

2026:PHHC:063650



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CWP-72-2020 (O&M)
Decided on:-23.04.2026**

Hukam Chand (since deceased) and others

....Petitioners.

vs.

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Harkaran Singh, Advocate for the petitioners.

Ms. Komal Sharma, DAG, Haryana.

Mr. P.S. Saini, Advocate with

Ms. Surbhi Rana, Advocate for respondent No.3-HSIIDC.

HARKESH MANUJA J. (Oral)

1. By way of present writ petition, prayer has been made for setting aside of order dated 10.09.2013 passed by the Land Acquisition Collector, Jhajjar.

2. In the present case, some land owned by the petitioners forming part of the revenue estate of village Mehndipur, District Jhajjar was acquired vide notifications of even date i.e. 17.11.2004 issued under Sections 4 & 6, respectively of the Land Acquisition Act, 1894 (for short, "1894 Act"), for the public purpose namely, "*Kundli Manesar Express way*". The award under Section 11 was passed by the LAC-cum-DRO-, Jhajjar on 21.02.2006. Being aggrieved, some of the landowners filed objections under Section 18 of the 1894 Act, which were disposed of by the learned Reference Court vide decision dated 28.02.2013. Based thereupon, the petitioners preferred application under Section 28-A of the 1894 Act, which was disposed of by

the LAC-cum-DRO, Jhajjar vide decision date 10.09.2013 while granting similar amount of compensation to the petitioners as awarded to the other landowners by the Reference Court.

3. By way of present writ petition, the order dated 10.09.2013 has been impugned primarily for the reasons that since the award dated 28.02.2013 passed by the learned Reference Court was under challenge before this Court through various Regular First Appeals preferred at the instance of both the landowners as well as HSIIDC, as such, in view of the law laid down by the Hon'ble Apex Court in ***"Bharatsing S/o Gulabsingh Jakhad & Ors. v. State of Maharashtra & Ors., reported as "2018(11) SCC 92*** the LAC-cum-DRO, Jhajjar was required to await for the final determination of the market value before adjudicating upon the application preferred under Section 28-A of the 1894 Act by the petitioners herein.

4. Per contra, learned counsel appearing on behalf of the respondents submits that the present writ petition was not maintainable as the petitioners were having the statutory remedies available under Section 28-A(3) of the 1894 Act against the determination made by the LAC pursuant to their application preferred under Section 28-A of the 1894 Act. He also submits that the writ petition preferred at the instance of petitioners was highly belated and thus, was liable to be dismissed on account of delay and laches.

4.1 Learned counsel further contends that the petitioners-landowners were duty bound to apply before the LAC to defer the proceedings in their application filed under Section 28-A of the 1894 Act, however, no such effort was ever made by them and thus, at this stage they were estopped from raising any such plea as prayed for in the present writ petition. He also submits that since the petitioners were even represented by

a counsel before the LAC, the factum of pendency of Regular First Appeals was required to be brought to the notice of the LAC-cum-DRO, Jhajjar at the time of adjudication of their application under Section 28-A of the 1894 Act and as such, the writ petition was liable to be dismissed. No other argument has been addressed.

5. I have heard learned counsel for the parties and gone through the records. I am unable to find substance in the submissions made on behalf of the respondents.

6. Before proceedings further, it may be noticed here that the Hon'ble Apex Court in ***Bharatsing's case (supra)*** has held as under:-

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

6.1 In view of the aforesaid exposition of law by the Hon'ble Apex Court, the LAC-cum-DRO, Jhajjar was required to put the adjudication upon the application preferred by the petitioners in terms of Section 28-A of the 1894 Act on hold till the final adjudication of the Regular First Appeals preferred by the other landowners forming part of the same acquisition proceedings. Furthermore, in the humble opinion of this Court, there is no merit in the contention raised on behalf of the respondents that since the petitioners were being represented through an Advocate before the LAC-cum-DRO-Jhajjar, they were supposed to inform the LAC about the pendency of Regular First Appeals. In the given facts and circumstances, it is not in dispute that the LAC-cum-DRO-, Jhajjar itself was respondent in the appeals preferred at the instance of other landowners and thus, there was no question of making him aware of the factum of pendency of the Regular First Appeals as he was aware of the same.

6.2. Furthermore, in the given facts and circumstances since the petitioners were already granted the benefit of similar amount of compensation by the LAC as assessed in favour of the other similarly placed landowners pertaining to the same very acquisition in terms of award dated 10.09.2013 passed by the learned Reference Court and the Regular First Appeals assailing the said determination were still pending adjudication, there was no question of availing of remedy under Section 28-A(3) of the 1894 Act by the petitioners-landowners till any final determination by this Court. Pertinently, the determination by the LAC upon the application preferred under Section 28-A of the 1894 Act by the petitioners were made on 10.09.2013 whereas the pending Regular First Appeals were decided by this Court only on 05.10.2021 and thus, in view of the latest exposition of law laid down in "***Banwari and others vs. Haryana State Industrial and***

Infrastructure Development Corporation Limited (HSI IDC) and another, reported as ***2025(1) RCR (Civil) 232***, and ***“Andanayya v. Deputy Chief Engineer”*** reported as ***2026(2) RCR (Civil) 502***, the petitioners-landowners were even entitled for filing of fresh application in terms of Section 28-A of the 1894 Act in terms of the adjudication made by this Court vide decision dated 05.10.2021 passed by this Court in ***RFA-5620-2013***, titled as ***“HSIDC vs. Rattan Singh and others”***. Relevant paras of ***Banwari’s case*** (supra) and ***Andanayya’s case*** (supra) are extracted hereunder:-

Banwari’s case

“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 28A 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 and Others (supra), it is clear that the limitation for moving the application under Section 28A 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 28A of the 1894 Act is within a period of three months from 2nd May 2016.”

Andanayya’s case

“25. From the analysis made hereinabove on the relevant provisions of the Act and the judgments relied upon by the parties, we are inclined to hold that even a second application made under Section 28-A of the Act after the award passed by the High Court is maintainable and entitled to be considered by the Collector/LAO. **We are of the view that**, entertaining an earlier application filed under Section 28-A of the Act on the basis of the award of the Reference Court followed by the receipt of money, shall not act as a bar for the same applicant to seek further re-determination of compensation on the basis of the award passed by the High Court or this Court.

26. It is the doctrine of merger that comes into application in such circumstances. The benefit of an enhanced compensation received by a landowner, consequent to the final award passed by the appellate forum, would also extend to similarly placed landowners who seek redetermination of compensation under Section 28-A of the Act. To put it differently, when 'A' obtains an award from the Reference

*Court, 'B' can also receive the benefit of the same by invoking Section 28-A of the Act. Similarly, when 'A' receives an enhancement from the High Court or this Court, 'B' is also entitled to receive the same enhancement, notwithstanding the earlier receipt of money under Section 28-A of the Act based upon the award of the Reference Court. The decision of this Court in **Pradeep Kumari (supra)** has to be understood and applied only in a context when multiple awards come to be passed by the Reference Court itself and not in the present context when a subsequent award is passed by the High Court or by this Court. Ultimately, the object of Section 28-A of the Act is to maintain parity and equality between the similarly placed landowners in the payment of compensation. The question of estoppel, waiver or acquiescence would thus not arise, in view of the statutory prescriptions under Section 28-A of the Act."*

In the aforementioned facts and circumstances, the writ petition preferred at the instance of petitioners-landowners cannot be rejected on the ground of delay and laches.

7. Accordingly, at this belated stage rather than asking the petitioners-landowners to again approach the LAC-cum-DRO-, Jhajjar so as to move any fresh application under Section 28-A of the 1894 Act in terms of decision dated 05.10.2021 passed by this Court in **Rattan Singh's case** (supra) whereby, the market value assessed by the learned Reference Court was further enhanced to Rs.14,14,765/- per acre; in the humble opinion of this Court, it would be reasonable and justified to award similar benefit of market value @ Rs.14,14,765/- per acre in favour of the petitioners-landowners as the same would even help the respondents to avoid unnecessary liability towards the statutory interest. In such circumstances, the writ petition is allowed and the petitioners are awarded similar benefit of enhanced market value with all other statutory benefits as has been awarded in favour of the other landowners.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

23.04.2026
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: Yes