



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Writ Petition No. 29791 of 2025 (O&M)
Date of Decision: 14.01.2026

Prem Kumar and others
..... Petitioners
Versus
State of Punjab and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sunny K. Singla, Advocate
for the petitioners-landowners.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab
for respondent Nos. 1 to 3.

Mr. P.S. Brar, Advocate
for respondent No. 4-Punjab Mandi Board.

HARKESH MANUJA, J. (ORAL)

The petitioners, by way of present petition, seek quashing of an order dated 02.09.2025 (Annexure P-5) passed by respondent No. 2-Land Acquisition Collector, Mohali (**for short “LAC”**), whereby their application under Section 28-A of the Land Acquisition Act, 1894 (**for short “the Act”**) stands rejected being barred by limitation.

[2] Briefly stating, some land owned by the petitioners-landowners as well as *pro forma* respondents forming part of the revenue estate of Village Malakpur (Jandali Khurd), Sub Tehsil Ahmedgarh, Tehsil Malerkotla, District Sangrur, came to be acquired vide notifications dated 29.03.2011 & 27.09.2011 issued under Sections 4 & 6 of the Act respectively for the public purpose of New Grain Market, Ahmedgarh, Malerkotla. An Award under Section 11 of the Act was announced by the LAC on 05.03.2013 and the compensation was determined at the rate of

Rs.35 lakhs per acre besides grant of other statutory benefits. Aggrieved thereof, some of the other landowners preferred reference under Section 18 of the Act, which came to be decided on 11.03.2019 (Annexure P-1) by the learned Reference Court while determining the market value of the acquired land at the rate of Rs. 42,50,000/- per acre.

[3] Based on the aforesaid award, the petitioners preferred an application under Section 28-A of the Act before respondent No. 2-LAC on 01.11.2019 (Annexure P-2), which came to be dismissed being barred by limitation vide order dated 02.09.2025 (Annexure P-5). Hence, the present writ petition.

[4] At the outset, learned counsel for the petitioners submits that service upon respondent Nos. 5 to 7 is not necessary being *pro forma* respondents; accordingly, their service is ordered to be dispensed with.

[5] Upon notice, separate replies dated 07.01.2026 and 12.01.2026 have been filed on behalf of respondent(s)-State and Punjab Mandi Board, SAS Nagar (Mohali), respectively, with the prayer for dismissal of the present writ petition. The same are taken on record. Copies thereof have been supplied to the opposite side. Registry to do the needful.

[6] I have heard learned counsel for the parties and gone through the paper-book.

[7] A perusal of the record shows that, based on the Award dated 11.03.2019 passed by the learned Reference Court, the petitioners-landowners preferred an application under Section 28-A of the Act on 01.11.2019 before respondent No. 2-LAC, which was apparently filed beyond a period of three months from the date of award passed by the learned Reference Court. The paper-book further reveals that during the

pendency of application under Section 28-A of the Act before the LAC, another award with respect to re-determination of market value qua the same acquisition was passed by the learned Reference Court on 04.11.2024 (Annexure P-8) on a petition preferred at the instance of some other landowners, however, the same was not taken into account. Moreover, it has also come on record that aggrieved of the determination dated 11.03.2019 by the learned Reference Court, the other landowners approached this Court by preferring Regular First Appeals for further enhancement, and the same are still pending for adjudication. One of such appeals, as pointed out by the learned counsel for petitioners, is RFA-2314-2019.

[8] It may be noticed here that, in terms of law laid down by the Hon'ble Apex Court in **Banwari and others vs. Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and another** reported as "**2025(1) RCR (Civil) 232**", the petitioners-landowners have the right to invoke Section 28-A of the Act even in pursuance of the final determination made by this Court in the pending Regular First Appeals, preferred at the instance of petitioners-landowners pertaining to the same acquisition. Relevant paragraph Nos.15 & 16 of the aforementioned judgment 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.”

Further, the decision made in the case of **Banwari and others** (supra) has also been followed by the 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.**

[9] Moreover, in terms of **Bharatsing S/o Gulabsingh Jakhad & Ors. Vs. State of Maharashtra & Ors.,** reported as **“2018(11) SCC 92”**, once the Regular First Appeals preferred at the instance of the other landowners qua the determination of market value pertaining to the same acquisition proceedings were pending before this Court, it was more appropriate for respondent No.2 to wait for the final outcome of such appeals rather than adjudicating upon the application preferred under Section 28-A of the Act at the instance of the petitioners/landowners. Relevant paragraphs Nos.15 to 17 of the aforementioned judgment 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.”*

[10] As such, in view of the aforesaid facts and circumstances and the exposition of law by the Hon'ble Supreme Court in cases of **Bharatsing (supra)** as well as **Banwari and others (supra)**, once the petitioners-landowners was entitled to make application under Section 28-A of the Act on the basis of determination made by this Court in the pending Regular First Appeals, their pending claim qua re-determination of compensation was not to be declined while rejecting their application filed under Section 28-A of the Act being time barred, especially in view of the fact that the learned Reference Court in case of some different landowners pertaining to this very acquisition even passed fresh/separate award dated 04.11.2024, which was much after the filing of application dated 01.11.2019 under Section 28-A of the Act by the petitioners. At this stage, it may be relevant to take note of Section 28-A of the Act, which is re-produced hereunder:-

“ **Section 28-A. Re-determination of the amount of compensation on the basis of the award of the Court [Inserted by Act 68 of 1984, Section 19 (w.e.f. 24.9.1984).]**

(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 subsection (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 subsection (2) may, by written application to the Collector, required 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.*

Furthermore, the fact that the Regular First Appeals preferred at the instance of few other landowners are still pending adjudication.

[11] In such circumstances, the impugned order dated 02.09.2025 passed by respondent No. 2 is hereby set aside. Respondent No. 2 is directed to re-examine the application dated 01.11.2019 preferred by the petitioners-landowners seeking re-determination of compensation based on the final determination to be made by this Court in the pending Regular First Appeals arising out of this very acquisition within two months from the decision in said appeal(s). It is made clear that the application dated 01.11.2019 preferred under Section 28-A of the Act at the instance of petitioners-landowners as well as pro forma respondents shall not be declined being time barred. It is further made clear that in case the Regular First Appeals preferred at the instance of other landowners are dismissed, the petitioners-landowners shall be awarded the benefit of enhancement on the basis of award dated 04.11.2024 passed by the learned Reference Court alongwith all other statutory benefits and interest provided under the Act within two months of the adjudication by respondent No. 2.

[12] This Court is of the firm opinion that the petitioners-landowners, at this stage, are entitled for similar compensation at the rate of Rs. 42,50,000/- per acre on parity basis, as granted to the other landowners alongwith other statutory benefits provided under the Act as per award dated 04.11.2024 passed by the learned Reference Court. The said amount be disbursed to the petitioners within two months from the date of receipt of certified copy of this order subject to furnishing indemnity bonds to the LAC to the effect that in case the amounts are reduced in the Regular First Appeals pending before this Court, they shall refund the same.

[13] **Disposed off** accordingly.

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

January 14, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No