2026:PHHC:055092

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

RA-CW-559-2025 in
CWP-23474-2023
Decided on:-07.04.2026

Rajender Singh and others ....Petitioners…

vs.

State of Haryana and others ....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. B.K. Bagri, Advocate,
for review applicants-petitioners.

Ms. Komal Sharma, DAG, Haryana.

Mr. Chanderhas Yadav, Advocate,
for respondent No.3.

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HARKESH MANUJA J. (Oral)

CM-17909-CWP-2025

Application is allowed as prayed for.

CM-2202-CWP-2026

Application is allowed as prayed for. Reply filed on behalf of respondent No.3 along with Annexures R-3/1 to Annexure R-3/14, is taken on record.

RA-CW-559-2025

1. By way of the present application, a prayer has been made for review of the judgment dated 16.10.2023 passed by this Court, vide which the writ petition preferred by the applicants–petitioners came to be dismissed with grant of liberty to avail their remedies in accordance with law.

2. Briefly stating, in the given facts, certain land owned by the applicants-petitioners forming part of the revenue estate of Village Goria, Tehsil Matanhail, District Jhajjar, came to be acquired vide notifications dated 16.01.2007 and 12.04.2007 issued under Sections 4 & 6 respectively of the Land Acquisition Act, 1894 *(for short, "1894 Act")*, followed by an award dated 04.06.2007, whereby, the market value was assessed by the Land Acquisition Collector *(herein after referred to as "LAC")* @ Rs.16.00 lakhs per acre.

3. Being aggrieved, some of the other landowners filed objections under Section 18 of the 1894 Act, which were dismissed by the then Additional District Judge, Jhajjar-cum-Reference Court vide decision dated 01.10.2011. Aggrieved of the Reference Court award dated 01.10.2011, Regular First Appeals were preferred before this Court by those landowners and the same were partly accepted vide decision dated 04.02.2016 passed in RFA-266-2012, titled as ***"Joginder Singh Tokash vs. State of Haryana and others"*** whereby the market value was re-assessed @ Rs.29,00,400/- per acre along with grant of other statutory benefits. Finally, the Hon'ble Apex Court modified the decision dated 04.02.2016 passed by this Court, vide its order dated 05.09.2017 and the market value was reduced to Rs.25.00 lakhs per acre from Rs.29,00,400/- per acre. Thereafter, on 04.12.2017, the applicants-petitioners who did not file objections under Section 18 preferred application under Section 28-A of the 1894 Act, claiming parity in the amount of compensation as awarded by the Hon'ble Apex Court to the other similarly placed landowners vide it's decision dated 05.09.2017 . The said application was dismissed by the then DRO-cum-LAC, Jhajjar, vide its order dated 11.01.2019 on the ground that the same was filed much beyond three months of the date of adjudication by the learned Reference Court and thus,

was barred by limitation.

3.1 Aggrieved thereof, the present writ petition was filed, which was dismissed vide order dated 16.10.2023 in terms of decision dated 24.01.2019 passed in the case of ***Mahabir and another versus State of Haryana and others (CWP No. 1199 of 2019)*** with liberty to the landowners to seek their remedy in accordance with law. In pursuance of the said liberty, the applicants-petitioners preferred execution application bearing EXE-553-2023 dated 18.12.2023, which was finally dismissed on 31.07.2025.

4. Soon thereafter, the applicants-petitioners preferred an *intra-court* appeal bearing LPA-2477-2025, titled as ***" Rajender Singh and others vs. State of Haryana and others"*** assailing the decision dated 16.10.2023 rendered by this Court in CWP-23474-2023, which came to be disposed of vide order dated 30.10.2025 and the relevant extract therefrom is reproduced hereunder:-

> *"Learned counsel for the parties agree that the judgment on the implementation of Section 28-A of the Land Acquisition Act, 1894 has been rendered by the Hon'ble Supreme Court of India in **Banwari and others vs. HSIIDC Ltd. and another, 2025(1) RCR (Civil) 232,** which will govern the issue hence, the dismissal of the writ petitions vide impugned order(s) by the learned Single Judge of this Court by placing reliance upon the decision of the Single Bench of this Court in **CWP-1199-2019 titled as Mahabir and another vs. State of Haryana and others decided on 24.01.2019** needs reconsideration.*
>
> *2. Learned counsel for the appellant(s) submits that present bunch of appeals may kindly be disposed of having been not pressed any further with the liberty to the appellant(s) to file a review petition before the learned Single Judge of this Court in view of the judgment of the Hon'ble Supreme Court of India in **Banwari's case (supra)**.*
>
> *3. Ordered accordingly.*
>
> *4. Civil miscellaneous application pending, if any, is also disposed of.*
>
> *5. A photocopy of this order be placed on the files of connected cases."*

5. In view of the aforesaid, the present application seeking review of the decision dated 16.10.2023 came to be preferred.

5.1 Notice of the application was issued to the respondents. Reply on behalf of respondent No.3 already stands filed.

6. Learned counsel for the applicants-petitioners submits that in view of the decision of Hon’ble Apex Court in ***Banwari’s case (supra)***, the application preferred at the instance of applicants-petitioners having invoked Section 28-A of the 1894 Act, could not have been dismissed being barred by limitation as the same was filed within three months of the adjudication made by the Hon’ble Apex Court on 05.09.2017 and thus, the application preferred at their instance on 04.12.2017 was within 90 days therefrom. He thus, submits that the order dated 16.10.2023 passed by this Court was liable to be reviewed and recalled and the applicants-petitioners were liable to be granted the similar benefit of enhancement of market value as assessed in favour of the other similarly placed landowners pertaining to the same acquisition proceedings.

7. On the other hand, learned counsel representing respondent No.3 submits that there was an inordinate delay on the part of applicants-petitioners in invoking the review jurisdiction with respect to the decision dated 16.10.2023 passed by this Court. He thus, submits that the application for review was liable to be outrightly rejected as no application seeking condonation of delay was preferred at the instance of applicants-petitioners. He further submits that even, the review application was not maintainable on merits, as any subsequent change in law, in terms of ***Banwari’s case (supra),*** was not to be considered as a ground for review of the decision. He also contends that once the applicants-petitioners had already availed benefit of the order passed by the Writ Court, having preferred execution application, they were now estopped from assailing its validity through filing of present review application and thus, the same was liable to be

dismissed.

8. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the learned counsel for the applicants-petitioners.

9. In the given facts and circumstances, this Court vide decision dated 04.02.2016 passed in RFA-266-2012, enhanced the market value assessed by LAC @ Rs.16 lakh to Rs.29,00,400/- per acre along with all other statutory benefits. Thereafter, the Hon'ble Apex Court vide it decision dated 05.09.2017, modified the determination dated 04.02.2016 and the market value was finally assessed @ Rs.25.00 lakhs per acre. The applicants-petitioners preferred application under Section 28-A of the 1894 Act, however, the same was dismissed by DRO-cum-LAC, Jhajjar, being barred by limitation vide order dated 11.01.2019. The writ petition assailing the said order was dismissed by this Court vide order dated 16.10.2023, albeit while granting liberty to the applicants-petitioners to avail their remedy in accordance with law. It is however, pertinent to note that in terms of the latest decision by the Hon'ble Apex Court in ***Banwari's case (supra),*** the limitation period for filing an application under Section 28-A of the 1894 Act even commences from the date of passing of the final judgment with respect to the re-determination of compensation amount. 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's case (supra)*** has also been followed by the Division Bench of this Court in case ***of 'Union of India and another v. The Special Land Acquisition Collector-cum-Sub-Divisional Magistrate, Pathankot and others, 2025(3) RCR (Civil) 786.***

10. In the present case, the final assessment as regards the market value was made by the Hon'ble Apex Court vide decision dated 05.09.2017. Since the applicant-petitioners/landowners sought redetermination of compensation within 90 days from the said date while claiming parity; in view of the law laid down in ***Banwari's case (supra),*** the limitation period for filing the application under Section 28-A commenced on 05.09.2017 and expired on 03.09.2017. However, since 03.09.2017 was a Sunday, the application was preferred on 04.09.2017 and even then by virtue of Section 4 of the Limitation Act, the prescribed period of 90 days been extended to the next working day, the application under Section 28-A was to be treated within the prescribed period of limitation.

11 In view of the aforesaid facts and exposition of law by the Hon'ble Apex Court, it was highly unfair and unjustified on the part of this Court to non-suit the applicants-petitioners on the ground that their application under Section 28-A of the 1894 Act was barred by limitation merely by recording that the same was not preferred within 90 days of the

adjudication made by the ld. Reference Court on 01.10.2011. Pertinently, in the given facts, the ld. Reference Court vide its decision dated 01.10.2011 rejected the reference petition preferred under Section 18 of the 1894 Act on behalf of the other identically placed landowners and thus, the applicants-petitioners could not have even claimed any parity of compensation in terms of Section 28-A of the 1894 Act. Admittedly, the enhancement by way of re-assessment of market value was done by this Court for the first time with respect to the acquisition in hand, vide its decision dated 04.02.2016 passed in RFA-266-2012, which, at best for the first time, conferred upon the applicants-petitioners the right to invoke the provisions of Section 28-A of the 1894 Act. However, thereafter, the Hon'ble Apex Court modified the decision dated 04.02.2016 passed by this Court, vide its decision dated 05.09.2017 and the market value was finally reassessed @ Rs.25.00 lakhs per acre. The applicants-petitioners/landowners sought parity in respect of the compensation as finally assessed by the Hon'ble Apex Court in favor of identically placed landowners. In such circumstances, the LAC could not have rejected the application preferred by the applicants-petitioners under Section 28-A of the 1894 Act to be barred by limitation, and was thus required to decide the same on merits by treating it to be within limitation by awarding the benefit of similar compensation as assessed in favour of the other similarly placed landowners pertaining to the same acquisition proceedings.

12. In the humble opinion of this Court, with respect to the issue of maintainability of the present review application, it is pertinent to note that vide order dated 16.10.2023, the writ petitions preferred on behalf of applicants-petitioners came to be dismissed in terms of the judgment dated 24.01.2019 passed in the case of ***Mahabir and another versus State of***

Haryana and others (CWP No.1199 of 2019). In the said case, while dismissing the writ petition, this court placed reliance upon the decision rendered in ***Ramsingbhai (Ramsangbhai) Jerambhai v. State of Gujarat and another [2018(3)RCR(Civil)114].*** The relevant extract of the order dated 24.01.2019 is reproduced hereunder:

> *"Bolstered by the decision of this Court, application under Section 28-A was filed and the same had been dismissed. The Apex Court in Ramsinghbhai (supra) has restated the earlier judgments and framed the following question:*
>
> > *"2. Whether an application under Section 28A of the Land Acquisition Act, 1894 (for short "the Act") for redetermination of the compensation can be filed within a period of 3 months from the date of judgment of the High Court or Supreme Court passed in appeal under Section 54 of the Act is the question that arises for consideration in this case."*
>
> *Resultantly, it was held that the appellant is only entitled for the relief in terms of Section 28-A passed on the award of the Reference Court and not any enhancement which has been passed in the appeal. Relevant para reads as under:*
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> > *"5. What the appellant seeks is redetermination of compensation under the Act in terms of the judgment of the High Court passed under Section 54 of the Act. In view of the settled legal position which we have explained above, the appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28A of the Act based on the award of the Reference Court.*
> >
> > *6. The appeal is accordingly dismissed. Pending application (s), if any, shall stand disposed of. No costs."*
>
> *Resultantly, the order passed by the LAC does not suffer from any infirmity, which would warrant interference by this Court and accordingly, the present appeal is dismissed in limine"*

However, as per the latest exposition of law in ***Banwari's case (supra),*** which forms the basis of the present review, the Hon'ble Supreme Court has comprehensively examined the legal position emerging from ***Ramsingbhai's case (supra)*** as well as the case of ***Union of India versus Pradeep Kumari [1995(2)SCC736].*** In the said decision, the Hon'ble Court not only reaffirmed the principle laid down in ***Pradeep Kumari's case*** but also held the view taken in ***Ramsingbhai's case*** to be per incuriam in the light of the earlier judgment. Relevant paragraphs thereof are extracted hereunder:

> *"18. It is further to be noted that the cases of Pradeep Kumari and Others (supra) and Ramsingbhai (Ramsangbhai) Jerambhai (supra), both have been decided by a Bench strength of three learned Judges of this Court. The case of Pradeep Kumari and Others (supra) is decided on 10th March 1995, whereas Ramsingbhai (Ramsangbhai) Jerambhai (supra), has been decided on 24th April 2018.*
>
> *19. A perusal of the judgment rendered in Ramsingbhai (Ramsangbhai) Jerambhai (supra), would reveal that the said case does not take note of the earlier view taken by three learned judges of this Court in the case of Pradeep Kumari and Others (supra).*
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> *20. In this respect, we may gainfully refer to the observations of a Constitution Bench of this Court in the case of National Insurance Company Limited v. Pranay Sethi and Others (2017) 16 SCC 680 : 2017 INSC 1068. The relevant paragraphs of the judgment read as under:*
>
>> *"27. We are compelled to state here that in Munna Lal Jain, the three-Judge Bench should have been guided by the principle stated in Reshma Kumari which has concurred with the view expressed in Sarla Verma or in case of disagreement, it should have been well advised to refer the case to a larger Bench. We say so, as we have already expressed the opinion that the dicta laid down in Reshma Kumari being earlier in point of time would be a binding precedent and not the decision in Rajesh.*
>>
>> *28. In this context, we may also refer* ***to Sundeep Kumar Bafna v. State of Maharashtra [Sundeep Kumar Bafna v. State of Maharashtra, (2014) 16 SCC 623 : (2015) 3 SCC (Cri) 558]*** *which correctly lays down the principle that discipline demanded by a precedent or the disqualification or diminution of a decision on the application of the per incuriam rule is of great importance, since without it, certainty of law, consistency of rulings and comity of courts would become a costly casualty. A decision or judgment can be per incuriam any provision in a statute, rule or regulation, which was not brought to the notice of the court. A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co-equal or larger Bench. There can be no scintilla of doubt that an earlier decision of co equal Bench binds the Bench of same strength. Though the judgment in Rajesh case was delivered on a later date, it had not apprised itself of the law stated in Reshma Kumari but had been guided by Santosh Devi . We have no hesitation that it is not a binding precedent on the co-equal Bench."*
>
> *21. It can thus be seen that, this Court in unequivocal terms has held that an earlier decision of a Bench of particular strength would be binding on the subsequent Benches of this Court having the same or lesser number of judges.*
>
> *22. While considering the rule of per incuriam, the Constitution Bench of this Court has held that a decision or judgment can be said to be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a co equal or larger Bench.*
>
> *23. In any case, the judgment in Pradeep Kumari and Others (supra) has been rendered by three learned Judges of this Court after considering the relevant provisions of the Statute and the principles of interpretation. However, the judgment in the case of Ramsingbhai (Ramsangbhai) Jerambhai (supra) is a short judgment only referring to the text of Section 28A(1) of the 1894 Act.*
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> *24. As already discussed hereinabove, the provisions of Section 28A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of Pradeep Kumari and Others (supra). In the said case, it has been held that the Statement of Objects and Reasons of Section 28A would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for giving benefit to inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the Act. It has been held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court under Section 18 of the Act. The same benefit would be available to the other landholders under Section 28A. It has been held that Section 28A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the*

principle of interpretation which would be required to be adopted is the one which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it.

25. We are, therefore, inclined to allow the appeal. The impugned judgment and order of the High Court dated 25th November 2021 is quashed and set aside and the order of the LAC dated 15th September 2020 is upheld.

In view of the aforesaid, it is apparent that the legal basis on which the order dated 16.10.2023 was passed does not survive in view of the subsequent judgment rendered by the Hon'ble Supreme Court in *Banwari's case* (supra). Furthermore, with regard to retrospective operation of a decision, the Hon'ble Supreme Court in the case of ***Directorate of Revenue Intelligence Versus Raj Kumar Arora & Ors.*** reported as ***2026(2)SCC 401*** held as under:

> *"94. While addressing the issue of the temporal and retrospective effect of a judicial decision and declaring that a tribunal or court is bound by a higher court's decision on the point in issue, irrespective of whether it is declared either prior to or subsequent to the order which is sought to be called into question by a party, this Court in* ***Assistant Commissioner, Income Tax, Rajkot v. Saurashtra Kutch Stick Exchange Limited reported in (2008) 14 SCC 171*** *stated that a judicial decision acts retrospectively by placing reliance on the Blackstonian theory. According to this theory, it is not the function of the court to pronounce a "new rule" but to maintain and expound the "old one". Therefore, if the subsequent decision alters or overrules the earlier one, it cannot be said to have made a new law. The correct principle of law is just discovered and applied retrospectively. In other words, if in a given situation an earlier decision of the court operated for quite some time and it is overruled by a subsequent decision, the decision rendered subsequently would have retrospective effect and would serve to clarify the legal position which was not clearly understood earlier. Any transaction would then be covered by the law declared by the overruling decision. The overruling is generally retrospective with the only caveat being that matters that are res judicatae or accounts that have been settled in the meantime would not be disturbed.*
>
> **………………..**
>
> *122. On a conspectus of the aforesaid discussion on the doctrine of prospective overruling, the following can be summarised:*
>
> *i. The default rule is that the overruling of a decision generally operates retrospectively. This is because a judgement which interprets a statute or provision declares the meaning of the statute as it should have been construed from the date of its enactment and what has been declared to be the law of the land must be held to have always been the law of the land. This rationale also stems from the Blackstonian rule that the duty of the court is not to "pronounce a new law but to maintain and expound the old one". The judge rather than being the creator of the law, is only its discoverer. Therefore, if a subsequent*

decision alters or overrules the earlier one, it cannot be said to have made a new law. The correct principle of law is just discovered and applied retrospectively.
ii. Since resorting to the doctrine of "prospective overruling" is an exception to the normal rule that a judgement or decision applies retrospectively and to the general rule of doctrine of precedent, an express declaration by the court that its decision is prospectively applicable is absolutely necessary. Prospectivity as a concept cannot be considered to be inhered in situations since the intention to attribute prospectivity to a decision must be limpid and clear.
……………………

134. The Blackstonian theory also lends great support to our conclusion since it underscores the principle that it is not the function of the court to pronounce a "new rule" but to maintain and expound the "old one". Therefore, the overruling of a decision cannot be equated to the creation of a new law. The correct principle of law is merely clarified and applied retrospectively….."

In view of the aforesaid, this Court is of the considered opinion that the decision rendered in ***Banwari's*** case (supra) needs to be given retrospective effect in order to extends the benefits of section 28-A as interpreted by the Hon'ble Apex Court in the said judgment. Even otherwise, it is not in dispute that certain similarly situated landowners have already been extended the benefit of enhanced compensation by the Hon'ble Supreme Court vide order dated 05.09.2017. Consequently, denial of the same relief to the present applicants-petitioners would result in hostile discrimination and offend the mandate of Article 14 of the Constitution of India, which guarantees equality before law and equal protection of laws. In such circumstances, this Court is of the considered view that the present review application deserves to be entertained in order to secure the ends of justice by rectifying the order dated 16.10.2023.

13. Further, with respect to the issue of limitation for filing review application in a writ petition, the point of limitation already stands adjudicated upon by the Full Bench of this Court in ***"Teja Singh vs. The Union Territory of Chandigarh and others", reported as 1982 P.L.R. 160***,

wherein, it has been held that there is no limitation for filing review application in a writ petition. Relevant paras are extracted hereunder:-

> *27. As a result of my aforesaid discussion, I come to the following conclusions :-*
>
> *1) That in the matters which have not been specifically dealt with by the Writ Rules, the provisions of the Civil Procedure Code, so far as they can be made applicable, would apply to the proceedings under Article 226 of the Constitution.*
>
> *2) That the explanation added to Section 141 of the Civil Procedure Code, by Amendment Act, does not in any way nullify the effect of rule 32 of the Writ Rules.*
>
> *3) Then when a writ petition is dismissed after contest by passing a speaking order, then such decision would operate as res judicata in any other proceeding such as suit, a petition under Article 32 etc.*
>
> *4) That if a petition is dismissed only on the ground of laches or the availability of an alternate remedy or on a ground analogous thereto, then any other proceeding will not be barred on principle of res judicata.*
>
> *5) That even in cases where a petition is dismissed on the ground of alternate remedy or on a ground analogous thereto, a second petition on the same cause of action under Article 226 would be barred.*
>
> *6) That there is an exception to proposition (5) that where the first petition is dismissed on the ground that alternate remedy under the Act has not been availed of, then after availing of the statutory remedy under the Act, a second petition may be maintainable on the principle that the same has been filed on a cause of action which has arisen after the decision of the appropriate authority under the Act.*
>
> *7) That a second petition on similar facts and in respect of the same cause of action by the same party would not be maintainable even if his earlier petition has been disposed of by one word 'Dismissed'.*
>
> *8) That the provisions of Order 22, Civil Procedure Code would apply to the proceedings under Article 226 of the Constitution.*
>
> *9) That provisions of Order 23, Rule 1 of the Civil Procedure Code would apply to the writ proceedings and that a petition which has simply been got dismissed as withdrawn would be a bar to the filing of a second petition on the same facts and in respect of the same cause of action.*
>
> ***<u>10) That the provisions of the Limitation Act are not applicable to the writ proceedings or the miscellaneous applications filed in the writ proceedings.</u>****"*
>
> (*Emphasis supplied)*

14. In view of the aforesaid exposition of law, there was no requirement for the applicants-petitioners to have preferred any application for seeking condonation of delay in filing the review application.

15. Accordingly, the present review application is allowed and the order dated 16.10.2023 is recalled and the main writ petition is disposed of

by observing that the appellants-petitioners shall be entitled for award of benefit of similar amount of compensation as assessed in favour of the other similarly placed landowners pertaining to the same acquisition proceedings; as finally assessed by the Hon'ble Apex Court vide judgment dated 05.09.2017 i.e. @ Rs.25 lakhs per acre with all other statutory benefits.

07.04.2026 **(HARKESH MANUJA)**
sonika **JUDGE**

Whether speaking/reasoned: Yes
Whether reportable: Yes