

2026 PHHC 040265



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-38661-2025

Date of Decision: March 16, 2026

VIJAY KUMAR @ VIJAY SHARMA AND ORS.

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Manhas, Advocate for the petitioners.

Mr. Gunjan Mehta, Addl. A.G. Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present writ petition, challenge has been laid to the order dated 24.08.2021 passed by the Sub Divisional Magistrate-cum-Land Acquisition Collector, RSD and Shahpurkandi Dam Project, Shahpurkandi Township, whereby Reference preferred at the instance of the petitioners/landowners having invoked Section 28-A of the Land Acquisition Act, 1894 (for short "the 1894 Act") was dismissed.

[2]. Briefly stating, in the present case, some land owned by the petitioners/landowners situated within the revenue estate of village Kot Tikka Majra, Tehsil Dhar Kalan, Distt. Gurdaspur, came to be acquired vide Notifications dated 16.06.1994 and 28.10.1994 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 respectively for the public purpose namely for construction of Shahpurkandi Dam Project. The Award under Section 11 of the 1894 Act was passed by the Land Acquisition Collector (for short "the LAC") on 04.12.1996.

[3]. Being aggrieved thereof, some of the other landowners pertaining to this very acquisition sought reference under Section 18 of

the 1894 Act which came to be decided on 02.05.2018 and the market value was assessed @ Rs.1600/- per marla along with all the statutory benefits under the 1894 Act.

[4]. Based on the aforesaid Award, the petitioners/landowners preferred reference under Section 28-A of the 1894 Act before the LAC on 22.12.2008. The said application was kept pending. In the meanwhile, the other landowners being aggrieved of the Award dated 02.05.2008, approached this Court having filed Regular First Appeal, which were disposed of on different dates; one such RFA No.1233 of 2017 titled Durgi Devi and others vs. Punjab State and others' decided on 16.03.2017 vide which the market value was enhanced to Rs. 1754/- per malra for the acquired land pertaining to the village Kot Tikka Majra. Further the appeals preferred at the instance of the respondents were dismissed by the Hon'ble Apex Court vide judgment dated 20.09.2017.

[5]. On the basis of the aforesaid final determination of the market value qua the present acquisition proceedings, the petitioners/landowners moved an application dated 28.12.2017 before respondent No.2 for Award of similar compensation being identically placed landowners of the same acquisition proceedings. The said prayer came to be dismissed by respondent No.2 vide order dated 24.08.2021 while holding that the application filed by the petitioners, under Section 28-A of the 1894 Act was barred by limitation.

[6]. Impugning the aforesaid order, learned counsel for the petitioners submits that once during pendency of the application preferred under Section 28-A of the 1894 Act before respondent No.2, the final determination qua the market value stood adjudicated upon by this Court to the tune of Rs.1754/- per marla; in view of decision made by

the Hon'ble Apex Court in case of "***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 should have been awarded the same market value and as such the impugned order passed by respondent No.2 was liable to be set aside.

[7] On the other hand, learned State counsel submits that once the application dated 22.12.2008 preferred under Section 28-A of the 1984 Act at the instance of the petitioners/landowners was beyond 90 days of the learned Reference Court Award dated 02.05.2008, the same was rightly declined being barred by limitation and as such the impugned order calls for no interference.

[8]. I have heard learned counsel for the parties and perused the paper book. I find substance in the submissions made on behalf of the petitioners/landowners.

[9]. In the given facts, the application preferred under Section 28-A of the 1894 Act at the instance of the petitioners/landowners was filed on 22.12.2008 based on one Reference Court Award dated 02.05.2008. Though the same was beyond 90 days, however it was kept pending by respondent No.2 and in the meanwhile this Court vide its decision dated 16.03.2017 passed in the case of Durgi Devi and others' (supra) assessed the market value @ Rs.1754/- per marla for the land pertaining to the same revenue estate and relating to the same acquisition proceedings. The final determination made by this Court gave fresh cause to the petitioners/landowners in terms of law laid down by the Hon'ble Apex Court in case of Banwari and others' (supra). Relevant paragraph Nos.15 & 16 thereof 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**".

[10]. As such, once the application preferred under Section 28-A of the 1894 Act, filed at the instance of the petitioners/landowners was pending adjudication with respondent No.2 and during such period this Court made the assessment of market value @ Rs.1754/- per marla vide its decision dated 16.03.2017 passed in the case of Durgi Devi and others' (supra) which even was upheld by the Hon'ble Apex Court while

dismissing the appeal preferred by the respondents/State vide its order dated 20.09.2017, the application preferred under Section 28-A of the 1894 Act at the instance of the petitioners/landowners was required to be adjudicated upon based on the final determination qua the amount of compensation, rather than making them prefer fresh application based on the determination made by this Court for which they were entitled in view of decision rendered in case of **Banwari and others** (supra). Thus, the pending application filed under Section 28-A of the 1894 Act could not have been rejected by any means, being barred by limitation as the final determination was made by this Court @ Rs.1754/- per marla on 16.03.2017 and on the said date the said application preferred at the instance of the petitioners/landowners was pending adjudication with respondent No.2. In fact, keeping in mind the principle of the landowners being entitled for just, fair and equal compensation against compulsory acquisition of their land, respondent No.2 was required to adopt a pragmatic approach so as to further the object, purpose and intent of the statutory provision enacted by the Legislature in the form of Section 28-A of the 1894 Act, rather than taking a hyper-technical approach, thereby causing prejudice to the rights of the petitioners-landowners.

[11]. In view of aforesaid discussion, the present writ petition is allowed and the impugned dated 24.08.2021 passed by the Sub Divisional Magistrate-cum-Land Acquisition Collector, RSD and Shahpurkandi Dam Project, Shahpurkandi Township is hereby set aside, The petitioners/landowners are held entitled for award of similar benefit of market value @ Rs. 1754/- per marla besides award of all other statutory benefits and interest as provided under the provisions of the 1894 Act (amended upto date). The due amount be released in favour of

petitioners/landowners within two months from today or else respondent No.2 shall be liable to pay cost of Rs.1 lakh to the petitioners for causing delay. The cost shall be borne by respondent No.2 from his/her own pocket and be not treated as burden upon the State Exchequer.

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

16.03.2026
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>