IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No. 68 of 2024

Deputy Commissioner, Ramgarh, P.O.+ P.S. Ramgarh, District Ramgarh. …. ... **Appellant**

Versus

1. Janki Mahto, son of Late Kapi Mahto;
2. Shankar Mahto, son of Late Kapi Mahto;
3. Jitu Mahto, son of Late Kapi Mahto;
4. Naresh Mahto, son of Late Hiru Mahto;
5. Harbhajan Mahto, son of Late Rama Mahto;
6. Shailendra Kumar, son of Late Ganesh Mahto;
7. Dashrath Mahto, son of Late Ganesh Mahto;
8. Dinesh Mahto, son of Late Ganesh Mahto;
9. Lakho Devi, wife of Late Rogan Mahto;

All resident of Village Heramdaga, P.O. + P.S. Gola, Thana No.22, District Hazaribagh, now Ramgarh. …. ... **Respondents**

CORAM: HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant : Mr. Manoj Kumar, GA-III
For the Respondents : Mr. Jitesh Kumar, Advocate

Reserved on: 09/10/2026 **Pronounced on: 30/10/2026**

1. Heard Mr. Manoj Kumar, learned GA-III, appearing on behalf of the appellant-State and Mr. Jitesh Kumar, learned counsel appearing on behalf of the respondents.

2. This First Appeal has been filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred as "the Act, 1894) by the appellant-Deputy Commissioner, Ramgarh against the judgment and award dated 23.12.2022 (Award No.03 signed on 12.01.2023) passed by the learned Civil Judge (Sr. Div)-II-cum-Special Judge, Land Acquisition, Ramgarh to whom a reference was made by the Collector-cum-Special Land Acquisition Officer, Tenughat Project,

Hazaribagh in connection with L.A. Case No.06 of 2001-02 registered as L.R. Case No.142 of 2017.

3. Certain facts of the case, which is in dispute is that the land measuring an area 0.20 acres appertaining to Village Heramdaga, P.S. Gola, District Ramgarh was acquired by the State for construction of Bhairwa Waterfall Project under the Act, 1894 in L.A. Case No.06 of 2001-02.

4. The District Collector had prepared an award and awarded compensation of Rs.8526.89/- for the acquired land, which compensation was received by the landowners. However, some of the landowners, being aggrieved by the quantum of compensation, filed an application for reference under Section 18 of the Act, 1894 before the Special Land Acquisition Officer, Hazaribagh, seeking higher compensation. By a common judgment dated 11.07.2008 passed by the leaned Special Judge, Land Acquisition, Hazaribagh in L.R. Case No.244/2007 to 250/2007, enhanced the compensation to Rs.8923/- per decimal, which was never challenged by the State and the same attained finality.

5. Relying upon the said judgment, the present respondents, who were the applicants before the learned Trial Court also filed an application for enhancement of their compensation amount in terms of Section 28-A of the Act, 1894 for enhancement of compensation amount in terms of the award passed by the Special Court, Land Acquisition, Hazaribagh. At para-3 of the said application, the present

respondents had stated to have filed an application under Section 28-A of the Act, 1894 on 09.08.2008 before the Special Land Acquisition Officer, Hazaribagh within three months from the date of passing of the award, which was taken on record but the application was subsequently lost and no proceedings based on the said application continued. For the sake of convenience, para-3 is quoted hereinbelow:

> *"That the applicants L.A. Act 1894 U/s-28A filed on dated 09/08/2008 Spl. Land Acquisition officer H.Bagh within under three months Accepted by D.L.A.O. Anil Kumar Pandey. But the head Clerk Nawal Kishor Singh is a very clever man. The Applicants application is lost by Nawal Kishor Singh (Bada Babu)."*

6. The Deputy Commissioner, Ramgarh, who was the opposite party therein appeared and filed show cause stating that the compensation amount was not fit to be enhanced, and it has been stated that the award prepared by the Land Acquisition Officer was in accordance with law and did not warrant any interference.

7. The Special Land Acquisition Officer, instead of deciding the matter in terms of Section 28-A of the Act, 1894 sent the matter to the Special Land Acquisition Court, Hazaribagh for determination in terms of Section 18 of the Act, 1894 and, consequently, the impugned award was passed by the learned Special Court, Land Acquisition, Hazaribagh.

8. Mr. Manoj Kumar, learned GA-III appearing on behalf of the appellant-State has submitted that only point for determination

before this Court was whether the reference could have been made under Section 18 of the Act, 1894 or not when the application was filed under Section 28-A of the Act, 1894 and whether the proceedings under Section 28-A of the Act, 1894 was barred by limitation?

9. Section 28-A of the Act, 1894 clearly stipulates that the limitation for filing an application under Section 28-A is three months while the present application has been filed after several years of passing of the award by the Court of competent jurisdiction i.e. the Special Court, Land Acquisition, Hazaribagh. This alone is the sole point for determination before this Court, which requires adjudication. In course of argument, learned counsel for the appellant-State, in all fairness, has been conceded that other awards were also passed arising out of same L.A. Case No. 06 of 2001-02 in L.R. Case No. 144 of 2017 (Award No.08 signed on 12.01.2023), against which, the present appellant had preferred an appeal registered as F.A. No.70 of 2024 where the only point for determination was the question of limitation and a Co-ordinate Bench of this Court has already decided this matter observing that the application was not barred by limitation and further observed that even otherwise since the matter was not decided under Section 28-A of the Act, 1894, this plea was not available to the appellant at this stage. Since this question has already decided, nothing remains for adjudication.

10. Mr. Jitesh Kumar, learned counsel appearing on behalf of the respondents has submitted that the enhancement of compensation was made in a reference under Section 18 of the Act, 1894 based on which the application under Section 28-A of the Act, 1894 was filed which ought to have been decided by the Special Land Acquisition Officer itself, who referred the matter to the Civil Court for adjudication under Section 18 of the Act, 1894 where also the award has been passed, hence no interference is required. Enhancement of compensation has attained finality as the same has not been challenged and even the applicants, who originally had filed the application under Section 18 of the Act, 1894, have received the compensation amount. Therefore, prayer is made to dismiss the appeal.

FINDINGS

11. Having heard the learned counsel for the parties and perused the materials available on record. ***The only point for determination is whether the application filed under Section 28-A of the Act, 1894 was barred by limitation or not?***

12. Section 28-A of the Act, 1894 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 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 sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.

13. It is not in dispute that the limitation of three months is prescribed for filing of an application under Section 28-A of the Act, 1894 after passing of the award in terms of Section 18 of the Act, 1894 made by similarly situated landowners arising out of the same Land Acquisition case. The present respondents in their application under Section 28-A of the Act, 1894 at para 3 as quoted above had categorically stated to have filed the application under Section 28-A of the Act, 1894 within the stipulated period of three months. It is also alleged that the said application was lost by the office of the Special Land Acquisition Officer. In the show cause given by the State, there is no reply to these allegations made in para 3 of the application under Section 28-A of the Act, 1894. The law in terms of

Order VIII Rule 3, 4 and 5 of the Code of Civil Procedure is settled that facts should be specifically denied, vague denial is no denial at all, and ***facts not denied shall be deemed to have been admitted***. In the facts of the present case, filing no response to the allegations made by the present respondent at para 3 of their application that they had originally filed the application under Section 28-A of the Act, 1894 within the stipulated period of three months, which was not denied by the State, shall be deemed to have been admitted by the State and getting such application misplaced or not taking any action on such application is an inaction by the State, for which, the State cannot be given any advantage. ***Thus, plea of bar of limitation was not available to the appellant-State to be taken in the present appeal.***

14. Apart from that, as already stated that a Co-ordinate Bench of this Court in F.A. No.70 of 2024 vide order dated 17.07.2025 has dealt at length these aspects of the matter. Paragraph No.19 of the said judgment reads as under:

> *"19. In view of the aforesaid facts and circumstances and taking into consideration the very purpose of Section 28-A of the Land Acquisition Act, 1894 as decided by the Hon'ble Supreme Court in the case of* ***Pradeep Kumari (supra)*** *and also reiterated in the judgment reported in* ***2024 SCC Online 3685*** *this court is of the considered view that the claim of the respondents cannot be said to be barred by limitation when the Special Land Acquisition Officer, Tenughat at Hazaribagh had not rejected the petition under Section 28-A. This Court is of the considered view that the Special Land Acquisition Officer, Tenughat at Hazaribagh at the first instance ought to have decided the claim made under the said Section 28-A (2) of the Act and after such determination if the party is aggrieved, the*

application was to be filed before the Collector for referring the matter to the court under Section 28-A (3) of the Act. The competent statutory authority having neither rejected the claim under Section 28- A on any ground, much less, on the ground of limitation nor allowed the claim and straightaway referred the matter to the court and the court took up the matter as a reference under section 18 and decided the case on merits by referring to evidences produced on record. Therefore, there was no occasion for the learned court to hold that the claim of the respondents made under Section 28-A was barred by limitation when the authority competent to deal with the petition under Section 28-A did not reject the same on the ground of limitation or on any other ground."

15. In view of the preceding discussions and observations made above, ***this Court decides the point for determination formulated above in favour of the respondents and against the appellant holding that the plea of limitation is not maintainable and cannot be taken by the appellant-State***.

16. It is pertinent to mention here that vide order dated 03.08.2026, a Co-ordinate Bench of this Court has recorded that the respondent Nos.4 and 11 had died, which was revealed as per order dated 13.06.2025. Name of the legal heirs/ successors of respondent Nos.4 and 11 was also provided as it is apparent from the order dated 10.10.2025 but no steps for substitution of the legal heirs of respondent Nos.4 and 11 was taken and, as such, the appeal stood abated against the non-substituted legal heirs/representatives of respondent Nos.4 and 11.

17. This Court is of the considered view that out of a common award, if as against some of the respondents the appeal stands abated, and the award is not severable, then consequently the entire appeal shall be

considered to have abated. Partial compliance of an award and partial modification of the same award *qua* the co-claimants will not be permissible and this Court is of the considered view that the award was a non-severable award as a consequence of which the appeal in its entirety shall be considered to have abated.

18. In course of arguments, no other contention has been raised by the appellant-State. However, it is equally significant to mention here that no other contention was available to the appellant as the enhancement of compensation in the Original Reference Case under Section 18 of the Act, 1894, based on which, the application under Section 28-A of the Act, 1894 was filed, which was never put to challenge and had attained finality.

19. Under such circumstances, the instant First Appeal is meritless and the same is, accordingly, dismissed.

20. Pending Interlocutory Application, if any, do not survive and stands disposed of.

(Manoj Prasad, J.)

October 30th, 2026
N.A.F.R.
Madhav/-
Uploaded on: 30/10/2026