



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3602 OF 2025

Baba Nanaji Zade, Aged about 61 years, Occ: Agriculturist,
R/o Ward no.1, Boruj Wada, Malegaon, Saoner, Dist. Nagpur
Through Power of Attorney Holder Sureshchandra alias
Suresh Chunnilal Agarwal, Aged about 72 yrs, Occ.Private,
R/o Khare Town, Dharampeth, Nagpur, Tq. & Dist.Nagpur.

PETITIONER

VERSUS

1. Union of India, Secretary, Ministry of Defence, New Delhi.
2. The Collector, Nagpur, Civil Lines, Nagpur-440001.
3. Deputy Collector/The Special Land Acquisition
Officer, Civil Lines, Nagpur-440001.

RESPONDENTS

Shri A.P. Deshmukh, counsel for the petitioner.
Shri S.A. Chaudhari, counsel for the respondent no.1.
Ms D.V. Sapkal, Assistant Government Pleader for the respondent nos.2 and 3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 10, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioner has challenged the order dated 23.10.2023 passed by the respondent no.3 rejecting the petitioner's application under Section 28-A of the Land Acquisition Act, 1894 (for short, 'the Act of 1894').

3. The primary reason for rejection is consideration of the period of three months from the date of the judgment of the reference Court, although the same was filed within a period of three months from the date of judgment of the Hon'ble Supreme Court in the other reference case.

4. The learned counsel for the petitioner submits that the petitioner has filed the application under Section 28-A of the Act of 1894 on 04.07.2022 which was received by the respondent no.2-Collector's Office. By this application, the petitioner had prayed for enhanced compensation for acquisition of his land. It was pointed out that raising challenge to award granting compensation, another land owner from the same notification and same award by name Premlata Purushottam Paldiwal initially filed reference under Section 18 and thereafter filed an appeal before this Court which was decided on 10.03.2021 by which enhanced compensation was granted. This judgment was challenged before the Hon'ble Supreme Court and the appeal was finally decided on 06.04.2022. In this background, the petitioner filed application on 04.07.2022, which came to be rejected since the same was not filed within a period of three months from the date of the judgment of the reference Court. He further submitted that the position of law as regards the period of filing an application under Section 28-A of the Act of 1894 is now clarified by the judgment of the Hon'ble Supreme Court in ***Banwari & Others Versus Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) & Another*** [(2024) 12 SCR 463] and it has been held that an application under Section 28-A of the Act of 1894 can be filed within a period of three months from the date of the judgment of the High Court or the Hon'ble Supreme Court. It is thus clear that the application filed by the petitioner under Section 28-A of the Act of 1894 was required to be entertained in view of this legal position.

5. The learned counsel for the respondent no.1 and the learned Assistant Government Pleader for the respondent nos.2 and 3 do not dispute the legal position.

6. In view of the limited controversy involved in the petition and having regard to the position of law as clarified by the Hon'ble Supreme Court, the impugned order passed by the respondent no.3 deserves to be quashed and set aside and in the interest of justice the matter needs to be remanded to the respondent no.2 for fresh consideration. Hence, the following order is passed:-

- I. The writ petition is allowed.
- II. The order dated 23.10.2023 passed by the respondent no.3 is quashed and set aside.
- III. The matter is remanded to the respondent no.2 for fresh consideration by affording an opportunity of hearing to all the parties concerned. The parties are directed to appear before the respondent no.2-Collector, Nagpur on 22.12.2025 and continue to appear on the subsequent dates.

7. Rule is made absolute in aforesaid terms with no order as to costs. The writ petition is disposed of.

(PRAFULLA S. KHUBALKAR, J.)