



173

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

**RFA No. 1736 of 2023 (O&M)
Date of Decision: 28.01.2026**

Moti Lal (now deceased) through LRs

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Chanderhas Yadav, Advocate,
for the appellants.

Mr. Abhinash Jain, DAG, Haryana
for the respondent(s).

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the award dated 13.07.2023 passed by the learned Additional District Judge, Jhajjar (hereinafter to be referred as "Reference Court") whereby, the reference petition under Section 28 (3) of the Land Acquisition Act, 1894 (**for short, "1894 Act"**), at the instance of appellants-landowners, stood rejected against the order dated 05.09.2017 passed by the Land Acquisition Collector, Urban Estates, Rohtak (**for short "LAC"**) vide which application under Section 28-A of the 1894 Act has been dismissed 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 Jhajjar, District Jhajjar, came to be acquired vide notifications dated 14.08.2003 and 10.08.2004,

issued under Sections 4 and 6, respectively of the 1894 Act, for the public purpose, namely, development and utilization of land as residential and commercial Sector-9, Jhajjar. The LAC Rohtak, vide its award dated 27.07.2006, assessed the market value @ Rs.12.50 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 learned Reference Court vide award dated 23.02.2015, thereby determining the market value @ Rs.14,89,052/- per acre alongwith solatium and other statutory benefits.

[2.2] The aforesaid determination was challenged before this Court, and vide decision dated 27.11.2015 passed in RFA-3192-2015, titled as ***“Ramkala vs. State of Haryana and others”***, this Court upheld the market value @ Rs.14,89,052/- per acre, besides even upholding the award of other statutory benefits. The said determination was further upheld by the Hon’ble Apex Court in SLP (C) Nos. 023826-023841 Appeal Nos.11913-11945 of 2016 vide judgment dated 07.07.2017.

[2.3] In the meanwhile, the appellant(s)-landowner, on 01.04.2016, preferred an application under Section 28-A of the 1894 Act seeking re-determination of compensation qua their 36 kanal and 08 marlas of land situated within the revenue estate of village Jhajjar which formed part of the present acquisition. The said application came to be dismissed by respondent No.2-Land Acquisition Collector, Urban Estates, Rohtak, while recording that

the same was barred by limitation having been filed beyond 03 months from the date of award dated 23.02.2015, passed by the Reference Court under Section 18 of the 1894 Act; against which reference under Section 28-A (3) also was declined vide impugned judgment passed by the learned Reference Court.

[3] Impugning the aforesaid judgment, learned counsel representing the appellant(s)-landowner(s) submits that though the application under Section 28-A of the 1894 Act was preferred on the basis of the determination made by the learned Reference Court vide decision dated 23.02.2015, however, the said award being under challenge before the Hon'ble Apex Court, respondent No.2 ought to have awaited the outcome of the said appeal, especially, when the LAC himself was a party-respondent therein. Learned 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 appellant(s)-landowner(s) from the date of such determination. In support of his submissions, learned counsel places reliance upon the decision made by the Hon'ble Apex Court in ***“Banwari and others vs. 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 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 vs. 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 counsel submits that the impugned order needs to be set aside, and the appellants-landowners be held entitled for award of compensation in terms of the determination made by the Hon’ble Apex Court vide its decision dated 07.07.2017.

[4] On the other hand, learned counsel appearing on behalf of respondent No.3 submits that the present appeal is not maintainable, as there is no provision for condonation of delay under Section 28-A of the 1894 Act.

[4.1] Learned counsel also points out that the application filed under Section 28-A of the 1894 Act, at the instance of appellant(s)-landowner(s) was clearly barred by limitation, as the same was preferred on 01.04.2016, based on an award passed by the learned Reference Court on 23.02.2015 and the same was thus beyond three months. He emphasizes that once the application under Section 28-A of the 1894 Act was preferred on the basis of the Reference Court award dated 23.02.2015, which was barred by limitation, no reliance could be placed upon by the appellant(s)-landowner(s) 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. vs. Special Land Acquisition Officer and another, AIR 2014 SC (Supp) 751**, no power vests either with this Court or even with the LAC to condone the period of limitation.

In view of the above, learned counsel for the respondent(s) submits that the reference petition preferred under Section 28-A of the 1894 Act, at the instance of appellant(s)-landowner(s), being clearly barred by limitation, no interference was called for with the impugned order and the present appeal was therefore liable to be dismissed.

[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 exposition of law 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 learned Reference Court on 23.02.2015. Admittedly, based thereupon, the appellant(s)-landowner(s) preferred an application under Section 28-A of the 1894 Act on 01.04.2016, which came to be dismissed by respondent No.2-LAC, on 05.09.2017, holding it to be barred by limitation. It is, however, undisputed that by the time the LAC, Rohtak, rendered the aforesaid decision, the Regular First Appeals preferred by other landowners against the award of the learned Reference Court stood decided by this Court vide judgment dated 27.11.2015 passed in RFA No. 3192 of 2015 (supra) and also by the Hon'ble Apex Court in SLP Nos. 23826-23841, decided on 07.07.2017, whereby, the market value was assessed @ Rs.14,89,052/- per acre, besides award of other statutory benefits.

[7.1] As a matter of fact, it cannot be disputed or denied that the LAC, Rohtak, was also a party in the Regular First Appeals preferred before this Court at the instance of the landowners, which

resulted into the determination dated 27.11.2015. In such view of the matter, the LAC, Rohtak, 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 or that by the Hon'ble Apex Court in SLPs (supra), 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, Rohtak, 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 for those landowners who had failed to file objections against the award—determination made by the LAC.

[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 there-under are required to be interpreted and applied in a pragmatic and liberal manner leaving aside the technicalities, especially 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 and the SLPs by the

Hon'ble Apex Court during the pendency of the application under Section 28-A of the 1894 Act, filed by the appellant(s)-landowner(s), rather than, rejecting the same being barred by limitation, the LAC, Rohtak was required to dispose off the same by relying upon the determination made by this Court vide its decision dated 27.11.2015 and also the decision dated 07.07.2017 by the Hon'ble Apex Court. It was essential, especially when respondent No.2 himself was a party-respondent in the Regular First Appeals & the SLPs and was fully conscious about the pendency as well as the determination made in the Regular First Appeals and the SLPs preferred at the instance of other similarly situated landowners. Thus, there was no need for the appellant(s)-landowner(s) to have apprised the Land Acquisition Collector, Rohtak about the determination dated 27.11.2015 & 07.07.2017. The reliance placed upon by the appellant(s)-landowner(s) in their application preferred under Section 28-A of the 1894 Act upon the award dated 23.02.2015, 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 understood and applied by taking into account the final determination of compensation qua the particular acquisition proceedings while relying upon the doctrine of merger.

[9] In view of the discussion made herein above, the present appeal is **allowed** and the impugned judgment dated 13.07.2023 passed by the learned Additional District Judge, Jhajjar is hereby set aside. The appellant(s)-landowner(s) are held entitled for award of compensation in terms of decision passed by the

Hon’ble Apex Court in SLP Nos. 023826-023841 of 2016 (Regd. on 21.04.2016) vide judgment dated 07.07.2017 alongwith all other statutory benefits and interest provided under the Act, including the interest on solatium as well. The due amount be released in favour of appellant(s) within two months from today.

[10] Pending miscellaneous application(s), if any, shall stand(s) disposed off.

January 28, 2026

‘dk kamra’

**(HARKESH MANUJA)
JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No