

2025.PHHC:148836



123 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-3554-2017 (O&M)
Decided on:-27.10.2025

Smt. Randhir Kaur

....Petitioner ..

vs.

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Ashish Aggarwal, Senior Advocate with
 Mr. Aditya Jain, Advocate and
 Ms. Pooja Sarin, Advocate
 for the petitioner.

Mr.Abhinav Kalia, DAG, Haryana.

Mr. Shivendra Swaroop, Advocate,
Ms. Kushaldeep Kaur, Advocate and
Mr. Siddhanth Arora, Advocate,
for respondent No.3-HSVP.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to the order dated 30.01.2017 passed by the Land Acquisition Collector, Urban Estates, Haryana, Gurgaon, whereby, an application filed under Section 28-A of the Land Acquisition Act, 1894 (for short, "1894 Act"), at the instance of petitioner-landowner, stood rejected being barred by limitation.

2. Briefly stating, some land owned by the petitioner, along with the land of few other landowners, situated within the revenue estate of Village Wazirpur, District Gurugram came to be acquired vide notifications

dated 11.02.2010 and 19.02.2010, issued under Sections 4 and 6, respectively of the 1894 Act, for the public purpose, namely, development and utilization of sector roads for Sectors 81-95 at Gurgaon. The Land Acquisition Collector, Gurgaon, vide its award dated 14.06.2010, assessed the market value @ Rs.45 lacs per acre.

2.1 Feeling aggrieved, some of the landowners preferred separate reference under Section 18 of the 1894 Act, which came to be disposed of by the Id. Reference Court vide award dated 21.03.2014, thereby determining the market value @ Rs.1,18,25,000/- per acre **along with solatium and other statutory benefits.**

2.2 The aforesaid determination was challenged before this Court, and vide decision dated 27.05.2016 passed in RFA-5316-2014, titled as ***“Pushpender Kumar and others v. State of Haryana and another”***, this Court assessed the market value @ Rs.2,55,89,760/- per acre, besides **awarding** other statutory benefits. The said determination was further modified by the Hon’ble Apex Court in Civil Appeal Nos.11913-11945 of 2017 vide judgment dated 05.09.2017, by imposing **a** cut of 15% towards development charges upon the **market value determined** by this Court.

2.3 In the meanwhile, the petitioner-landowner, on 22.08.2014, preferred **an application** under Section 28-A of the 1894 Act **seeking** re-determination of compensation qua her 13 kanal and 10 marlas of land situated within the revenue estate of village Wazirpur and forming part of the present acquisition. The said reference petition came to be dismissed by respondent No.2-Land Acquisition Collector, Urban Estates, Gurgaon, while recording that the application was barred by limitation been filed beyond

03 months from the date of award dated 21.03.2014, passed by the Reference Court under Section 18 of the 1894 Act.

3. Impugning the aforesaid order, learned Senior counsel representing the petitioner-landowner submits that though the reference petition under Section 28-A of the 1894 Act was preferred on the basis of the determination made by the Id. Reference Court on 21.03.2014, however, the said award being under challenge before this Court in Regular First Appeals, respondent No.2 ought to have awaited the outcome of the said appeals, especially, when the Land Acquisition Collector himself was a party-respondent therein. Learned Senior counsel further submits that the determination by this Court in pending Regular First Appeals even gave rise to a fresh cause of action in favour of the petitioner-landowner from the date of such determination. In support of his submissions, learned Senior counsel places reliance upon the decision made by the Hon'ble Apex Court in ***“Banwari and others v. Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and another, 1014 (1) RCR (Civil) 232***, relevant paras No.15 and 16 thereof are extracted hereunder:-

“15. In the present case, it is not in dispute that the First Appeal which was allowed by the High Court vide judgment and order dated 2nd May 2016 was in respect of the land which was covered by the same notification under which notification the appellants' land is also covered. It is also not in dispute that the amount awarded by the High Court in the said First Appeal is in excess of the amount awarded by the Collector under Section 11 of the 1894 Act in the case of the land of the appellants. It is also not in dispute that the appellants had not made an application to the Collector under Section 18 of the 1894 Act. It is also not in dispute that the application made by the appellants under Section 28-A of the 1894 Act to the Collector was within a period of three months

from the date of the judgment and order of the High Court.

16. *From the perusal of the judgment of this Court in the case of Pradeep Kumari (supra), it is clear that the limitation for moving the application under Section 28-A of the 1894 Act will begin to run only from the date of the award on the basis of which redetermination of the compensation is sought. The appellants are seeking redetermination of the compensation on the basis of the judgment and order of the High Court in First Appeal No. 429 of 2023 dated 2nd May 2016. It is not disputed that the application of the appellants under Section 28-A of the 1894 Act is within a period of three months from 2nd May 2016.”*

3.1 Learned Senior counsel also points out that the decision made by the Hon’ble Apex Court in ***Banwari’s*** case (supra) has also been relied upon by a Division Bench of this Court in case of ***“Union of India and another v. The Special Land Acquisition Collector-cum-Sub-Divisional Magistrate, Pathankot and others, 2025(3) RCR (Civil) 786.***

3.2 In view of the aforesaid **submissions**, learned Senior counsel submits that the impugned order needs to be set aside, and the petitioner-landowner be held entitled for award of compensation in terms of **the** determination made by the Hon’ble Apex Court vide its decision dated 05.09.2017.

4. On the other hand, learned counsel appearing on behalf of respondent No.3 submits that the present petition preferred under Article 227 of the Constitution of India is not maintainable, in view of the specific remedy available **to** the landowners in terms of Section 28-A(3) of the 1894 Act.

4.1 Learned counsel also points out that the reference petition filed under Section 28-A of the 1894 Act, at the instance of petitioner-landowner

was clearly barred by limitation, as the same was preferred on 22.08.2014, based on an award passed by the Id. Reference Court on 21.03.2014 and the same was thus beyond three months. He emphasizes that once the reference petition under Section 28-A of the 1894 Act was preferred on the basis of **the** Reference Court award dated 21.03.2014, which was barred by limitation, no reliance could be placed upon by the petitioner-landowner on any subsequent determination made either by this Court or even by the Hon'ble Apex Court, even pertaining to the same acquisition proceedings. He also contends that in view of the law laid down by the Hon'ble Apex Court in case of ***"Popat Bahiru Govardhane etc. v. Special Land Acquisition Officer and another, AIR 2014 SC (Supp)751***, no power vests either with this Court or even with the Land Acquisition Collector to condone the period of limitation.

In view of the above, learned counsel for respondent No.3 submits that the reference petition preferred under Section 28-A of the 1894 Act, at the instance of petitioner-landowner, being clearly barred by limitation, no interference was called for **with** the impugned order.

5. I have heard learned counsel for the parties and gone through the paper book.

6. To start with, it is **pertinent to note** that in terms of the latest proposition of law **laid down** by the Hon'ble Apex Court in ***Banwari's*** case (supra), the landowners are entitled to seek re-determination **of compensation under** Section 28-A of the 1894 Act even on the basis of **the** decisions **rendered** in Regular First Appeals. **Accordingly, keeping in view the aforesaid legal position, the present *lis* is required to be adjudicated upon.**

7. In the present case, the determination under Section 18 of the 1894 Act was made by the Id. Reference Court on 21.03.2014. Admittedly, based thereupon, the petitioner-landowner preferred a reference petition under Section 28-A of the 1894 Act on 22.08.2014, which came to be dismissed by respondent No.2-Land Acquisition Collector, vide its decision dated 30.01.2017, holding the same to be barred by limitation. It is, however, undisputed that by the time the Land Acquisition Collector, Gurgaon, rendered the aforesaid decision, the Regular First Appeals preferred by other landowners against the award of the learned Reference Court had already been adjudicated upon by this Court vide judgment dated 27.05.2016 passed in RFA No. 5316 of 2014, whereby, the market value was assessed @ Rs.2,55,89,760/- per acre, besides awarding other statutory benefits.

7.1 As a matter of fact, it can not be disputed or denied that the Land Acquisition Collector, Urban Estates, Gurugram/Gurgaon, was also a party to the Regular First Appeals preferred before this Court at the instance of the landowners, which resulted into the determination dated 27.05.2016. In such view of the matter, the Land Acquisition Collector, Gurugram, rather than, rejecting the reference petition preferred under Section 28-A of the 1894 Act, should have adjudicated upon the same, based on the final determination made by this Court in the Regular First Appeals, especially, in the wake of decision made by the Hon'ble Apex Court in case of **"Bharat Singh vs State of Maharashtra 2018 (11) SCC 92**. Relevant paragraphs 15-17 are extracted hereunder:-

"15. In the case of the appellants, when their Section 28A application was decided, based on awards in LAR Nos. 123 and

129 of 1983, the very same awards were pending in appeal before the High Court. However, the Collector proceeded to consider their application and decided the same on 25.10.2000. Thereafter, fresh application under Section 28A was filed on 27.05.2009 based on the judgment of the High Court dated 23.03.2009. It was this application that was held to be not maintainable, being a second application.

16. Though there is no quarrel with the principle that only a single application is maintainable, in the instant case, unfortunately, the High Court omitted to take note of the fact that the appeals on the relied on awards were pending when the Section 28A application was decided. That is the special and distinctive factual position in the instant case. It must also be kept in mind that Section 28A is a beneficial provision.

17. The Section 28A application dated 31.12.1992 based on the awards in LAR Nos. 123 and 129 of 1983 was decided on 25.10.2000 when the appeals therefrom were pending. The Collector ought to have kept the application pending till the appeals were decided on 23.03.2009. On principle, the **High Court is correct and justified in the view taken** in the impugned judgment that there cannot be successive applications under Section 28A in view of *Pradeep Kumari (supra)*. But that is not the point arising for consideration here. No doubt, the second application dated 27.05.2009 for re-fixation in light of the appellate court judgment is not maintainable. However, since the Collector is also at fault in deciding the application when the matter was pending in appeal, **we are of the view that** in the peculiar facts of the instant case, the application dated 31.12.1992 should be considered afresh. Accordingly, the appeal is disposed of as follows. The Land Acquisition Collector is directed to consider afresh the Section 28A application dated 31.12.1992 and pass orders in the light of the judgment of the High Court dated 23.03.2009 in First Appeal Nos.569 and 570 of 1997 on the file of the High Court of Bombay, Bench at Aurangabad. For enabling

the Collector to pass orders as above, the order dated 25.10.2000 is set aside. However, the amounts already paid are to be duly adjusted.

8. Moreover, the Land Acquisition Collector, Gurugram, failed to appreciate the very object and purpose of the provision contained in Section 28-A of the 1894 Act, which was enacted as a beneficial safeguard in favour of those landowners who had failed to file objections against the award or determination made by the Land Acquisition Collector.

8.1. Be that as it may, considering the fact that the landowners under the provisions of 1894 Act are subjected to compulsory acquisition at the hands of State authorities, thus, the statutory provisions of the 1894 Act are required to be interpreted and applied in a pragmatic and liberal manner leaving aside the technical aspects, keeping in view the purpose and intent of the Legislature. As such, in view of the aforesaid facts, once the Regular First Appeals preferred at the instance of other landowners were decided by this Court during the pendency of the reference petition filed under Section 28-A of the 1894 Act by the petitioner-landowner, rather than, rejecting the same being barred by limitation, the Land Acquisition Collector, Gurugram was required to dispose of the petition by relying upon the determination made by this Court vide its decision dated 27.05.2016, especially, when respondent No.2 himself was a party-respondent in the Regular First Appeals and was fully conscious of both the pendency as well as the determination made in the Regular First Appeals preferred at the instance of other similarly situated landowners. Thus, there was no need for the petitioner-landowner to have apprised the Land Acquisition Collector, Gurugram about the determination dated 27.05.2016. The reliance placed

upon by the petitioner-landowner in her reference petition preferred under Section 28-A of the 1894 Act upon the award dated 21.03.2014, for all intents and purposes in terms of the law laid down by the Hon'ble Apex Court in **Bharat Singh's** case (supra) needs to be applied as towards the final determination of compensation qua the particular acquisition proceedings while relying upon the doctrine of merger.

9. Further, in the humble opinion of this Court, no merit can be found in the submissions made on behalf of the respondents as regards the non-maintainability of the present petition in the wake of alternate remedy available with the petitioner in terms of Section 28-A(3) of the 1894 Act. Once, the petition under Section 28-A of the 1894 Act, preferred at the instance of petitioner-landowner was adjudicated upon by respondent No.2-Land Acquisition Collector, being in violation of the statutory intent and purposes of Section 28-A of the 1894 Act, **and without adherence to** the principles of natural justice, the present petition was not to be declined merely on account of **availability** of an alternate remedy as provided under Section 28-A (3) of the 1894 Act, especially while dealing with it under supervisory powers vested with this Court in terms of Article 227 of the Constitution of India.

10. In view of the discussion made herein above, the present revision petition is allowed and the impugned order dated 30.01.2017 passed by the Land Acquisition Collector, Urban Estates, Gurgaon, is hereby set aside. The petitioner-landowner is held entitled for award of compensation in terms of decision passed by the Hon'ble Apex Court in Civil Appeal No.11913-11945 of 2017 vide judgment dated 05.09.2017. The due amount be released in favour of petitioner within two months from today or else

respondent No.2 shall be liable to pay cost of Rs.1 lakh to the petitioner for causing delay. The cost shall be borne by respondent No.2 from his/her own pocket.

11. Pending application, if any, stands disposed of.

27.10.2025

sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No