the Act, an application in that behalf has to be made to the Collector within 30 days from the date of the award. Thus only those claimants who had failed to apply under Section 18 are conferred with the right to apply to the Collector for redetermination and not all those like the petitioners who had not only sought a reference under Section 18 but had also filed an appeal in the High Court". This is also clear from a reading of the scheme of the Act in Part II and HI and in particular the self-contained Code in Section 28-A. It is already held that an interested person who received compensation without protest becomes an aggrieved person when another person interested in the land covered by the same Notification under Section 4(1) gets higher compensation for his land from the Civil Court. By operation of the non-obstante clause within Section 28A(1), the embargo created by Section 18(1) and the second proviso to Sub-section (2) of Section 31 is lifted and he has been given the right and remedy under Section 28-A. But a person who received compensation under protest and sought and secured a reference but was unsuccessful or partially successful, does come within the embargo created by Section 18(1) and the second proviso to Sub-section (2) of Section 31 and the non-obstante clause in Section 28A(1) does not relieve him from it. Legislature made a discriminatory policy between the poor and inarticulate as one class of person to whom the benefit of Section 28-A was to be extended and comparatively

affluent who had taken advantage of the reference under Section 18 and the latter as a class to which the benefit of Section 28-A was not extended. Otherwise, the pharageology of the language of the non- obstante clause would have been differently worded, i.e. "notwithstanding that they had not make an application to the Collector under Section 18 or an appeal under Section 54 or under Articles 132, 133, 136 or unsuccessful etc.". Such is not the language. Transitional provisions of Section 30 of the Amendment Act itself discriminates among claimants, in payment of solatium in whose favour award was made by the Collector or court etc., as has already been made clear while dealing with the effect of Sub-section (1) to (3) of Section 30 in the earlier part of the judgment obviating the need for reiteration. The Parliament thereby made discrimination in payment of compensation to persons though similarly situated to varied benefits of Amendment Act. Even payment of compensation under Section 23(1) is varied based on same quality of the land capable to fetch same price or the value of the land situated in close proximity and payment of market value is not uniform. The doctrine of res judicata under Section 11 of C.P.C. operate against such persons. Having pursued the remedy in a competent civil court and allowed the decree under Section 26 or under Section 54, to become final, it binds the parties and the State and operates as res judicata and he or they cannot fall back upon the right and remedy under Sub-section (1) of Section 28-A as the public policy envisaged is that such a party cannot agitate his right twice over. Sub-section (1) of Section 28-A, therefore, by the non obstante clause made available the right and remedy to the poor and inarticulate persons interested in other lands covered by the same Notification under Section 4(1) and made no application under Section 18 to avail the right and remedy under Section 28-A(1). But those who sought and secured reference under Section 18, be the poor or others, and failed before the civil court or in appeal under Section 54 or under Article 136 etc., the right and remedy provided by Section 28A(1) is not available to him/them. In other words, the operation of Section 28-A is confined to the award made in Part HI only and not to the judgment or decree of the High Court or the appellate court under Section 54 or of this Court under Article 132, 133 or 136 of the Constitution. Therefore, the unsuccessful interested persons who sought and failed in the reference under Section 18 or in appeal under Section 54 or under Article 136 etc., are not persons aggrieved under Sub-section (1) of Section 28-A, when other similar person had higher compensation by pursuing that remedy. Therefore, he or they, though interested in the land covered by the same Notification under Section 4(1), are not entitled to make an application/applications for redetermination under Sub-section (1) of Section 28-A.

38. The next question is whether the denial of such right and remedy under Sub-section (1) of Section 28-A violates Article 14 of the Constitution. It is true that the legislature intended to relieve hardship to the poor, indigent and inarticulate interested persons who generally failed to avail the reference under Section 18 which is an existing bar and to remedy it, Section 28-A was enacted giving right and remedy for redetermination, when another person had got higher compensation under Section 26 in excess of the compensation awarded under s. 11. In other words, the statute makes him to be conscious of his right even though the presumption that everyone knows law goes against him and failed to avail the right and remedy under Section 18. Yet Section 28-A gives the self-same relief. The class of similar persons who availed the right and remedy but were unsuccessful are treated as a D class. It by no means be said to be arbitrary as the classification is based on intelligible differential and bears reasonable relation to the object of according an another opportunity. The legislature appears to have presumed that the same state of affairs continue to

subsist among the poor and inarticulate persons and they generally fail to avail the right under Sub-section (1) of Section 18 due to poverty or ignorance or avoidance of expropriation. It is already seen that the Parliament made conscious discrimination between the poor and inarticulate as a class and comparatively affluent as another class and conferred the rights under Section 28-A in favour of the former. Discrimination is writ large in Section 30 of Transitional Provisions of Amendment Act which provided payment of solatium and additional compensation covered by different situations, though the persons interested are same class. Section 28A is just and fair and does not violate Article 14. The procedure, therefore, is just and fair and does not violate Article 21.

39. However, with a view to avoiding uncertainty and fluctuation, it would be appropriate that, the Collector, while paying compensation under Section 31, should explain in vernacular language of the claimant informing all persons interested in the compensation that they have a right to protest the compensation determined under s. 11 before receiving the same; has right to seek reference in writing under Section 18 to the civil court and that the application should be made expressing the specific objections in writing within the limitation prescribed under Section 18. In case of his failure to avail of the same, he would not be entitled to further right and remedy to seek higher compensation. In case the claimant to be illiterate, it should be properly explained to him in his mother tongue. The statement made in this behalf by the Collector should be in the mother tongue of the claimant. The Collector should append a certificate that it was truly, correctly and properly explained and obtain the signature or thumb impression in token thereof and this should be kept as part of the record of the award proceedings. He should also maintain a regular register in his office in the serietum duly signed by him and sealed and be kept in the personal custody of the Collector. This would not only obviate the hardship to the interested persons but also prevent corrupt practices in fabricating the applications for reference after the bar of limitation. In this behalf, it is also necessary that the Collector/L.A.O. should also maintain another register for receipt of the applications under Section 28-A indicating the date of its receipt, seal of the office and personal signature of the Collector/L.A.O. concerned and the receipt thereof duly communicated to the government or the authorised officer in proviso to s. 11 of the Act.

40. The next question is whether the Collector/L.A.O. 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 gets 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 s. 11. 'A' received the compensation without protest. 'B' and 'C' received 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. 5,000/- 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/L.A.O. 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 L.A.O. 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/L.A.O. 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 28A 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 is disposed of.

41. Smt. K. Amareswari, learned senior counsel appearing for the Union, contended that the beneficiary is a person interested under Sub-section (2) of Section 28-A read with Section 18 of the Act. An award when made by the Collector under Sub-section (2) of Section 28-A redetermining the compensation, the appellant beneficiary, had not accepted the award and that, therefore, a reference under Section 28-A(3) read with Section 18 was sought for and the Collector has illegally rejected it. When civil revision was filed, the High Court committed grievous error of law or jurisdiction in rejecting the revisions. According to her, the award made under s. 11 was with the prior approval of the appropriate government or the authorised officer, while the award under Section 28-A(2) was without their approval. It was reopened in consequence to the award and decree of the court under Section 26, against which the appellant being an interested person carried in appeal and the appeal is pending. The award under Sub-section (2) of Section 28-A was not acceptable to the appellant and that, therefore, the appellant is an interested person to seek reference to assail the correctness of the award of the Collector. The statutory change of the effect of the award under Section 28-A(2) clothes the appellant with the right to seek reference under Sub-section (3) of Section 28-A. The contention was forcibly resisted by the counsel for the respondent contending that the award under s. 11 is an offer made on behalf of the State. The appellant a beneficiary is bound by the offer made by the Collector on behalf of the beneficiary. The right to seek reference arises when the claimant does not accept the award and receives compensation under protest. The acceptance of the award without protest concludes the proceedings and binds the claimants. The non-acceptance keeps the award at large, subject to determination of compensation, on reference, under Section 18, by the court, which alone is a decision and a decree which would bind the claimant as well as the Suite. Against that

decision, an interested person, i.e. the claimant as well as the beneficiary are given the right to file appeal against the decree and award under Section 26 but that does not clothe either the State or the beneficiary to seek a reference under Section 18. Though the Collector and the High Court had not considered the case from this perspective, for these reasons, the case does not warrant interference.

42. Having given our anxious consideration to the respective contentions, we are of the view that the respondents are right in their contention. Award under Section 11 is only an offer made by the Collector on behalf of the State and the State is bound by the offer. If the offer is accepted without protest and the claimant receives the compensation under Section 31, the proceedings get concluded and no further steps need be taken under the Act. The claimant, if receives the compensation under protest and makes an application under Section 18 in the prescribed manner within the limitation, the Collector is enjoined to refer the objection under Section 18 to the court and the controversy would be at large, subject to determination by the court. The decision of the court is an award and decree under Section 26 and is conclusive between the parties subject to appeal under Section 54 etc. Thereby the determination of the compensation under Section 26 even without acceptance binds the parties. The offer of the Collector being on behalf of the State and the beneficiary, the State does not get the right to seek a reference under Section 18 against the award of the Collector. The beneficiary is only an interested person to adduce evidence in determining proper compensation. However, the Collector/L.A.O. is its/his agent and the acts of the agent binds the principal-beneficiary. The beneficiary does not stand on a higher footing than the State. This should not be understood to mean that the beneficiary has no right to appeal under Section 54 against the award made under Section 26 or further right to question the decree made in appeal before this Court.

43. No doubt Section 28-A(2) speaks of interested persons and Section 28-A(1) of persons aggrieved. As interpreted by this Court of the said expression, the beneficiary is also an interested person to see that proper compensations is determined by the court, gets right to hearing before award is made and to carry in appeal under Section 54 and has a right to appear before the Collector during award inquiry which right is only limited to participate in the inquiry and to adduce evidence or to file an appeal to determine just and proper compensation for the lands under acquisition. Sub-section (2) of Section 28-A equally gives light to an opportunity of hearing to an interested person in the inquiry under Section 28-A(1). The State and the beneficiary are persons interested in determination of just and proper compensation. However, acceptance of the award under Sub-section (3) appears to us to be, an acceptance by the claimant and not by the beneficiary or the State, as the Collector acts on their behalf as an agent. It is true that the award under s. 11 was made with prior approval of the State Government or its authorised officer and that limitation expressly was not laid in Section 28-A(2) but the legal effect does not get altered by virtue of the above distinction or omission in Section 28-A(2). The participation in the proceedings and right to an opportunity of hearing including the right to adduce evidence by the beneficiary though in normal parlance carries with it the right to an appeal, in view of the scheme and the language of s. 11 under Section 28A(2) does not clothe the beneficiary with a right to seek reference when he does not have such a right under Section 18. The award of the Collector under Sub-section (2) of Section 28-A though as a post s. 11 stage, nonetheless, the award under Section 28-A(2) is award and partakes the same character as an offer and not a decision. Therefore, if the applicant accepts the award, the

award becomes complete and acceptance brings the proceedings under Section 28-A(1) to a terminus and the award binds the claimant and the Collector. On non acceptance and seeking a reference under Section 28-A(3), the award made under Section 28-A(2) is at large subject to the decision by the court by application of Sections 18 to 26 as is envisaged in Section 28-A(3) itself. Section 2-A of the local amendment made by the Haryana State Legislature adopting the Amendment made by the Legislature of the Himachal Pradesh, manifests that despite the offer made by the Collector under s. 11, the State is entitled to seek reference under Section 18 but the Sub-section (2) expressly excludes the right of reference under Section 18 to the Union when the land was acquired on behalf of the Union of India. Thereby it is clear that the right to such reference under Section 28-A(3) by the beneficiary does not arise and stands excluded. Though not apposite, but we can have a clue from Section 50 of the Act which prohibits reference at the behest of the beneficiary when the acquisition was made on behalf of a local authority or a company. It is true that there arises an anomalous situation when an award is made under Section 28-A(2) the Collector may award compensation in excess of the amount given under Section 26, while the claimant was provided with remedy under Section 28(3) the beneficiary or the State are left with no remedy under the Act. However, the Collector being an authority under the Act, the award of the Collector made under Section 28A is not totally immune from jurisdiction of the High Court under Article 226 and 227 of the Constitution, if required to be challenged by the State or the beneficiary, who have no other legal remedy in the matter.

44. Thus considered, we of the view that the beneficiary is not an aggrieved person and the Collector/L.A.O. has no power to make, at the instance of the beneficiary or the State, to make a reference under Sub- section (3) of Section 28-A read with Section 18 subject to local amendments as was done by Haryana and the Himachal Pradesh Legislatures. This factor may be an additional reason for the Collector to await the decision of the High Court or of this Court, when the award of the court under Section 26 was carried in appeal under Section 54 or the latter under Article 136. Pending decision, he should stay his hands and take up the matter only after the decision is rendered by the High Court or by this Court. Yet, in view of the local amendments to the Act like that made by Haryana Legislature, the State may seek reference under Section 28-A(3), since Section 18 gets attracted by operation of Sub-section (2) -A of Section 18 of Haryana local amendment. When the land was acquired for and on behalf of the State, it becomes also entitled to a reference under Section 28-A(3) and all the provisions of Sections 18 to 28 shall apply to such a reference.

45. After becoming aware of introduction of Section 28-A, it would appear that several antedated applications under Section 18 to make use of the awards to be made thereon under Section 26 by the civil court to get the benefit of Section 28-A. Therefore, when application made under Section 28- A create a doubt that the award under Section 26 which forms the basis for such application had been secured on an antedated or fraudulent applicant purported to have been made under Section 18, it shall be open to the State to have the matter thoroughly examined by an officer of the status of the District Collector/Commissioner to find the truth and such officer on enquiry made with reference to the relevant records and finds that the applications under Section 28A(1) are genuine and was/were made within limitation or the award under Section 26 is found on genuine application under Section 18 made within limitation and he could cause applications properly made under

Section 28A(1), so that such award under Section 26 of cause may become unavailable for supporting the application, made fraudulently or collusive made under Section 28A be closed. However, it has to be remembered by the Collector/L.A.O. deciding Section 28A application that the compensation for land given in the award under Section 26 or judgment in appeal should form the basis of redetermination of compensation for the applicants' land; the same amount of compensation need not be given where there are differences in nature and quality and situation of the comparable land.

46. In the light of the above findings, our conclusion in each appeal/appeals on their facts, would be as under:

47. In Babua Ram's case, though we hold that the appellants are persons aggrieved within the meaning of Sub-section (1) of Section 28-A to avail the right under Section 28-A(1) yet the High Court is right in directing that the Collector/L.A.O. ought to have awaited the decision of the High Court. After the receipt of the decision of the High Court, the Collector/L.A.O., after issuing notice to the respondents and giving reasonable opportunity of hearing, should enquiry into (i) whether the application/applications was/were filed written application/applications satisfying the requisites of Section 28A and within limitation, and (ii) in case those findings recorded are in favour of the applicants, still the Collector should decide whether the applicants are persons interested in other lands covered by the same notification and the award made by the Collector under s. 11. He should, therefore, enquiry into and record findings in this behalf. In case, the Collector/L.A.O. records findings in favour of the claimants then the should consider whether enhancement of compensation can be made on the basis o the award under Section 26 by the civil court or High Court and redetermine the same in accordance with law. If he records findings in favour of the claimant/claimants, he shall make the award under Sub-section (2) of Section 28-A and follow the procedure under s-28-A and the relevant provisions in Part HI in that behalf. The order of the High Court is set aside and writ petition is disposed of accordingly. The appeals, therefore, are allowed subject to the above directions.

48. In Goa, Daman & Diu Industrial Devi. Corporation and State appeals, though we uphold the order of the High Court in its finding that the respondents are persons aggrieved, it is not the end of the journey. The direction issued in the impugned judgment is set aside. The matter is remitted to the Collector/L.A.O. He should issue notice to the applicant in each petition and give reasonable opportunity of being heard in person/counsel. He should consider whether the written applications satisfy the requirements of Section 28A(1) and were, in fact, filed the written applications within the limitation. Before proceeding as above, he could satisfy himself whether the award under Section 26 relief upon in support of the application made under Section 28A, was not made on the basis of antedated or fraudulent application under Section 18 or the applications themselves find under Section 28A(1) are antedated or fraudulently brought on record to claim the benefit under Section 28A(1). In case the findings are in favour of the claimant/claimants, then it is not necessary that there should be a second application, since the application already filed for redetermination of the compensation after the earlier award and decree of the civil court under Section 26 is sufficient compliance with the requirement of Section 28-A(1). On the basis of the judgment and decree of. the High Court which has become final i.e. later one, the Collector/L.A.O. should redetermine the

compensation taking into account all the relevant facts and circumstances enumerated in Section 23 and Section 28-A(1) and other related provisions applicable to the facts.

49. In Union of India and connected appeals, though the appellants are the persons interested in under Sub-section (2) of Section 28-A for the purpose of enabling them to adduce evidence in redetermination of the compensation, the Land Acquisition Officer acted as an agent on behalf of the State as well as the beneficiary-Union of India. The appellant is bound by the offer made by the Collector/L.A.O. Therefore, the question of their accepting the award made under Section 28-A(2) does not arise. It cannot seek reference under Section 28-A(3) or under Section 18 of the Act. However, it would be open to the appellant to challenge the correctness of the award made under Section 28-A(2) in a writ petition under Article 226 and 227. However, in view of our finding that the Collector should await the final decision of the High Court or of this Court, the Collector/L.A.O. committed grievous error of law in proceeding to make an award under Section 28-A(2). He should have awaited the decision of the High court in the pending appeal. The order of the High Court and that of the Collector are set aside. The cases are remitted to the Collector to keep them back pending disposal of appeal by the High Court. In case the decree of the High Court granting compensation is in excess of the award of the Collector/L.A.O., under s. 11, then the Collector should enquire whether the application satisfy the requirements of Section 28A and whether the application had been properly made and within limitation. In case the finding/findings is/are in favour of the applicants, then he should redetermine the compensation on the basis of the award under Section 26, and made the award under Section 28-A(2) and should follow the procedure prescribed in Part III. Therefore, the orders of the Collector and that of the High Court of Punjab & Haryana in revisions are set aside and the Collector shall follow the procedure indicated hereinbefore and decree as per the law and the judgment. Accordingly, the appeals are allowed.

50. All appeals in this judgment are disposed of accordingly and the parties are directed to bear their own costs. The SLP Nos. 17268/93, 21652/93, 17164/93 and 1670/94 have been delinked and the Registry is directed to list these matters, separately, but immediately.