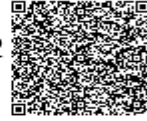


2025:PHHC:118872



162 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-6997-2021

Decided on:-02.09.2025

Jai Parkash and others

....Petitioners..

vs.

State of Haryana and others

....Respondents.

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

Present: Mr. Devender Kumar, Advocate for  
Mr. Ravi Malik, Advocate for the petitioners.

Ms.Komal Sharma, DAG, Haryana.

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**HARKESH MANUJA J. (Oral)**

1. The petitioners, by way of present writ petition, seek issuance of directions to respondent No. 3 (District Revenue Officer-cum-Land Acquisition Collector, District Jind) for release of the enhanced amount of compensation as per the decision dated 23.04.2016 (Annexure P-1) passed by this Court in a batch of appeals, lead case of which was ***RFA No. 2176 of 2012***, titled "***Rajinder Versus State of Haryana***", and also the decision dated 16.09.2016 (Annexure P-2) passed in identical appeal bearing ***RFA No. 3586 of 2016***, titled "***Ram Parshad and others Versus State of Haryana***", which pertain to the same acquisition proceedings.

2. Briefly stating, some land owned by the petitioners alongwith the land owned by other landowners belonging to the Village Dumerkha Kalan, Tehsil Narwana, District Jind (Haryana) came to be acquired vide Notification dated 21.11.1997 issued under Section 4 of the Land Acquisition Act, 1894 (for short "1894 Act") followed by Notification dated

08.12.1997 under Section 6 thereof. The public purpose for acquisition of the land was stated to be for construction of Barsola Feeder. The Land Acquisition Collector (*for short "LAC"*) vide Award No. 4 dated 23.07.1998, assessed the market value of acquired land at the uniform rate of Rs.1,10,000/- per acre.

2.1 Dissatisfied with the Award passed by the LAC, though the petitioners did not prefer reference under Section 18 of the 1894 Act, however, on petitions filed under Section 18 of the 1894 Act at the instance of other landowners, learned Reference Court vide its Award dated 24.01.2006 assessed the market value at the uniform rate of Rs. 3,00,000/- per acre besides grant of other statutory benefits.

2.2 Based thereupon, the petitioners invoked Section 28-A of the 1894 Act vide application dated 19.07.2006 and the said petition was disposed of by respondent No. 3 vide order dated 17.10.2008, thereby granting similar market value to the tune of Rs. 3,00,000/- per acre in favour of the petitioners-landowners. It may be necessary to point out here that during pendency of the petition under Section 28-A of the 1894 Act before the LAC, this Court in *Rajinder's* case (supra) preferred at the instance of other landowners, modified the award dated 24.01.2006 passed by the Reference Court, thereby enhancing the market value @ Rs.3,78,467/- instead of Rs.3,00,000/- per acre.

2.3 On coming to know such fact, the petitioners moved another application under Section 28-A of the 1894 Act before respondent No. 3 for grant of similar benefits to the tune of Rs. 3,78,467/- per acre as market value. The application was preferred on 10.11.2016, however, the same was dismissed by the LAC vide its order dated 30.05.2017 (Annexure P-5).

3. Learned counsel for the petitioners submits that once, the market value regarding acquisition in hand was assessed @ Rs.3,78,467/- by this Court having modified the Award dated 24.01.2006 passed in the reference under Section 18 of the 1894 Act, the petitioners-landowners were entitled for grant of the enhanced market value i.e. Rs.3,78,467/- per acre, besides other benefits and necessary orders in this regard were required to be passed by respondent No. 3.

4. On the other hand, learned State counsel submits that once, a petition preferred under Section 28-A of the 1894 Act at the instance of petitioners-landowners stood adjudicated upon vide decision dated 17.10.2008, no fresh application on the basis of re-assessment of market value by this Court in Regular First Appeal was maintainable and if, at all, the petitioners-landowners were aggrieved of the same, they were at liberty to invoke their statutory remedy as provided under Section 28-A (3) of the 1894 Act and thus, the present writ petition was liable to be dismissed.

5. After hearing learned counsel for the parties and having gone through the record, I find substance in the submission(s) made on behalf of the petitioners.

6. In the present case, Section 28-A of the 1894 Act was preferred at the instance of petitioners-landowners initially vide petition dated 19.07.2006 on the basis of Reference Court award dated 24.01.2006, whereby, the market value of the acquired land was assessed @ Rs.3,00,000/- per acre, besides grant of other statutory benefits. This Court vide its decision dated 19.01.2011 passed in different RFAs arising out of the same acquisition, remanded back the matter for its fresh adjudication by the Reference Court. After remand, the reference petitions were decided

afresh on 22.12.2011 by maintaining the market value at the rate of Rs.3,00,000/- per acre. It is against the said award, again RFAs were preferred, which were decided on 23.04.2016 and 16.09.2016 (Annexures P-1 and P-2 respectively), whereby, the market value was enhanced to Rs.3,78,467/- per acre against Rs.3,00,000/- per acre by this Court.

6.1 As such, once the issue of re-determination/reassessment of market value was sub-judice before this Court, respondent No.3 should not have adjudicated upon the application preferred at the instance of petitioners having invoked Section 28-A of the 1894 Act. In fact, respondent No.3 was required to wait for the final determination of the market value of the acquired land so as to benefit the petitioners-landowners towards grant of similar market value as awarded in favour of other landowners relating to the same acquisition proceedings in consonance with the aim and object of the 1894 Act, which ensures just and fair compensation to every landowner against acquisition of land. In such circumstances, the making of fresh application under Section 28-A of the 1894 Act was not fatal to the cause of petitioners-landowners as they were compelled to do the same on account of the premature adjudication made by respondent No.3 on their initial application under Section 28-A of the 1894 Act without even waiting for the final outcome of the determination towards market value of the acquired land in the Regular First Appeals preferred at the instance of other landowners as well as the respondent-State.

6.2 Further, while dealing with the issue of maintainability of writ petition in the wake of Section 28-A (3) of the 1894 Act under some what similar circumstances in relation to a case pertaining to the same very acquisition, this Court in case titled "***Nanhi and others vs. State of Haryana***

**and others**”, reported as **(2020) 4 RCR (Civil) 151**, went on to record that the landowners were entitled for enhanced compensation at the rate of Rs.3,78,467/- per acre along with all other statutory benefits except the benefit of interest on the enhanced compensation on account of delay in not challenging the first order at the earliest. The operative paragraphs No.8 to 12 from **Nanhi’s** case (supra) are reproduced hereunder:-

“8. Counsel for the State is also well justified in holding out that provisions of Section 28-A(3) further provides that procedure prescribed under Sections 18 to 28 shall apply so far to such reference as they would apply to reference under Section 18 thus impliedly the issue of limitation under Section 18(2)(b) would also come into play when a matter is to be referred to the Civil Court once the application under Section 28-A(2) is dismissed.

9. The petitioner had never at that point of time filed an application under Section 28-A(3) within the prescribed period of limitation before the Collector since the Section 28-A application had been decided way back on 19.11.2008 (P3) for the first time and therefore it does not lie in the mouth of the counsel for the petitioners to submit that the application can be treated as under Section 28-A(3) for referring it to the Civil Court.

10. The only issue thus which detains this Court is whether a writ of mandamus is liable to be issued keeping in view the law laid down by the Apex Court in *Bharatsingh (supra)* and the judgment in *Narendra & Ors. vs. State of UP (2017) 9 SCC 426* that landowners are held entitled for an equal amount of compensation.

11. It is settled principle that all landowners are entitled for the same amount of compensation and for the State to contest such litigation and force the landowners to unnecessarily initiate this litigation is absolutely uncalled for. Reliance can be placed upon judgment in *Narendra & Ors. vs. State of UP (2017) 9 SCC 426* wherein it has been held as under:-

*“The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those land owners who are agriculturist in most of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is incorporated by the Legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell of their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court etc. In order to ensure that the land owners are given proper compensation, the Act provides for ‘fair*

*compensation'. Once such a fair compensation is determined judicially, all land owners whose land was taken away by the same Notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them. No doubt the judicial system that prevails is based on adversarial form of adjudication. At the same time, recognising the demerits and limitations of adversarial litigation, elements of social context adjudication are brought into the decision making process, particularly, when it comes to administering justice to the marginalised section of the society.*

12. *It is also to be noticed that in the judgments of Imrat Lal & others Vs. Land Acquisition Collector & others 2015 (2) RCR (Civil) 437, Dhiraj Singh (deceased) through LRs Vs. Haryana State & others 2015 (2) RCR (Civil) 507 and Samiyathal vs. Special Tehsildar, 2015(2) RCR (Civil) 441 the Apex Court has reiterated this. The basic principle being that a pedantic approach is not to be taken while deciding the cases pertaining to the land acquisition since the landowner is being deprived of his land and therefore is fighting against the might of the State who has acquired the land under the principle of eminent domain. It is in such circumstances, this Court is of the opinion that to juggle the interests of both the parties, it would be appropriate if a writ of mandamus is allowed to this extent that the landowners will be entitled for the compensation @ ₹3,78,467/- per acre along with all statutory benefits except the benefit of interest on the enhanced compensation on account of delay in not challenging the order dated 19.11.2008 (P3) at the earliest. The said benefit of interest*

*shall only be granted from 19.11.2008 and not from the date of the award i.e. 23.07.1998.”*

7. Moreover, even the Hon'ble Supreme Court in case of **“Banwari and others vs. HSIIDC and another”**, 2024 INSC 951 has also gone on to hold that the landowner has a right to claim benefit of similar compensation in terms of assessment made by the High Court within three months from the date of its decision. Relevant paragraphs No.16 and 24 of the **Banwari's** case (supra) are reproduced hereunder:-

“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.

24. As already discussed hereinabove, the provisions of Section 28-A(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 28-A 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 28-A. It has been held that Section 28-A 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.”*

7.1 In the present case also the RFAs filed by other landowners were decided by this Court on 16.09.2016 and based thereupon, the fresh reference under Section 28-A of the 1894 Act was filed on 10.11.2016 i.e. within 90 days and that too, under compulsive circumstances wherein the LAC without waiting for the outcome of pending appeals at the instance of other similarly placed landowners adjudicated upon the first application dated 19.07.2006.

8. In such circumstances, drawing strength from the aforesaid preposition of law, the present petition is allowed. The petitioners-landowners are held entitled for enhanced compensation at the rate of Rs.3,78,467/- per acre along with all statutory benefits as awarded to the other similarly placed landowners, except the benefit of interest from the date of the passing of the first order dated 17.10.2008 by respondent No.3 till the date of filing of the subsequent application dated 10.11.2016.

9. Pending application(s), if any, also stand(s) disposed of.

02.09.2025

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**(HARKESH MANUJA)**  
**JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No