



198-2

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

Civil Writ Petition No. 31755 of 2025 O&M)  
Date of Decision: 04.05.2026

Partap Singh (since deceased) through LR  
Jaswinder Singh

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Rajbir Singh, Advocate  
for the petitioner.

Mr. Gunjan Mehta, Additional Advocate General, Punjab  
for respondent Nos. 1 & 2.

Mr. Ayush Sarna, Advocate  
for respondent No. 3-Punjab Small Industries & Export Corp. Ltd.

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**HARKESH MANUJA, J. (ORAL)**

**CM-2462-CWP-2026**

Application for placing on record some documents viz. (i)  
application for restoration of the case; (ii) special power of attorney; (iii)  
copy of passport of deceased-Partap Singh; and copy of PAN Card of  
applicant-Jaswinder Singh as Annexures P-15 to P-18 is **allowed**, subject  
to all just exceptions. The same are taken on record.

Registry to do the needful.

**MAIN CASE**

By way of present writ petition, prayer has been made for  
issuance of directions to respondent No. 2 to release the payment of  
enhanced compensation to the petitioner in terms of order dated

19.08.2025 (Annexure P-8) passed by respondent No. 2-The Collector, Land Acquisition, Department of Industries and Commerce, Punjab (**for brevity “LAC”**), whereby an application filed under Section 28-A of the Land Acquisition Act, 1894 (**for short “1894 Act”**) at the instance of petitioner was allowed.

[2] Briefly stating, land measuring 262 kanals 12 marlas situated in the revenue estate of Village Khakh, Tehsil Khadoor Sahib, District Amritsar (now District Tarn Taran) owned by the deceased-father of the petitioner, namely, Partap Singh son of Pal Singh was acquired by respondent No. 3-Punjab Small Industries & Export Corporation Limited for industrial purposes. An Award under Section 11 of the 1894 Act was passed on 21.11.1990; however, the father of petitioner did not file objections under Section 18 of the 1894 Act, though preferred application under Section 28-A of the 1894 Act, whereupon, the LAC, vide decision dated 19.08.2025 granted the benefit of market value at the rate of Rs.110/- per square yard alongwith other statutory benefits under the 1894 Act.

[3] On 31.10.2025, this Court passed the following order in the present writ petition:-

*“ Learned State counsel, on instructions, submits that the compensation amount shall be deposited with the Registry of this Court within 05 days from today.*

*In turn, learned counsel for the petitioner has handed over certified copies of jamabandies in the names of Harjit Singh s/o Navdeep Singh and Sarbjit Kaur w/o Harjit Singh, village Saini Majra, Tehsil Kharar, District Mohali, recording them to be owner in possession of this much of land in the revenue estate of villages Tandhi, Tehsil Samrala,*

*District Ludhiana and Nannwal, Tehsil Balachaur, District SBS Nagar, to the learned State counsel as security. The petitioner can furnish the requisite documents for the purpose of permission of consent and security.*

*Adjourned to 07.11.2025.*

*To be shown in the urgent list, henceforth.*

*Photocopy of this order be placed on the file(s) of connected case(s)."*

[4]           Thereafter, on 10.11.2025, the following order came to be passed:-

*"       In terms of order dated 07.11.2025, demand draft dated 04.11.2025, amounting to Rs.12,34,30,691/- has been deposited by the respondents with the Registry of this Court.*

*Learned State counsel, on instructions from Mr.Anmol Deep, Deputy Director, Industries, Punjab, submits that the Department has no objection with respect to the release of 1/4th of the amount out of the total of Rs.12,34,30,691/-, in favour of the petitioner.*

*In view of the aforesaid stand taken by the respondents, let 1/4th of the aforesaid deposited amount be immediately released by the Registry of this Court to the petitioner through Bank Account No.543-1-029810-8 in the name of Mr.Jaswinder Singh Pertap Singh with Standard Chartered Bank, The Mall, Amritsar, on due verification by his counsel-Sh.Rajbir Singh.*

*As per the information provided by the learned State counsel, 20% of the compensation amount payable to the landowner(s) has been deducted towards income tax. Learned State counsel informs that the deduction of 20% is being uniformly applied in case of all the landowners.*

*Let an affidavit to this effect be furnished by Mr.Anmol Deep, Deputy Director, Industries, Punjab, by tomorrow i.e. 11.11.2025, along with the details in support about similar cases of other landowners in the past five years.*

*In the meanwhile, Registry of this Court is requested to deposit the remaining amount in the form of an FDR with the State Bank of India, High Court Branch, Chandigarh, in the name of Registrar.*

*Learned State counsel also prays for time to make submission on the legal aspect of probate being essential for the Will executed in favour of petitioner at Malaysia.*

*List on 11.11.2025.*

*Be shown in the urgent list, henceforth.*

*A photocopy of this order be placed on the file of connected case.”*

[5] Learned counsel for the petitioner submits that based on registered Will dated 24.08.2012 executed by the deceased-father of petitioner, he being the sole beneficiary is entitled to receive the amount of compensation granted in terms of Award dated 19.08.2025. Learned counsel further submits that the said Will executed on 24.08.2012 has never been assailed by any of the other natural heirs of deceased-Partap Singh and thus, the entire compensation was required to be released to him without calling upon him to furnish any probate in this regard.

[6] On the other hand, learned State Counsel submits that the validity of the Will dated 24.08.2012 was required to be tested before the Civil Court and that, in the absence of probate under Section 213 of the Indian Succession Act, 1925, the petitioner cannot claim the amount. Learned State Counsel also submits that the identity of the petitioner itself was doubtful as in the order dated 10.05.2016 (Annexure P-6/page-56) passed by the Hon'ble High Court of Malaya at IPOH, State of Perak Darul Ridzuan, the name of the petitioner and his father was spelled as PERTAP SINGH S/O PALL SINGH, whereas in the Will or any other

document, the name of father was spelled as PARTAP SINGH S/O PAL SINGH. He thus submits that the petitioner was to first seek declaration on the basis of Will dated 24.08.2012 and only thereafter, he could be released the amount of compensation. In such circumstances, learned State Counsel prays for dismissal of the prayer made in the writ petition.

[7] After hearing learned counsel for the parties and having gone through the paper-book, I find substance in the submission(s) made on behalf of the petitioner.

[8] A perusal of the record shows that the Will dated 24.08.2012 by father-Partap Singh son of Pal Singh was executed at Goindwal Sahib, District Tarn Taran (earlier District Amritsar), and duly registered before the office of Joint Sub Registrar, Goindwal Sahib. As per the petitioner, the said registered Will dated 24.08.2012 which even confers rights upon the petitioner with respect to the compensation against the acquired land has never been challenged at the hands of his another brother, namely, Balwinder Singh or even his sister, namely, Rajinder Kaur. Even the mother of the petitioner, namely, Pan Kaur, who happened to be the widow of Paratp Singh has never laid any challenge to the aforesaid Will during the last more than a decade.

[9] Be that as it may, the respondents-State of Punjab even in their written statement went on to admit the execution of registered Will dated 24.08.2012 by late Partap Singh in favour of his son-Joginder Singh i.e. the petitioner. As regards the requirement of probate, it may be noticed here that this Court vide decision rendered in case ***“Avtar Singh Bains Versus Gurdev Kaur alias Debo Kaur and others”***, reported as

**2016 (4) RCR (Civil) 583**, has been pleased to hold the contrary. Relevant paras-12 & 13 from the aforesaid judgment are extracted hereunder:-

*“ 12. The requirement of probate or letters of administration is mandatory in the following situations:-*

*“213. Right as executor or legatee when established. —(1) No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction in India has granted probate of the Will under which the right is claimed, or has granted letters of administration with the Will or with a copy of an authenticated copy of the Will annexed.*

*(2) This section shall not apply in the case of wills made by Muhammadans or Indian Christians, and shall only apply—*

*(i) in the case of wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of classes specified in clauses (a) and (b) of Section 57, and*

*(ii) in the case of wills made by any Parsi dying, after the commencement of the Indian Succession (Amendment) Act, 1962, where such wills are made within the local limits of the ordinary original civil jurisdiction of the High Courts at Calcutta, Madras and Bombay, and where such wills are made outside those limits, in so far as they relate to immovable property situate within those limits.”*

*In other words, in respect of Wills executed at places which fall within the original jurisdiction of High Courts of Calcutta, Madras and Bombay or when the properties covered under the Wills are situate within the jurisdiction of the above courts, there is a mandate to have the Will probated or letters of administration obtained.*

*13. The issue of probate or letters of administration is optional for the rest of India by the restrictive operation of Section 213 of the Indian Succession Act referred to above. The effect is twofold: For persons who are mandated to secure the grant under Section 213,*

*a resort to grant under Section 228 of the Act for a foreign grant is mandatory. In Alagammal and others Versus Rakkammal-AIR 1992 Mad 354, the Madras High Court came to such a conclusion by a combined reading of the above two provisions for a person whose properties were situation within the original jurisdiction of Madras High Court. No probate or Letters is necessary in the case of Wills made by Hindus of Punjab and of properties situated in Punjab (Sohan Singh Versus Bhag Singh AIR 1934 Lah 599; Ram Chand Versus Sardar Singh AIR 1962 Punj 382) and consequently, the grant of probate issued by a foreign court to operate in India will be tested only through Section 13 of CPC and Section 41 of the Evidence Act, the exercise which we have undertaken. Before concluding this issue, I must record a view expressed by the High Court of Lahore, the principle of stare decisis of which court is applicable to the Punjab & Haryana High court as its successor court, in Ramlal Versus Chanan Dass-1938 (40) PLR 1064. The Court has held that the real object of Section 228 is to dispense with the production of the original owing to its having been deposited in some other court. The section is merely an enabling section and if the court considers that there is a question to be decided relating to the validity of the Will, such as the power of the testator to make a Will, etc, the court is bound to try that question before enabling the executor to act under the Will. To our purpose in this case, there is no issue that the father had no power of disposition under the will. Indeed, the issue of title is irrelevant to grants and I will not use the cautious rider that the earlier decision of the Lahore Court alludes to.”*

[10] It would also be apposite to notice statutory scheme governing a probate under the Indian Succession Act, 1925. Section 213 thereof provides that no right as an executor or legatee can be established in a court of law unless probate or letters of administration have been obtained; however, sub-Section (2) thereof specifically restricts the applicability of the said provision only to the classes of Wills specified

under Section 57 of the Act. A conjoint reading of Sections 57 & 213 of the Indian Succession Act, 1925 makes it abundantly clear that compulsory probate is confined to Wills made by Hindus, Buddhists, Sikhs or Jains within the territorial falling under the ordinary civil jurisdiction of the High Courts at Calcutta, Madras and Bombay or in respect of immovable properties situated within those territories. Admittedly, in the present case, the Will dated 24.08.2012 was executed at Goindwal Sahib, District Tarn Taran in the State of Punjab and pertains to land situated in Punjab. Therefore, obtaining probate or letters of administration was not mandatory for the petitioner before asserting his claim on the basis of the said registered Will.

**[10.1]** Apart from the above, it is well settled that in the nature of proceeding arising out of the 1894 Act, the Land Acquisition Authorities are not expected to insist upon for probate in every case of succession arising out of acquisition proceedings, particularly where the Will relied upon by the beneficiary is registered; remains unchallenged for a long period and no rival claims have been set up by other legal heirs.

**[10.2]** Reference in this regard can also be made to Section 30 of the 1894 Act which contemplates adjudication only when a dispute exists regarding apportionment or entitlement of compensation. In the present case, admittedly no objection whatsoever has been raised by any natural heirs of deceased-Partap Singh against the registered Will dated 24.08.2012. Consequently, no occasion arose either for the Land Acquisition Collector or for this Court to compel the petitioner to obtain probate before release of compensation.



[11] Further, in the humble opinion of this Court , no merit can be found with the submission made on behalf of the respondents-State of Punjab regarding the identity of Partap Singh on account of his name been spelled as PERTAP SINGH S/O PALL SINGH in the order dated 10.05.2016 (Annexure P-6) passed by the Hon'ble High Court of Malaya at IPOH, State of Perak Darul Ridzuan, as on an earlier occasion; during the life-time of his father, when the petition under Section 28-A of the 1894 Act preferred at his instance was dismissed for want of prosecution by the LAC; restoration application was filed by the petitioner being attorney holder of his father, which came to be allowed by the office of LAC in the year 2011. A perusal of the power of attorney dated 29.06.2010 which was even got endorsed under Sr. No. 2071, dated 17.08.2010 in the office of Commissioner, Jalandhar Division, Jalandhar, the name of the father of petitioner was spelled as "PERTAP SINGH S/O PALL SINGH. At the time of granting prayer made by the petitioner for restoration of application under Section 28-A of the 1894 Act, the said power of attorney was accepted and the identity of the petitioner or his father was never disputed. A perusal of the record further shows that the factum of Partap Singh being an Indian as on the date of execution of registered Will dated 24.08.2012 was even established from his passport entries which has been made part of the record as Annexure P-17 by way of CM No. 2462-CWP of 2026.

[12] In view of the above, being the beneficiary under the registered Will dated 24.08.2012 executed by the deceased-Paratp Singh and the same been not challenged for the past more than 13 years and its

execution not been disputed by the respondents, the petitioner is entitled to receive the entire amount of enhanced compensation. Accordingly, the Registry is directed to release the remaining amount of compensation in favour of the petitioner forthwith. At best, the petitioner can be asked to furnish indemnity bonds so as to safeguard the rights of future claimant(s), if any.

[13]           With the above observations, the present petition is **disposed of**.

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

May 04, 2026  
'dk kamra'

( HARKESH MANUJA )  
JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |