

*** THE HON'BLE SRI JUSTICE P. SAM KOSHY
AND
*THE HON'BLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY
+ WRIT APPEAL No. 6 of 2025**

Between:

State of Telangana,
Represented by its Principal Secretary to Government,
I & CAD Department, Secretariat Buildings,
Saifabad, Hyderabad & others ... Appellants

AND

Bandari Rajaiah and others ... Respondents

JUDGMENT PRONOUNCED ON : 03.09.2026

SUBMITTED FOR APPROVAL:

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

P. SAM KOSHY, J

VAKITI RAMAKRISHNA REDDY, J

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! Counsel for the Appellants : Mr. P. Sridhar Reddy,
learned Special GP attached
to the office of learned
Advocate General

^ Counsel for Respondents : Mr. G. Chandan Raaj

< GIST :

> HEAD NOTE :

? Cases referred :

1. 2012 (6) ALT 220
2. 1997 (2) ALT 429 (S.B.)
3. (1994) 4 SCC 67 = 1994 LACC 365 (SC)
4. 1996 A.P. High Court Notes 298
5. (1995) 2 SCC 736
6. (2003) 7 SCC 280
7. AIR 2004 AP 1 = 2003 (6) ALT 353 (F.B.)
8. 2000 (2) ALT 519 (D.B.) = 2000 (3) ALD 43
9. 1(2002) 7 SCC 273
10. AIR 1966 SC 735
11. (2020) 13 SCC 285
12. AIR 1966 SC 81
13. (2007) 11 SCC 447
14. (1985) 3 SCC 737
15. 2024 SCC OnLine SC 968
16. 2024 SCC OnLine SC 3725
17. (2020) 2 SCC 569

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE SRI JUSTICE P. SAM KOSHY
AND
THE HON'BLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY**

**WRIT APPEAL No.6 of 2025
(CNR No.HBHC010534442024)**

Dated: 03.09.2026

Between:

State of Telangana,
Represented by its Principal Secretary to Government,
I & CAD Department, Secretariat Buildings,
Saifabad, Hyderabad & others

... Appellants

AND

Bandari Rajaiah, S/o. Neelaiah, aged about 69 years,
R/o. Hathini Village, Dahegaon Mandal,
Kumuram Bheem Asifabad District, and 54 others.

... Respondents

JUDGMENT: *(Per Hon'ble Sri Justice Vakiti Ramakrishna Reddy)*

This intra-Court appeal, preferred under Clause 15 of the Letters Patent, is directed against the order dated 21.08.2023 passed in W.P.No.16034 of 2023. By the said order, the learned Single Judge allowed the writ petition and directed the appellants herein to re-determine the compensation payable to the respondents/writ petitioners by taking into consideration the compensation fixed by the order dated 05.02.2018 in L.A.O.P.No.32 of 2011 on the file of the Court of the Senior Civil Judge, Asifabad, and to pay the differential compensation within a

period of three months from the date of receipt of a copy of the order.

2. We have heard Mr. P. Sridhar Reddy, learned Special Government Pleader attached to the office of the learned Advocate General, appearing for the appellants, and Mr. G. Chandan Raaj, learned counsel appearing for the respondents/writ petitioners. Both sides have filed written submissions along with a compilation of authorities, which we have considered together with the record of the writ petition and the material placed before us.

3. The controversy in the present case turns on a specific question. Fifty-five persons who lost their residential houses on account of an acquisition made in the years 2002 and 2003 applied for a reference under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') within the time prescribed by the statute. Their applications, however, were rejected by the Land Acquisition Officer on the sole ground that they had received the compensation without protest. Ten other awardees under the very same award obtained enhanced compensation in L.A.O.P.No.32 of 2011. The petitioners thereafter sought re-determination of compensation under Section 28-A of the Act on the basis of such enhancement. The question that, therefore, arises for our consideration is whether their applications can be rejected on the

ground that it is barred by the period of limitation prescribed by Section 28-A of the Act.

BRIEF FACTS OF THE CASE

4. The residential houses and lands situated within the village limits of Hathini, Dahegaon Mandal, Kumuram Bheem Asifabad District (erstwhile Adilabad District) came to be acquired for submergence under the P.P. Rao Project. The requisition was made by the Executive Engineer, I & CAD, P.P. Rao Project Division, Bellampally, by letter No.BD/297/M dated 15.01.2002, for acquisition of the abadi (houses) of Hathini village. On the report of the then Mandal Revenue Officer and the Assistant Director (S&LR), Adilabad, the draft notification was approved by the District Collector, Adilabad, was issued in Gazette No.9/2001-1 dated 06.03.2002 and was published on 11.03.2002. The declaration was published simultaneously on the same day.

5. On completion of the process, the Revenue Divisional Officer and Land Acquisition Officer, Asifabad passed Award No.B/628/2002 dated 26.05.2003 in respect of 532 structures. The compensation determined thereunder was confined to the estimated value furnished by the engineering authority. It is the specific case of the writ petitioners that the two other components of compensation, namely solatium and additional market value,

were omitted altogether, and that the award was to that extent contrary to the mandate of Section 23 of the Act.

6. Within six weeks of the award, on 05.07.2003, the writ petitioners submitted applications under Section 18 of the Act seeking a reference to the competent civil Court for proper determination of compensation. Those applications were rejected by the Revenue Divisional Officer by Memo No.B/628/2002 dated 01.08.2003, on the ground that the compensation amount had not been received “under protest”.

7. Some of the awardees covered by the same award, Sri Tallapally Linga Rao and nine others, were, however, referred to the civil Court. That reference was numbered as L.A.O.P.No.32 of 2011 on the file of the Court of the Senior Civil Judge, Asifabad, and was allowed by judgment and decree dated 05.02.2018, enhancing the compensation. The said judgment and decree were confirmed by a Division Bench of this Court in L.A.A.S. No.32 of 2019 by judgment dated 20.01.2020.

8. In the meanwhile, the writ petitioners submitted representations on 21.02.2009, 04.02.2010, 17.04.2010 and 02.04.2013 before respondent Nos.2 and 3, seeking release of the missing components of compensation, namely 30% solatium and

12% additional market value. No orders were passed on those representations. It is also on record that a learned Single Judge of this Court disposed of W.P.No.15911 of 2011 by order dated 06.07.2012, which is reported in *Kalvala Padma v. Government of Andhra Pradesh*¹, and that the writ petitioners thereafter sought to have their applications under Section 18 of the Act treated as applications under Section 28-A of the Act for re-determination of compensation on the basis of the award of the reference Court.

9. On coming to know of the enhancement obtained by the above said ten awardees, the writ petitioners, along with a large number of other awardees, approached the Land Acquisition Officer and Revenue Divisional Officer, Kagaznagar in the last week of October 2020 with applications for re-determination of the market value under Section 28-A of the Act, relying upon the judgment dated 05.02.2018 in L.A.O.P. No.32 of 2011. It is stated in the counter affidavit of the fourth respondent that those applications were entertained; that the Land Acquisition Officer proceeded to pass an award in respect of 523 awardees, including 100 persons taken up *suo motu*; and that a draft award in terms of Section 28-A of the Act was submitted to the District Collector, Kumuram Bheem Asifabad, with a request to approve the same.

¹2012 (6) ALT 220

10. In April 2021 the District Collector returned the proposals with a direction to re-examine them with reference to the original file and the original applications under Section 28-A. On such re-examination, the Revenue Divisional Officer and Land Acquisition Officer, Kagaznagar rejected all 423 applications for re-determination by proceedings No.B/628/2002-1 dated 14.07.2021, on the ground that the applications had been filed after a lapse of 935 days from 05.02.2018, whereas an application under Section 28-A of the Act was required to be filed within 90 days.

11. According to the writ petitioners, the said proceedings dated 14.07.2021 were served only on three out of the fifty-five writ petitioners, and they came to know of the rejection only on receipt of the counter affidavit filed in the writ petition. W.P. No.16034 of 2023 was thereafter filed seeking a writ of mandamus directing the respondents to re-determine the compensation in respect of the lands and structures of the writ petitioners by treating the objections filed under Section 18 of the Act as applications under Section 28-A of the Act, and to pay the full compensation together with solatium, additional market value and interest in terms of the judgment in L.A.O.P. No.32 of 2011 as confirmed in appeal.

12. The fourth respondent filed a counter affidavit resisting the writ petition on the grounds noticed above, and the first writ petitioner filed a reply affidavit traversing the same.

THE ORDER UNDER APPEAL

13. The learned Single Judge, on a consideration of the material on record, recorded that there was no dispute about the factual aspects of the case and that the submission of the applications under Section 18 of the Act on 05.07.2003 was well within time. Relying upon the decision of this Court in *Kotipalli Chitti v. Special Deputy Collector, Land Acquisition for ONGC*², which in turn followed the judgment of the Hon'ble Supreme Court in *Ajit Singh v. State of Punjab*³ and the decision in *Sode Pentaiah v. Land Acquisition Officer and Special Deputy Collector, IPT & Railways*⁴, the learned Single Judge held that mere non-recording of protest while receiving compensation does not preclude a land loser from seeking a reference under Section 18 of the Act, if such a request is made within the time stipulated therein. The relevant portion of the decision in *Kotipalli Chitti's case (supra)* extracted in the order under appeal reads as follows:

"Thus, even though there is no express protest in the acquittance register at the time of receiving the compensation, there is clear admission on the part of the Land Acquisition Officer that the

²1997 (2) ALT 429 (S.B.)

³(1994) 4 SCC 67 = 1994 LACC 365 (SC)

⁴1996 A.P. High Court Notes 298

petitioner herein not having satisfied with the compensation awarded, presented the application under Section 18(2) of the Act for referring the matter to the Court. In view of this application under Section 18(2) of the Act, the Land Acquisition Officer made the reference and the same has been numbered as O.P. No. 33/1989.

In "Ajit Singh and Ors. v. State of Punjab and Ors." , 1994 LACC 365 (S.C.), the Supreme Court held that inasmuch as the appellants have filed an application for reference under Section 18 of the Act that will manifest their intention and therefore, the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. Following the said Supreme Court decision, in a recent case in "Sode Pentaiah v. The Land Acquisition Officer & Special Deputy Collector, IPT & Railways", 1996 A.P. High Court Notes 298 my learned brother Rajagopala Reddy, J. also held that persons who took the compensation without any express protest but filed applications for reference on the same day are also entitled to claim for enhancement of compensation as there was implied protest. I am in full agreement with the said observations.

In the instant case also as the revision-petitioner filed the application under Section 18 of the Act immediately after receiving the amount and the notice under Section 12(2) of the Act, there is implied protest against the compensation awarded. Therefore the reference is maintainable even in the absence of express protest at the time of receiving the compensation. As seen from the impugned order, the learned Judge was carried away by the absence of express protest in the acquittance register. He has not considered the application submitted under Section 18(2) of the Act requesting the Land Acquisition Officer to make a reference to the Civil Court on the ground that he was not satisfied with the compensation awarded. Therefore, the impugned order is liable to be set aside.

In the result, the revision petition is allowed. The order in I.A. No. 163/92 in O.P. No. 33/1989 is set aside. The learned Subordinate Judge, Rajahmundry is directed to dispose of the O.P. No. 33 / 1989 within four months from the date of receipt of a copy of

this order. The office is directed to forward the records to the lower Court within (10) days. Parties are directed to bear their costs in this appeal.”

14. Proceeding on that basis, the learned Single Judge held in paragraph 4 of the order under appeal:

“4. In the light of the above, the ground on which the request made by the petitioners for reference under Section 18 of the Act was negatived vide memo No.B/628/2002, dated 01.08.2003, cannot be sustained under law. As already observed above, the said memo is not challenged by the petitioners. But, there are sufficient pleadings on record contending that the said memo is contrary to law.”

15. In paragraph 5, after referring to the object of Section 18 of the Act and to the decision in *Kalvala Padma’s case (supra)*, the learned Single Judge held:

“5. In the light of the settled legal position in this regard, this Court is inclined to take the pleadings on record as the one questioning the said memo, dated 01.08.2010. Even otherwise, Section 18 of the Act, is incorporated into the Act, 1894 to enable the land losers to claim for just Compensation as against the arbitrary compensation fixed by the Land Acquisition Officer. Though the petitioners invoked the said provision well within time in accordance with law, the same was negatived in an arbitrary manner and all the petitioners herein are the persons belonging to poor downtrodden with rural background. From the vakalath filed in this writ petition, it is seen that all of them are illiterate and thumb impression holders. May be for want of proper and timely legal advice and for want of sufficient financial assistance, the petitioners could not have prosecuted the matter in an effective manner. Hence, they failed to question the memo dated 01.08.2003. This Court, while exercising the jurisdiction under Section 226 of the constitution of India, having noticed the irregularity and illegality committed by the respondent No.4 in rejecting the request made by the petitioners under Section 18 of the Act is unable

to remain as a silent spectator especially in the context of the fact that the petitioners, who lost their residential houses and properties as early as in the year 2003 have been continuously pursuing the matter for enhancement of compensation. In the light of the above, this Court is of the considered view that it is the bounded duty of this Court to raise to the occasion in such circumstances and grant relief to the petitioners, directing the respondent No.4 to refer the matter under Section 18 of the Act to the competent civil Court for considering their claim for enhancement of compensation. But, taking into consideration the fact that some of the land losers, who lost their lands and covered by very same draft notification, and award have already sought reference under Section 18 of the Act and the same was answered by the Court of the Senior Civil Judge at Asifabad in L.A.O.P.No.32 of 2011 by a judgment dated 05.2.2018 and the same was also confirmed by a Division Bench of this Court, this Court is of the considered view that instead of directing respondent No.4 to refer the matter to the competent civil Court, under Section 18 of the Act, it would be just and proper in peculiar facts and circumstances of the case on hand to declare that the petitioners are entitled for payment of compensation at the rates as fixed by the order dated 05.02.2018 in L.A.O.P.No.32 of 2011 on the file of Senior Civil Judge at Asifabad.”

16. The portion of the decision in *Kalvala Padma’s case (supra)* relied upon and extracted by the learned Single Judge reads thus:

“It is true that this Court does not entertain writ petitions, which are barred by laches. However, the writ petitions filed seeking enforcement of the rights under the Act, particularly for reference under Section 18, stand on a different footing. Support for this proposition can be drawn from the concept of re-determination of compensation under Section 28-A of the Act. In a given case, it may take more than a decade for the decree passed by a Civil Court in a reference made under Section 18 of the Act, at the instance of owners of the land acquired through the same notification; to become final. Still, remedy would be available to the person, who did not seek reference. When such is the facility

provided for by the Parliament, the High Court would ill afford to be hyper-technical. Failure on the part of the Land Acquisition Officer, to refer the matter under Section 18 of the Act, if the application is otherwise in order; cannot be permitted to defeat the valuable rights of the persons, whose lands are acquired.”

17. The operative portion of the order under appeal is in paragraph 6, which reads:

“6. Accordingly, the writ petition is allowed directing the respondents to re-determine the compensation payable to the petitioners by duly taking into consideration the compensation fixed in the order dated 05.02.2018 passed in L.A.O.P.No.32 of 2011 on the file of Senior Civil Judge at Asifabad and pay the differential compensation to the petitioners within a period of three (3) months from the date of receipt of a copy of this order. This Course is all the more necessary to avoid further delay in doing justice to the petitioners who were denied the same in the year, 1983.”

18. We may now notice the rival contentions. Both sides have placed their cases before us in writing, and we set out only such of the submissions as bearing upon the questions arising in this appeal, together with the authorities relied upon in support of them.

RIVAL SUBMISSIONS:

(a) Submissions on behalf of the Appellants

19. In support of the appeal, written submissions dated 14.07.2026 have been filed on behalf of the appellants through the office of the learned Advocate General. The case set out therein is that the notification under Section 4(1) of the Act was issued on

06.03.2002 and the declaration under Section 6 followed on 07.03.2002; that the Land Acquisition Officer passed the award determining compensation as per the eligibility of the awardees; that the writ petitioners applied for a reference under Section 18 of the Act on 05.07.2003, which application was rejected on 01.08.2003 on the ground that they had not protested while receiving the compensation, and that the order of rejection, never having been challenged, has become final; that some of the awardees covered by the same notification were referred to the civil Court in L.A.O.P.No.32 of 2011, in which the compensation was enhanced two-fold, and that the appeal preferred by the State in L.A.A.S.No.32 of 2019 was dismissed on 20.01.2020; and that the writ petitioners thereafter applied under Section 28-A of the Act in October 2020, beyond the statutory period, for which reason the Land Acquisition Officer rejected their applications as barred by limitation by order dated 14.07.2021.

20. Upon that foundation, learned Special Government Pleader contended that the applications for re-determination were made beyond the period of three months prescribed by Section 28-A of the Act and were rightly rejected. He extracted the provision and placed reliance upon the decision of the Hon'ble Supreme Court in

*Union of India v. Pradeep Kumari*⁵, in which the conditions governing an application under that provision were set out, and submitted that condition (iv) is not satisfied because the writ petitioners had themselves made an application to the Collector under Section 18 of the Act on 05.07.2003 and had never challenged its rejection, and that condition (v) is not satisfied because the application for re-determination was made with a delay of 983 days. He further relied upon *State of A.P. v. Marri Venkaiah*⁶, in which it was held that although Section 28-A of the Act is a beneficial provision, the advantage of the benefit conferred must be taken within the stipulated time, and that whosoever wishes to take advantage of beneficial legislation has to be vigilant and must at least make efforts to find out whether other landowners have filed reference applications and with what result.

21. It was further submitted, that the writ petitioners never challenged the orders of rejection passed by the Land Acquisition Officer, and that the learned Single Judge, without any pleading in that behalf, directed the authorities to re-determine the compensation payable to the writ petitioners duly taking into consideration the compensation fixed in L.A.O.P.No.32 of 2011 and pay differential compensation to the petitioners; that the learned

⁵(1995) 2 SCC 736

⁶(2003) 7 SCC 280

Single Judge did not advert to the purport of Section 28-A of the Act or to the time frame prescribed by it, and did not discuss the specific contention raised in that behalf; and that the objections raised in the counter affidavit went unnoticed. In the course of oral arguments it was added that the delay of nearly twenty years in approaching the writ Court was not considered; that ignorance of law cannot be used as a weapon to approach the Court belatedly; that the finding of continuous pursuit is contrary to the record; that the decision in *Kalvala Padma* was wrongly applied, the facts being distinguishable; and that the direction to pay compensation at the rate fixed in L.A.O.P.No.32 of 2011 is unsustainable, the writ petitioners not being parties to that reference.

22. In the course of the deliberations on 20.08.2026, this Court sought to know from the learned Special Government Pleader whether, in the course of calculation of compensation, solatium and other statutory amounts would also be added to the compensation quantified. On instructions, the learned Special Government Pleader fairly submitted that solatium under Section 23(2), the additional amount under Section 23(1-A) and interest under Sections 28 and 34 of the Act are statutory components consequential to the determination of compensation, and these

components have neither been awarded nor included in the award passed by the Land acquisition Officer.

(b) Submissions on behalf of the Respondents/ Writ Petitioners

23. On behalf of the respondents/writ petitioners, written submissions have been filed comprising a synopsis, a list of dates and events, the questions said to arise for consideration, a seriatim answer to the appellants' written arguments and a compilation of authorities. The principal submission is that the appeal proceeds upon a mischaracterisation of the respondents' case. They are not strangers to the reference remedy who approached the Collector for the first time under Section 28-A of the Act after an inordinate interval; they are awardees who invoked Section 18 of the Act within six weeks of the award, on 05.07.2003, and whose applications were rejected on 01.08.2003 for the solitary reason that an express protest had not been recorded at the moment of receipt of compensation. The legality of that refusal, it is urged, falls to be tested as on the date on which it was made and by reference to Section 18 read with the second proviso to Section 31(2) of the Act, and not by importing a period of limitation which governs a later and distinct remedy. The subsequent resort to Section 28-A of the Act was an alternative route to parity, occasioned by the State's own refusal to transmit the timely

applications, and it neither erases the right which had accrued under Section 18 of the Act nor validates the antecedent illegality.

24. In support of the contention that the requirement of protest stood satisfied, learned counsel relied upon *Ajit Singh's case (supra)*, the Full Bench decision in *District Collector, Kakinada v. P. Nagabhushana Rao*⁷, and the decisions in *Special Deputy Collector, Land Acquisition v. N. Sangaiah*⁸ and *Kotipalli Chitti's case (supra)*, for the propositions that the Act prescribes neither a rigid form nor an exclusive mode in which protest is to be expressed, and that a written application for reference presented within limitation is itself an unequivocal manifestation that the awardee disputes the quantum and does not accept the award as final. He submitted that the arbitrary character of the rejection is demonstrated by the treatment of the co-awardees: claimants under the same notification and the same award, whose requests had encountered the very same objection, approached this Court in W.P.No.24130 of 2010, and pursuant to the direction issued therein a reference was made and registered as L.A.O.P.No.32 of 2011, in which the Reference Court found the original valuation to be substantially deficient and the statutory additions to have been denied, and enhanced the compensation by judgment dated 05.02.2018, which

⁷AIR 2004 AP 1 = 2003 (6) ALT 353 (F.B.)

⁸2000 (2) ALT 519 (D.B.) = 2000 (3) ALD 43

has since attained finality. To refer one set of co-awardees to the civil Court and to exclude the rest permanently, it was urged, is procedural discrimination offensive to Article 14 of the Constitution of India.

25. Meeting the authorities relied upon by the appellants, learned counsel submitted that *Pradeep Kumari's case* and *Marri Venkaiah's case (supra)* regulate the independent statutory remedy under Section 28-A of the Act and do not authorise a Collector to reject a timely application under Section 18 of the Act on an invalid ground. He submitted that condition (iv) in *Pradeep Kumari* must in any event be read in the light of the decision of the Constitution Bench in *Union of India v. Hansoli Devi*⁹, which explains that the expression “had not made an application to the Collector under section 18” refers to an effective application which was entertained and answered, and that an application rejected on delay or on another technical ground does not operate as the disqualifying application contemplated by Section 28-A of the Act; and that *Marri Venkaiah* is distinguishable, the respondents advancing no contention that the period under Section 28-A of the Act is to be computed from the date of knowledge. Upon the objection that the memo dated 01.08.2003 was not separately assailed, reliance was

⁹(2002) 7 SCC 273

placed upon *Bhagwati Prasad v. Chandramaul*¹⁰, *Maharashtra Chess Association v. Union of India*¹¹ and *Dwarka Nath v. Income Tax Officer*¹², for the amplitude of Article 226 of the Constitution of India and for the principle that relief is not defeated by the form of the prayer where the cause, the facts and the controversy were pleaded and contested and no prejudice is shown.

26. On the question of delay, learned counsel submitted that the cause of injustice originated not in a belated initial claim but in the Collector's unlawful refusal, and relied upon *Kalvala Padma (supra)*, *Kusheshwar Prasad Singh v. State of Bihar*¹³ and *Bhag Singh v. Union Territory of Chandigarh*¹⁴, for the propositions that a party cannot take advantage of its own wrong and that the State, as a model litigant in acquisition matters, ought not to rely upon a technical plea to deprive citizens of compensation lawfully due; and he submitted, in the alternative, that if any period of inaction is found attributable to the respondents, the equitable consequence should be confined to a regulation of interest for that period and should not extend to extinguishment of the principal entitlement. Reliance was also placed upon *Kolkata Municipal Corporation v.*

¹⁰AIR 1966 SC 735

¹¹(2020) 13 SCC 285

¹²AIR 1966 SC 81

¹³(2007) 11 SCC 447

¹⁴(1985) 3 SCC 737

*Bimal Kumar Shah*¹⁵ for the procedural and substantive content of Article 300-A of the Constitution of India.

POINTS FOR CONSIDERATION

27. On the above pleadings and submissions, the following points arise for consideration:

- (i) Whether the rejection of the applications filed under Section 18 of the Act on 05.07.2003, by Memo No. B/628/2002 dated 01.08.2003, on the sole ground that the compensation was received without protest, is sustainable in law;
- (ii) Whether the writ petition was liable to be dismissed for the reason that the said Memo dated 01.08.2003 was not specifically challenged;
- (iii) Whether the claim of the respondents/writ petitioners is governed by, and defeated by, the period of limitation prescribed by Section 28-A(1) of the Act, having regard to the decisions relied upon by the appellants;
- (iv) Whether the writ petition was liable to be dismissed on the ground of delay and laches; and
- (v) Whether the direction issued by the learned Single Judge calls for interference, and what relief the respondents/writ petitioners are entitled to, including whether solatium and other statutory amounts form part of the compensation to be re-determined.

¹⁵2024 SCC OnLine SC 968

ANALYSIS AND FINDINGS

28. Before we take up the points one by one, it is useful to say plainly where the two sides part company, because a good deal of the argument on either side follows from that difference. The appeal is argued as though this case began in October 2020, when the writ petitioners applied for re-determination under Section 28-A of the Act. The writ petitioners say that it began on 05.07.2003, when they applied under Section 18 of the Act and were turned away. If the first is the true starting point, the appeal is a short matter, for the three months prescribed by Section 28-A(1) had admittedly run out long before. If the second is the true starting point, limitation under Section 28-A does not arise for decision at all, and what has to be examined instead is whether the refusal made in the year 2003 was lawful. It is significant that the written submissions filed on behalf of the appellants do not deal with that refusal at any place; they begin and end with Section 28-A of the Act. We propose, therefore, to begin where the case itself began.

29. We should also say a word about the way in which we have approached the record. What is claimed here is not a bounty. Fifty-five families gave up the houses they lived in so that a project might be built, and they have been asking ever since for the balance of what the statute itself promised them. That

circumstance relaxes no rule of law, and we do not treat it as doing so. It does, however, mean that we should be slow to dispose of the matter upon the form in which their case happened to be presented, and careful to see what in substance was done to them and whether the law permitted it.

Point (i) — Rejection of the applications under Section 18 for want of protest

30. Section 18(1) of the Act reads as follows:

“18. Reference to Court.—(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.”

31. The bar upon which the fourth respondent acted is found in the second proviso to Section 31(2) of the Act, which reads:

“Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18.”

32. Neither Section 18 nor the second proviso to Section 31(2) prescribes the form in which a protest is to be made, or requires that it be endorsed in the acquittance register. What the statute requires is that the person interested should not have accepted the award. Where a written application under Section 18 is presented within the period prescribed by the proviso to Section 18(2), the

application is itself the clearest possible manifestation of the refusal of the claimant to accept the award, and the protest against the award is implied notwithstanding the acceptance of the amount offered. That is the view taken by the Hon'ble Supreme Court in *Ajit Singh's case (supra)*, and followed by this Court in *Kotipalli Chitti's case (supra)*, and in *Sode Pentaiah's case (supra)*. The same view was taken by the Full Bench of the erstwhile High Court of Andhra Pradesh in *P. Nagabhushana Rao's case (supra)*, and by a Division Bench in *N. Sangaiah's case (supra)*, both of which hold that where a person interested applies for a reference within the time prescribed by Section 18 of the Act, that conduct itself denotes non-acceptance of the award and gives rise to the legal inference that the compensation was received under protest, unless the State establishes an express and unconditional acceptance of the award in full satisfaction. We are in respectful agreement with that view, which the learned Single Judge has rightly applied.

33. On the facts, the position admits of no doubt. The award is dated 26.05.2003. The applications under Section 18 of the Act were made on 05.07.2003, that is, within six weeks. The counter affidavit of the fourth respondent does not deny either the making or the receipt of those applications; the only plea taken is that the

compensation was not received under protest, and that for that reason the applications were rejected by the Memo dated 01.08.2003.

34. More significantly, the counter affidavit of the fourth respondent itself discloses that ten awardees under the very same award were referred to the civil Court, and that the reference in their case was made “basing on the representation submitted by the above (10) awardees”. It is thus admitted that in the case of those ten awardees the authority treated a representation as sufficient compliance with the requirement of protest. It is further admitted that at the time of the award enquiry all the land and structure losers were present. Once the authority accepted, in the case of ten awardees, that the requirement of protest stood satisfied otherwise than by an endorsement in the acquittance register, there was no warrant whatsoever for taking a different view in the case of the remaining awardees who had, in addition, filed written applications under Section 18 of the Act within the statutory period.

35. Persons covered by the same notification, the same award and the same acquisition, who have suffered the same deprivation on the same date, constitute a single class. To refer ten of them to the civil Court and to shut out the rest on a ground which was not

applied to those ten is discrimination without any rational basis, and is arbitrary. Such action cannot survive the scrutiny of Article 14 of the Constitution of India.

36. We accordingly hold that Memo No.B/628/2002 dated 01.08.2003, rejecting the applications of the writ petitioners under Section 18 of the Act on the sole ground that the compensation had not been received under protest, is contrary to Section 18 of the Act and to the settled position of law, and is unsustainable. Point (i) is answered against the appellants.

Point (ii) — Absence of a specific challenge to the Memo dated 01.08.2003

37. The conclusion just recorded does not, by itself, dispose of the appeal. The appellants have an answer of a different kind, and it is a procedural one. Their answer is not that the refusal of the year 2003 was right, but that it is now beyond challenge: the memo was never assailed in the writ petition, and a Court, it is said, cannot undo what it was never asked to undo. We turn to that objection.

38. The appellants make much of the circumstance that the learned Single Judge, having recorded that the Memo dated 01.08.2003 was not challenged, nevertheless proceeded to grant relief. We are unable to see any error in the course adopted. The

learned Single Judge expressly recorded that there are sufficient pleadings on record contending that the said memo is contrary to law. A writ petition is not to be construed with the strictness of a pleading in a civil suit, particularly where it is filed by displaced and illiterate villagers. What matters is whether the illegality complained of has been pleaded with sufficient particularity, and whether the opposite party had notice of it and an opportunity to meet it. Both conditions are satisfied here: the affidavit filed in support of the writ petition set out the rejection by the Memo dated 01.08.2003 and challenged its legality in terms, and the fourth respondent filed a counter affidavit dealing with that very plea on merits. No prejudice of any kind is shown.

39. Further, an order made in the teeth of an express statutory provision does not gain immunity merely because it is not formally assailed. The power under Article 226 of the Constitution of India includes the power to mould the relief to meet the justice of the case, and a Court which finds that a statutory authority has refused a reference on a ground unknown to the statute is not powerless to act merely because the prayer clause is inartistically drawn. That, in substance, is the principle of *Bhagwati Prasad's case (supra)*, where it was held that relief is not to be refused merely because the pleading is inartistically expressed if the

necessary facts are present and the real controversy was understood and contested by the parties, and of *Dwarka Nath's case (supra)* and *Maharashtra Chess Association's case (supra)*, which describe the amplitude of the jurisdiction under Article 226 of the Constitution of India and the power inhering in it to mould relief to meet the requirements of the case. We may add that the memo of 01.08.2003 was in any event superseded, in substance, by the proceedings dated 14.07.2021, which the writ petitioners assert were served upon only three of them, an assertion which the appellants have not effectively met.

40. Point (ii) is answered against the appellants.

Point (iii) — Applicability of Section 28-A and bar of limitation

41. This is the principal ground urged on behalf of the appellants, and it requires close examination. Section 28-A(1) of the Act reads as follows:

“28-A. Re-determination of the amount of compensation on the basis of the award of the Court.—(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1), and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded."

42. Section 28-A was inserted by the Land Acquisition (Amendment) Act, 1984 to confer a benefit upon those inarticulate and poor persons who, by reason of poverty or ignorance, omit to seek a reference under Section 18 of the Act and are thereby left with a lower compensation than that obtained by their more resourceful neighbours in respect of land covered by the same notification. In *Pradeep Kumari's case (supra)*, the Hon'ble Supreme Court, after noticing that object, laid down the conditions which must be satisfied before an application under Section 28-A can be entertained. The relevant portion of that judgment reads:

"If the said expression in Section 28-A(l) is thus construed, a person would be able to seek re-determination of the amount of compensation payable to him provided the following conditions are satisfied :- (i) An award has been made by the court under Part III after the coming in to force of Section 28-A; (ii) By the said award the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference; (iii) The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates; (iv) The person moving the application did not make an application to the Collector under Section 18; (v) The application is moved within three months from the date of the award on the basis of which the re-determination of amount of compensation is sought; and (vi) Only one application can be moved under Section 28-A for re-determination of compensation by an applicant."

43. In *Marri Venkaiah*, the Hon'ble Supreme Court held that the period of three months prescribed by Section 28-A(1) is mandatory, that it is to be computed from the date of the award of the reference Court, and that the provisions of the Limitation Act, 1963 cannot be invoked to condone a delay in making such an application. The relevant portion of that judgment reads:

"Plain language of the aforesaid Section would only mean that the period of limitation is three months from the date of the Award of the Court. It is also provided that in computing the period of three months the day on which the award was pronounced and the time requisite for obtaining the copy of the award is to be excluded. Therefore, the aforesaid provision crystallizes that application under Section 28-A is to be filed within three month from the date of the award by the Court by only excluding the time requisite for obtaining copy. Hence, it is difficult to infer further exclusion of time on the ground of acquisition of knowledge by the applicant."

In our view, with regard to first contention that Section 28-A is a beneficial provision, there cannot be any dispute. However, the advantage of the benefit, which is conferred, is required to be taken within the stipulated time. A land owner may be poor or illiterate and because of that he might not have filed reference application but that would not mean that he could be negligent in not finding out whether other landowners have filed such applications. Whosoever wants to take advantage of the beneficial legislation has to be vigilant and has to take appropriate action within prescribed time. He must at least be vigilant in making efforts to find out whether other landowner has filed any reference application and if so what is the result. If that is not done then law cannot help him. Admittedly, in the present case, award enhancing the compensation was pronounced by the civil court by order dated 29th November 1984 and applications were filed on 27th November, 1989 i.e. after lapse of 5 years. In such case, as the applicant was having an opportunity of knowing the award and/or he

was required to make efforts of knowing about such proceedings, he must be presumed to have had knowledge of the award.

44. We respectfully accept both these decisions as laying down the law that binds us. The question, however, is whether they govern the case on hand. In our considered view, they do not, for the reason that the respondents/writ petitioners do not belong to the class of persons for whose benefit Section 28-A was enacted, and their claim does not rest upon that provision at all.

45. The opening words of Section 28-A (1) are significant. The provision enables persons interested in the other land covered by the same notification to seek re-determination “notwithstanding that they had not made an application to the Collector under section 18”. The provision is thus addressed to the case of a claimant who did not seek a reference. The respondents/writ petitioners did seek a reference. They made written applications under Section 18 of the Act on 05.07.2003, within the period prescribed by the statute. That fact is not in dispute; it is recorded by the learned Single Judge and is not denied in the counter affidavit. Their right to have the matter referred to the civil Court arose under Section 18 of the Act in the year 2003, and it was defeated only by the illegal Memo dated 01.08.2003. Their grievance and their entitlement are therefore anterior to, and independent of, Section 28-A of the Act. For the same reason, the

reliance placed by the appellants upon condition (iv) in *Pradeep Kumari's case (supra)* is misplaced. As explained by the Constitution Bench in *Hansoli Devi's case (supra)*, the expression “had not made an application to the Collector under section 18” is directed to a claimant who has obtained an effective reference which was entertained and answered on merits; an application which was aborted at the threshold on a technical ground, and which never reached the reference Court, does not place the claimant in the class which has availed of and exhausted the remedy under Section 18 of the Act. The appellants cannot be heard to say, in the same breath, that the applications dated 05.07.2003 were good enough to disqualify the writ petitioners from the benefit of Section 28-A of the Act, and yet not good enough to oblige the Collector to make a reference under Section 18 of the Act.

46. The applications made by them in October 2020 invoking Section 28-A of the Act were made in consequence of the course indicated by this Court in *Kalvala Padma's case (supra)*, and upon their coming to know that the ten awardees under the same award had obtained an enhancement in L.A.O.P.No.32 of 2011. Those applications were, in truth, a means of obtaining the very relief which had been unlawfully denied to them in 2003. The label

under which they approached the authority cannot be permitted to alter the true character of their claim, nor can it confer upon the appellants a defence which would not otherwise have been available to them.

47. The contention of the appellants, when reduced to its essentials, comes to this: having illegally refused to refer the claims of the writ petitioners under Section 18 of the Act, the State now says that the writ petitioners ought to have travelled the route of Section 28-A, and are out of time under that provision. No party, and least of all the State, can be permitted to take advantage of its own wrong, a principle reaffirmed in *Kusheshwar Prasad Singh's case (supra)*, and one which applies with particular force to a public authority whose conduct must conform to legality and fairness. If the reference had been made in the year 2003 as it ought to have been, the writ petitioners would have been before the reference Court along with the ten awardees, or in a like reference, and would have received the enhanced compensation in the same manner. The limitation prescribed by Section 28-A(1) was never intended to protect an authority which has wrongfully shut out a claimant from the remedy under Section 18 of the Act.

48. There is a further and independent reason. The learned Single Judge did not direct the making of an award under Section

28-A of the Act, and did not condone any delay under that provision. He moulded the relief. Having found that the refusal of a reference was illegal, and that the ordinary consequence would be a direction to refer the matter under Section 18 of the Act to the competent civil Court, he took note of the fact that the very question had already been answered by the reference Court in L.A.O.P.No.32 of 2011 in respect of the same award, and that the judgment therein had been confirmed in appeal and had attained finality. He therefore directed re-determination at the rate so fixed, in order to avoid a further round of litigation over ground already covered. The period of limitation in Section 28-A(1) governs the making of an application to the Collector under that provision; it does not curtail the jurisdiction of this Court under Article 226 of the Constitution of India to remedy an illegality of the kind established here.

49. We may also notice the conduct of the appellants themselves. The counter affidavit discloses that the applications for re-determination were entertained by the Land Acquisition Officer and Revenue Divisional Officer, Kagaznagar; that an award was proposed in respect of 523 awardees, including 100 persons taken up *suo motu*; and that a draft award in terms of Section 28-A of the Act was submitted to the District Collector for approval. The

rejection came only in July 2021, and only after the District Collector returned the proposals for re-examination. While there can be no estoppel against a statute, this conduct shows that the administration itself understood the enhancement granted in L.A.O.P.No.32 of 2011 as enuring to the benefit of all the awardees covered by Award No.B/628/2002, and that there is nothing peculiar or unmerited about the claim of the writ petitioners.

50. As regards the proposition that the period under Section 28-A of the Act commences from the date of knowledge of the award of the reference Court, it is unnecessary for us to examine them. The question of the point from which the period of three months is to be reckoned stands concluded by the decision of the Hon'ble Supreme Court in *Marri Venkaiah's case (supra)*, and our conclusion does not rest upon the date of knowledge of the writ petitioners.

51. Point (iii) is answered against the appellants. The claim of the respondents/writ petitioners is not defeated by the period of limitation prescribed by Section 28-A (1) of the Act.

Point (iv) — Delay and laches

52. That brings us to the objection which, on the appellants' own arguments, has the most substance in it, namely that the writ

petition reached this Court two decades after the events complained of.

53. Delay and laches constitute a rule of discretion and not a rule of limitation. The Court is required to see whether the delay is explained, whether the claimant has slept over his rights, whether rights of third parties have intervened, and whether the party resisting the claim has altered its position to its detriment.

54. In this context, it is pertinent to consider the judgment of the Supreme Court in *Urban Improvement Trust v. Vidhya Devi & others*¹⁶, wherein the Court, at paragraph 47, considered the judgment in *Vidya Devi v. State of Himachal Pradesh*¹⁷, and held, *inter alia*, as follows:

“47. It is pertinent for us to consider the judgment of this Court in Vidya Devi v. State of Himachal Pradesh, (2020) 2 SCC 569, wherein it was held, inter alia, as follows:

“12.12. The contention advanced by the state of delay and laches of the appellant in moving the court is also liable to be rejected. Delay and laches cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the court. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case. It will depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation prescribed for the courts ...”

¹⁶ 2024 SCC OnLine SC 3725

¹⁷ (2020) 2 SCC 569

55. Judged by these tests, the plea of the appellants must fail. The writ petitioners applied under Section 18 of the Act within time in 2003. They submitted representations on 21.02.2009, 04.02.2010, 17.04.2010 and 02.04.2013, to which no reply was given, the fourth respondent taking the stand that those applications are not traceable in the file transferred on the formation of the new Division at Kagaznagar in 2016. The reference in L.A.O.P.No.32 of 2011 was itself decided only on 05.02.2018, and the judgment therein attained finality on 20.01.2020. The writ petitioners moved the Land Acquisition Officer in October 2020, within months of that finality. The rejection dated 14.07.2021 was, on the material placed before the writ Court, served upon only three of the fifty-five writ petitioners, and only three of the orders enclosed to the counter affidavit bear dispatch particulars. An order which is not communicated to the person affected by it cannot be relied upon by the authority to defeat him on the ground of delay.

56. It must also be borne in mind that the writ petitioners are displaced persons who lost their dwelling houses to submergence, that they are, as the learned Single Judge found from the vakalaths on record, illiterate and thumb impression holders, and that a number of the original awardees have died during the

pendency of these proceedings and are represented by their legal representatives. No third party right has intervened. The appellants have not altered their position to their detriment; they are merely resisting the payment of amounts which the statute itself requires to be paid. In such circumstances, the discretion exercised by the learned Single Judge in entertaining the writ petition cannot be said to be improper. The learned Single Judge was right in relying on the principle laid down in *Kalvala Padma's case (supra)*, and we find no substance in the contention that the said decision is distinguishable on facts; it arose out of the self-same statutory scheme and out of a comparable failure to refer applications made under Section 18 of the Act.

57. Point (iv) is answered against the appellants.

Point (v) — The relief and the statutory components of compensation

58. This brings us to the question which this Court put to the learned Special Government Pleader on 20.08.2026, namely whether, in the course of calculation of compensation, solatium and other statutory amounts would also be added to the compensation quantified.

59. In our view, the answer must be in the affirmative, and the submission made on behalf of the State on this aspect is a correct

statement of the position. Compensation under the Act is not a single figure but a composite of statutorily prescribed components. Once the market value is determined under Section 23(1) of the Act, the additional amount under Section 23(1-A), the solatium under Section 23(2) and interest under Sections 28 and 34 follow as a matter of statutory course; they are not matters of discretion, and they cannot be severed from the market value. Indeed, the grievance of the writ petitioners from the very inception has been that Award No.B/628/2002 confined itself to the estimated value furnished by the engineering authority and omitted the remaining components altogether. The direction of the learned Single Judge to pay the “differential compensation”, understood in the light of the prayer in the writ petition, necessarily takes in these statutory components.

60. We accordingly find no reason to interfere with the direction issued by the learned Single Judge. We consider it appropriate, however, to clarify the manner in which that direction is to be worked out, so that no further round of litigation ensues.

61. It is necessary to add a word of caution. Our conclusion rests upon the peculiar facts of this case, namely that the respondents/writ petitioners made applications under Section 18 of the Act within the statutory period that those applications were

rejected on a ground unknown to the statute, and that ten awardees under the very same award were referred and obtained an enhancement which has attained finality. This judgment shall not be understood as diluting the mandatory character of the period prescribed by Section 28-A(1) of the Act, or as an authority for entertaining belated applications for re-determination under that provision.

62. Before parting with the case, we consider it necessary to say this. The State is not an ordinary litigant. When it takes away a person's house for a public project, the obligation to pay him what the law provides is its own obligation, and it is not discharged by waiting until he is no longer in a position to ask. The writ petitioners did ask, and they asked in time. Everything that has followed is the consequence of a refusal which ought never to have been made. We say this not in censure of any individual officer, for most of those now before us would have been strangers to the file when it began, but because the direction which we now issue should be worked out in that spirit, promptly and without a further resort to technicality.

CONCLUSION AND RESULT

63. For the reasons recorded above, points (i) to (iv) are answered against the appellants, and point (v) is answered by holding that

the compensation to be re-determined shall carry the statutory components referred to above. The order dated 21.08.2023 in W.P.No.16034 of 2023 does not suffer from any error warranting interference in this intra-Court appeal.

64. In the result, the writ appeal is dismissed, and the order dated 21.08.2023 passed in W.P.No.16034 of 2023 is confirmed, subject to the following clarifications:

(a) The fourth appellant shall re-determine the compensation payable to the respondents/writ petitioners in respect of their lands and structures covered by Award No.B/628/2002 dated 26.05.2003, by adopting the rates fixed by the judgment dated 05.02.2018 in L.A.O.P.No.32 of 2011 on the file of the Court of the Senior Civil Judge, Asifabad, as confirmed in L.A.A.S.No.32 of 2019 by judgment dated 20.01.2020.

(b) The compensation so re-determined shall carry the additional amount under Section 23(1-A), solatium under Section 23(2) and interest under Sections 28 and 34 of the Act, on the same basis on which they were granted to the awardees in L.A.O.P.No.32 of 2011, after deducting the amounts already paid under Award No.B/628/2002 dated 26.05.2003.

(c) Where any of the respondents/writ petitioners has died, the amount shall be disbursed to his or her legal representatives, upon their moving the fourth appellant with the necessary particulars, and the fourth appellant shall pass appropriate orders in that regard.

(d) The exercise shall be completed and the differential compensation paid within a period of three months from the date of receipt of a copy of this judgment, the period of three months granted by the learned Single Judge having elapsed during the pendency of this appeal.

(e) There shall be no order as to costs.

Miscellaneous applications, if any, pending in this writ appeal shall stand closed.

P. SAM KOSHY, J

VAKITI RAMAKRISHNA REDDY, J

Date: 03.09.2026

Note: LR copy to be marked
B/o. AS