

Ramsinghai (Ramsangbhai) Jerambhai vs The State Of Gujarat And Anr on 24 April, 2018

Equivalent citations: AIR 2018 SUPREME COURT 2629, 2018 (16) SCC 445, AIR 2018 SC (CIV) 2121, (2018) 3 RECCIVR 114, (2018) 3 RAJ LW 2481, (2019) 142 REVDEC 524, (2018) 2 WLC(SC)CVL 26, (2018) 7 SCALE 455, (2018) 190 ALLINDCAS 196 (SC), (2018) 131 ALL LR 254, AIRONLINE 2018 SC 1529

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Bench: Navin Sinha, Mohan M. Shantanagoudar, Kurian Joseph

REP

SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4885 OF 2018
(Arising out of S.L.P.(Civil) No. 10422 of 2015)

RAMSINGBHAI (RAMSANGBHAI) JERAMBHAI

... APPELLANT (S)

VERSUS

THE STATE OF GUJARAT AND ANR.

... RESPONDENT (S)

J U D G M E N T

KURIAN, J.:

Leave granted.

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

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

“ 28A. Re-determination of the amount of compensation on the basis of the award of the Court. –(1) Where in an award under this Part, the Court allows to the applicant

any amount of compensation in excess of the amount awarded by the Collector under section Date: 2018.05.11 16:17:15 IST Reason:

11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court: Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.” (Emphasis supplied) It is clear from the opening words of the provision that the redetermination under Section 28A is available only in respect of an “Award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28A (both inclusive). The “court” referred to in Section 28A of the Act is the court as defined under Section 3(d) to mean “... a principal civil court of original jurisdiction ...”. Thus, the judgment of the appellate court is not within the purview of Section 28A. It is also to be noted that the appellate courts under Section 54 are under Part VIII of the Act whereas the redetermination is only in respect of the Award passed by the Reference Court under Part III of the Act. (See Jose Antonio Cruz Dos R. Rodriguese & another v. Land Acquisition Collector & another¹). In its recent judgment in Bharatsing and others v. The State of Maharashtra and others², this Court has surveyed the decisions on this issue and reiterated the legal principle. (1996) 6 SCC 746 (2017) SCC Online SC 1453

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

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

.....J. (KURIAN JOSEPH)J. (MOHAN M. SHANTANAGOUDAR)J. (NAVIN SINHA) NEW DELHI;

APRIL 24, 2018.