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TOTA RAM

v.

STATE OF U.P. AND ORS.

JULY 9, 1997

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[K. RAMASWAMY AND D.P. WADHWA, JJ.]

*Land Acquisition Act, 1894 :*

C

*S.28-A—Application under—Limitation—Held, application is to be made within three months from the date of award of compensation by reference court—Time taken in obtaining certified copy of the award is to be excluded in computing the period of three months—The plea that limitation of three months begins to start from the date of the knowledge of the award is unsustainable.*

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)  
No. 11171 of 1997.

From the Judgment and Order dated 19. 11.96 of the Allahabad High Court in W.P. No. 12843 of 1994.

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R.C. Srivastava, Ms. Rachna Srivastava and Ms. Rani Chhabra for the Petitioner.

The following Order of the Court was delivered :

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This special leave petition arises from the judgment of the High Court of Allahabad, made on November 19, 1996 in Writ Petition No. 12843/94.

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Admittedly, on reference under Section 16 of the Land Acquisition Act, 1894 (for short, the "Act"), the reference Court passed its award and decree on May 18, 1990. The petitioner filed an application under Section 28-A of the Act on July 22, 1992 stating that he came to know on 19th July, 1992 that in another reference compensation for the lands had been enhanced and claimed compensation at the said enhanced rates as he had filed application under proviso to Section 28-A of the Act within three months of his knowledge. The Collector as well as the High Court have

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negatived the contention. The question that arises for consideration is

whether the limitation for the purpose of application under Section 28-A of the Act begins to start from the date of the knowledge. Section 28-A reads as under :

“28-A Re-determination of the amount of compensation on the basis of the award of the court - (1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under 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 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.”

A reading thereof clearly indicates that a person whose land is acquired under a common notification issued under Section 4 (1) of the Act but who failed to avail of the remedy of reference under Section 18, is eligible to make a written application within three months from the date

- A of the award of the Court enhancing the compensation. It has been interpreted by this Court that the "court" means court of original civil jurisdiction to whom reference under Section 18 would lie. Admittedly, the award of the reference Court having been made on May 18, 1990, the limitation began to run from that date. The proviso to Section 28-A gives a right to the persons to obtain the certified copy of the award and decree
- B and the time taken for obtaining the certified copy of the award and the decree shall be excluded in computing the period of three months. In view of the express language, the question of knowledge does not arise and, therefore, the plea of the petitioner that the limitation of three months begins to start from the date of the knowledge is clearly unsustainable and
- C cannot be accepted. The High Court, therefore, is right in its decision in that behalf.

The special leave petition is accordingly dismissed.

R.P.

Petition dismissed.