



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Writ Petition No. 38357 of 2025 (O&M)
Date of Decision: 06.05.2026

Pardeep Singh Pathania
..... Petitioner

Versus

Union of India and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Randhir Singh Manhas, Advocate
for the petitioner.

Mr. Dharm Chand Mittal, Sr. Panel Counsel, UOI
for respondent Nos. 1 & 2.

Mr. Puru Jarewal, Deputy Advocate General, Punjab
for respondent Nos. 3 & 4.

HARKESH MANUJA, J. (ORAL)

The petitioner-landowner, by way of present writ petition, seeks quashing of an order dated 17.07.2023 (**Annexure P-7**) passed by respondent No. 3 [*Special Land Acquisition Collector (previously camp at Rani Ka Bagh, Amritsar), now Sub Divisional Magistrate, Pathankot*], whereby his application under Section 28-A of the Land Acquisition Act, 1894 (**for short “1894 Act”**) stands dismissed being barred by limitation.

FACTS

[2] Briefly stating, some land owned by the petitioner-landowner forming part of the revenue estate of **Village Pangoli**, Tehsil & District Pathankot came to be acquired for the public purpose, i.e. for defence purposes, vide notifications of even date i.e., 22.02.1991 issued under Section 4 and Section 6 of the 1894 Act read with Section 17(2) thereof. On 15.03.1993, an award under Section 11 of the 1894 Act was passed by the

Land Acquisition Collector and granted the compensation to the landowners for their acquired land as under:-

Type of Land	Compensation per acre (in Rs.)
Chahi	35,000/-
Barani-I	30,000/-
Barani-II	25,000/-
B/Jadid	15,000/-
Banjar Qadim	10,000/-
Gair Mumkin	5,000/-
Gair Mumkin Abadi	35,000/-

[3] Aggrieved thereof, some of the other landowners pertaining to the same acquisition filed objections under Section 18 of the 1894 Act, which were partly accepted. Vide its three identical awards, the learned Reference Court granted the different amounts of compensation to the landowners. Vide award dated 22.03.1999, the amount of Rs. 1,400/- per marla was granted at the uniform rate for all kinds of land. Vide award dated 29.01.2002, the learned Reference Court awarded the compensation as under:-

Type of Land	Compensation per acre (in Rs.)
Barani	42,000/- (Rs. 263 per marla)
Banjar Qadim	16,800/- (Rs. 105 per marla)
Gair Mumkin	7,000/- (Rs. 44 per mala)
Gair Mumkin Abadi	42,000/- (Rs. 263 per marla)

Vide third award dated 17.07.2007, the learned Reference Court awarded the amount of compensation at the uniform rate of Rs. 1,600/- per marla, however, after including all the benefits of under Section 23 (1) (a) of the 1894 Act, it granted the amount of Rs. 1,830/- per marla.

[4] Still aggrieved, those landowners preferred Regular First Appeal(s) before this Court which were finally decided vide judgment dated 17.02.2016 passed in a batch of appeals with lead case bearing RFA No. 2902 of 1999, titled “***Union of India and another Versus Major Pritam Singh and another***”, whereby the market value of the acquired land was assessed at the uniform rate of Rs. 2,300/- per marla.

[5] Being aggrieved of the abovesaid determination, the landowners as well as the respondent-Union of India assailed the aforesaid decision dated 17.02.2016 before the Hon’ble Apex Court; however, the appeals preferred by both the sides were dismissed by the Hon’ble Apex Court vide two separate orders of even date i.e. 23.02.2023 (Annexure P-2), thereby upholding the final determination at the rate of Rs. 2,300/- per marla.

[6] Thereafter on 28.03.2023, the petitioner-landowner filed application under Section 28-A of the 1894 Act before respondent No.3/LAC for the purpose of re-determination of the market value in his favour to the extent of Rs. 2,300/- per marla as assessed by this Court and finally approved by the Hon’ble Apex Court; however, the said application was dismissed being barred by limitation while holding that it was filed beyond three months from the date of decision dated 17.02.2016 passed by this Court, whereby the market value was enhanced to Rs. 2,300/- per marla. Hence, the present writ petition has been filed.

CONTENTION(S):-

ON BEHALF OF THE PETITIONER-LANDOWNER

[7] Learned counsel for the petitioner submits that once the final outcome of the proceedings arising out of references preferred at the instance

of landowners with respect to re-assessment/enhancement of market value culminated with the passing of orders dated 23.02.2023 passed by the Hon'ble Apex Court, thereby upholding the determination made by this Court for grant of Rs. 2,300/- per marla as market value in favour of the landowners, the said decision as well gives a cause of action to the petitioner-landowner for filing an application under Section 28-A of the 1894 Act. He thus submits that the application preferred under Section 28-A of the Act at the instance of petitioner could not have been declined being barred by limitation as the same was filed within ninety (90) days from the passing of decision dated 23.02.2023 by the Hon'ble Apex Court.

In support, learned counsel for the petitioner places reliance upon a decision rendered by the Hon'ble Supreme Court in case ***“Andanayya and Ors. Versus Deputy Chief Engineer and Ors.”***, reported as ***2026(2) RCR (Civil) 502***. Relevant paras-25 & 26 from the said decision, as relied upon by the learned counsel for petitioner, are extracted hereunder:-

“ 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."

Learned counsel for the petitioner thus contends that the order dated 17.07.2023 passed by respondent No. 3 is liable to be set aside and the market value in favour of petitioner-landowner needs to be re-assessed at the rate of Rs. 2,300/- per marla on the basis of parity.

No other argument has been addressed.

**ON BEHALF OF CONTESTING RESPONDENT Nos. 1 & 2-
UNION OF INDIA**

[8] Learned counsel for respondent Nos. 1 & 2-Union of India submits that vide two separate decisions of even date i.e. 23.02.2023 (Annexure P-2), the appeals preferred at the instance of landowners as well as the Union of India against the decision dated 17.02.2016 passed by this Court in *Major Pritam Singh's case (supra)* were dismissed and no further

enhancement over and above the determination made by this Court at the rate of Rs. 2,300/- per marla was awarded by the Hon'ble Apex Court, thus the said orders dated 23.02.2023 never gave any cause of action to the petitioner-landowner to file an application under Section 28-A of the 1894 Act. He contends that the application under Section 28-A of the 1894 Act could only be preferred in pursuance to an order either by the learned Reference Court or by the Court of Appeal wherever any enhancement was awarded over and above the determination made by the Land Acquisition Collector or any Court below. He thus submits that at best, the petitioner-landowner was entitled to move an application under Section 28-A of the 1894 Act in terms of decision dated 17.02.2016 passed in ***Major Pritam Singh's case (supra)*** and his application based on the orders dated 23.02.2023 passed by the Hon'ble Supreme Court was thus not maintainable and rightly declined by respondent No. 3 being barred by limitation.

In support, learned counsel places reliance upon a decision rendered by the Hon'ble Supreme Court in case ***“Banwari and others Versus Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and another”***, reported as ***2025 AIR (Supreme Court) 165***. Relevant paras-15 & 16 from the said decision, as relied upon by the learned counsel for respondent-Union of India, 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 and Others (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.”*

No other argument has been raised on behalf of the respondent(s)-Union of India.

DISCUSSION AND REASONING

[9] Having heard learned counsel for the parties and gone through the paper-book/record, I find substance in the submission(s) made on behalf of the petitioner.

[10] In the given facts and circumstances, admittedly, vide decision dated 17.02.2016 passed in **Major Pritam Singh's case** (supra), the market value pertaining to the acquired land forming part of the revenue estate of Village Pangoli was re-assessed and enhanced to Rs. 2,300/- per marla. Further, the appeals preferred at the instance of landowners as well as Union of India were dismissed by the Hon'ble Apex Court vide two separate orders of even date i.e. 23.02.2023 (Annexure P-2). The Hon'ble Apex Court

without making any alteration to the determination made by this Court *qua* the quantum of market value, upheld the same. Thus, the final determination with regard to assessment of the market value was made on 23.02.2023 even though it was to the effect of upholding the order dated 17.02.2016 passed by this Court.

[10.1] Further, the doctrine of merger postulates that once a superior Court has adjudicated upon and passed an order in respect of a matter, the order of the subordinate forum merges into the order of the superior Court and thereafter loses its independent existence. In regard to the same, reliance is placed upon the decision rendered in *Gajanan v. Pralhad* (**Civil Appeal No. 3524 OF 2026**) wherein the Hon'ble Apex Court held as under:

“ 16. The limitation period provided for filing for execution of any decree or order under Article 136 of the 1963 Act is 12 years, and the period of limitation begins to run from the date when the decree or order becomes enforceable. It is settled law that when an appeal is preferred against such decree, the decree of the Trial Court generally merges into the appellate decree.....

21. The upshot of this discussion is that an appeal is intrinsically a continuation of the suit and thus, even if an appeal against an order or decree of the Trial Court is dismissed on any preliminary or technical ground, such as limitation or non-prosecution, rather than the merits of the case, it still gives rise to a fresh starting point for the limitation period for execution of such order or decree. The original decree of the Trial Court cannot be deemed as “final” as long as the appeal against the same remains pending. Thus, the order of dismissal of the appeal finally disposes of the matter and confirms the decree of the Trial Court, even if such dismissal is for reason of non prosecution.

22. The order dated 25.11.2004, which dismissed the appeal in default, was thus a “final order” as it finally confirmed the

decree of the Trial Court and disposed of the appeal. Therefore, the limitation period for execution of the decree dated 03.12.1999 accrued on the date of dismissal of the appeal i.e. 25.11.2004 and the execution application filed on 04.12.2015 was within time, if we compute the period of 12 years from 25.11.2004.

23. Courts should avoid adopting a hypertechnical approach in matters of limitation. A layperson, unfamiliar with the letter of law, may mistakenly believe that execution proceedings can only commence once an appeal against the decree has been finally disposed of. Even lawyers under a bonafide belief, may advise their clients to initiate execution proceedings only after final disposal of all appellate proceedings. In such circumstances, courts are expected to adopt a more liberal and pragmatic stance, ensuring that substantive rights are not defeated by rigid adherence to procedural rules, thereby striking a fair balance between justice and procedure.”

In view the aforesaid, once the Hon’ble Apex Court has held that even where an appeal against the judgment or decree of the Trial Court is dismissed on a preliminary or technical ground, such as limitation or non-prosecution, and not on merits, such dismissal would nonetheless furnish a fresh starting point for the computation of limitation for execution of the said judgment or decree; the present being a case where the Hon’ble Supreme Court, vide orders dated 23.02.2023, after due adjudication on merits, dismissed the claims of the landowners as well the Union of India, and thereby finalized the determination of market value at the rate of Rs.2,300/- per marla, the 90 days limitation period in the present matter unquestionably ought to have commenced from the date of the order passed by the Hon’ble Apex.

[10.2] In the humble opinion of this Court, it is not only that any enhancement awarded by the Appellate Forum / Appellate Court would

serve as a cause of action to the similarly situated landowner(s) for moving an application under Section 28-A of the 1894 Act but rather even upholding of the determination / reassessment / enhancement by the Appellate Court shall also enable the landowner(s) to invoke Section 28-A of the 1894 Act, based thereupon, as any determination made by the Lower Court which is either reduced, upheld or enhanced merges into the final decision made by the Appellate Forum / Appellate Court and the effect of the said final decision rendered by the Appellate Forum / Appellate Court is also in fact to be treated as grant of the same benefit. Further, in *Andanayya's case (supra)*, the Hon'ble Apex Court held that by virtue of doctrine of merger, the benefit flowing from the final determination made by the appellate forum would equally enure to similarly situated landowners seeking re-determination under Section 28-A of the 1894 Act, the said provision being a beneficial legislation intended to maintain parity and equality in payment of compensation.

[11] Further, the contention raised on behalf of the respondents by relying upon the law laid down in *Banwari's case (supra)* does not find merit. A perusal of the said judgment reveals that it nowhere curtails or restricts the right of landowner(s) to invoke Section 28-A of the 1894 Act on the basis of a determination rendered by the Appellate Courts. Rather, the ratio of the judgment clarifies that the period of limitation for filing an application under Section 28-A commences from the date of the award on the basis of which redetermination of the compensation is sought. In the present case, the application under Section 28-A was instituted on 28.03.2023, predicated upon the final adjudication rendered by the Hon'ble Apex Court vide judgment dated 23.02.2023. Consequently, the application

having been preferred within the prescribed period of 90 days is well within limitation.

[12] In view of the above discussion, once the effect of dismissal of the appeals preferred at the instance of similarly placed landowners as well as Union of India by virtue of two separate orders of even date, i.e. 23.02.2023 passed by the Hon'ble Apex Court was upholding the determination made by this Court vide order dated 17.02.2016 whereby the market value of the acquired land was increased/revised to Rs. 2,300/- per marla, the same gave fresh cause of action to the petitioner-landowner to move an application under Section 28-A of the 1894 Act before the Collector for re-determination of compensation in his favour within three months of the said decision and as such, the application preferred at the instance of petitioner-landowner made on 28.03.2023 was thus to be treated to be within limitation.

[13] In view of the aforesaid discussion, the present petition is **allowed** and the impugned order dated 17.07.2023 passed by respondent No.3 is hereby set aside. The application preferred at the instance of petitioner-landowner on 28.03.2023 before respondent No. 3 is treated to be within limitation of 90 days. Undisputedly, the market value in relation to the acquisition in hand has been finally upheld at the rate of Rs. 2,300/- per marla by the Hon'ble Apex Court vide its decision dated 23.02.2023, accordingly the petitioner herein shall also be entitled for the benefit of market value at the same rate of Rs. 2,300/- per marla alongwith other consequential / statutory benefits and interest as provided in the 1894 Act (as amended up-to-date), especially the interest on solatium as well.

[14] Moreover, considering the fact that the acquisition in the case at hand relates to the year 1991, respondent No. 3 is directed to ensure the release of the enhanced compensation in favour of the petitioner-landowner within three months from the date of receipt of certified copy of this order, failing which he/she shall be liable to pay costs of Rs. 1,00,000/- to the petitioner, which shall be borne from his/her own pocket and shall not be treated as a burden on the State Exchequer, besides the petitioner shall be at liberty to seek revival of the present petition.

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

May 06, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>