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(Judgment reserved on 08.09.2025)

(Judgment delivered on 23.09.2025)

HIGH COURT AT ALLAHABAD
सत्यमेव जयते

2025:AHC:169573-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

1. WRIT - C No. - 35876 of 2022

Ved Prakash Saini And 45 Others ……Petitioners(s)

Versus

State Of U.P. And 2 Others ……Respondents(s)

Counsel for Petitioners(s) : Sudeep Harkauli
Counsel for Respondent(s) : Archit Mandhyan, C.S.C., Chandra Shekhar Singh, Suresh C. Dwivedi

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Connected with:

2. **WRIT - C No. - 36490 of 2022**

Krishi Utpadan Mandi Samiti ……Petitioners(s)

Versus

Om Prakash And Another ……Respondents(s)

Counsel for Petitioners(s) : Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s) : C.S.C.

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3. **WRIT - C No. - 36496 of 2022**

Krishi Utpadan Mandi Samiti ……Petitioners(s)

WRIT - C No. - 35876 of 2022

Versus

Rakesh Chauhan And Another ……Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

4. **WRIT - C No. - 36503 of 2022**

Krishi Utpadan Mandi Samiti ……Petitioners(s)

Versus

Sri Ved Prakash Saini And 2 Others ……Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

5. **WRIT - C No. - 36510 of 2022**

Krishi Utpadan Mandi Samiti ……Petitioners(s)

Versus

Tej Prakash Saini And 4 Others ……Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

6. **WRIT - C No. - 36515 of 2022**

WRIT - C No. - 35876 of 2022

Krishi Utpadan Mandi Samiti .....Petitioners(s)

Versus

Dinesh Kumar And 3 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

7. **WRIT - C No. - 36524 of 2022**

Krishi Utpadan Mandi Samiti .....Petitioners(s)

Versus

Khadak Singh And 12 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

8. **WRIT - C No. - 36528 of 2022**

Krishi Utpadan Mandi Samiti .....Petitioners(s)

Versus

Rampal And 3 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

9. **WRIT - C No. - 36537 of 2022**

WRIT - C No. - 35876 of 2022

Krishi Utpadan Mandi Samiti .....Petitioners(s)

Versus

Imrat Singh And 2 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

10. **WRIT - C No. - 36541 of 2022**

Krishi Utpadan Mandi Samiti .....Petitioners(s)

Versus

Netrapal Singh And 3 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Ravi Prakash Pandey, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

Court No. - 29

HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE AMITABH KUMAR RAI, J.

(Per: Mahesh Chandra Tripathi, J.)

1. Heard Shri Sudeep Harkauli, learned counsel for the land-owners (petitioners in the WRIT-C No. 35876 of 2022 and respondents in all other connected writ petitions filed by the Krishi Utpadan Mandi Samiti[1] mentioned at Serial Nos.2 to 10), Shri Suresh C. Dwivedi, learned

1 KUMS

counsel for the Krishi Utpadan Mandi Samiti and Shri Devesh Vikram, learned Additional Chief Standing Counsel and Shri Fuzail Ahmad Ansari, learned Standing Counsel for the State-respondents.

2. Since all the afore-noted writ petitions involve a common legal issue,, i.e. **whether landowners who did not initially file references under Section 18 of the Act, 1894, can seek redetermination of compensation under Section 28-A based on enhanced awards granted to similarly situated landowners under the same acquisition notification**, with the consent of learned counsel for the parties, all the afore-noted petitions have been clubbed and heard together and are being disposed of by this common judgment. The WRIT-C No. 35876 of 2022[2] is made the leading writ petition.

A. PRAYERS:

The Leading Writ Petition:-

3. This writ petition has been filed, *inter alia*, praying for a writ, order, or direction in the nature of **mandamus**, directing the KUMS to decide the representation of the petitioners/landowners dated 03.09.2022. It is further prayed that a direction in the nature of **mandamus** be issued to the KUMS to deposit the money mentioned in the letter dated 15.03.2022 and to comply with the orders passed under Section 28-A of the Land Acquisition Act, 1894[3].

Writ Petitions filed by the KUMS mentioned at Serial Nos.2 to 10:-

3.1 The writ petitions at Serial Nos. 2 to 10 have been filed, *inter alia*, seeking a direction in the nature of **certiorari** to quash the impugned order dated 17.02.2022 passed by the Special Land Acquisition Officer, Moradabad,[4] under Section 28-A of the Act, 1894. It is further prayed that a direction in the nature of **mandamus** be issued restraining the SLAO from compelling the KUMS to deposit the amount of compensation as re-determined by the impugned judgment and order dated 17.02.2022.

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2 Leading Writ Petition
3 Act, 1894
4 SLAO

B. FACTUAL MATRIX OF THE CASE:

4. That the brief facts of the case are that the KUMS, Moradabad had made a proposal for acquiring 47.98 ½ acres of land situated at village Majhola, Tehsil and District Moradabad for the purpose of construction of a Market Yard by the Krishi Utpadan Mandi Samiti, Moradabad. Pursuant to such proposal, after making preliminary enquiries and preparing compensation statements, the State Government issued a notification under Section 4(1)/17(4) of the Act, 1894 on 30.04.1977, which was duly published on 14.05.1977 for acquiring the land of the landowners situated in village Majhola, Tehsil and District Moradabad. Thereafter, a declaration under Section 6(1)/17 of the Act, 1894 was also issued on the same date i.e. 30.04.1977 and was published on 14.05.1977.

4.1. The possession of the acquired land was thereafter taken by the acquiring body/ KUMS on 10.07.1977 and the award was declared by the SLAO, Moradabad under Section 11 of the Act, 1894 on 09.08.1982. The compensation was determined at the rate of Rs.15.75 per square yard. However, some of the tenure holders were dissatisfied with the compensation awarded by the SLAO vide award dated 09.08.1982. Accordingly, one Land Acquisition Reference No.59 of 1983 came to be filed by a tenure-holder namely Moti, who subsequently died and was substituted by his heir Yad Ram. The said Land Acquisition Reference was rejected by order dated 03.02.1989 passed by the learned 1st Additional District Judge, Moradabad. Similarly, other Land Acquisition References filed by tenure holders, namely L.A.R. Nos.65 of 1983, 128 of 1983 and 64 of 1983, were also rejected by the Reference Court vide judgment dated 03.02.1989.

4.2 Thereafter review applications were filed by the landowners/ tenure holders/ claimants in respect of the aforesaid references which had been rejected on 03.02.1989. The said review applications were filed *inter alia* on the grounds that there was an apparent error on the face of the record and further on the ground that other Land Acquisition Reference

Cases being L.A.R. Nos.63 of 1983, 55 of 1983 and 57 of 1983 had been decided on 24.03.1989 whereby the learned Reference Court allowed compensation at the rate of Rs.64/- per square metre. These review applications were registered as Misc. Case No.9 of 1989 (Hori Lal and others vs. KUMS and another), Misc. Case No.10 of 1989 (Yad Ram vs. KUMS and others), Misc. Case No.11 of 1989 (Gulab Singh and others vs. KUMS and others) and Misc. Case No.12 of 1989 (Jagram vs. KUMS and others). The learned 1st Additional District Judge, Moradabad/Reference Court allowed the said review applications vide judgment and order dated 14.03.1990 and enhanced the compensation of the acquired land to Rs.64/- per square metre, along with statutory benefits of 30% solatium and 9% interest.

4.3. Subsequently, the KUMS challenged the awards of the Reference Court granting compensation @ Rs.64/- per square metre by filing various first appeals before this Hon’ble Court. First Appeal No.522 of 1993 (KUMS vs. Khusi Ram and others) was decided on 26.02.2004, whereby the appeal filed by KUMS was allowed and the matter was remanded to the Reference Court for fresh determination of market value. Similarly, other first appeals were also filed, such as First Appeal No.295 of 1990 (KUMS vs. State of U.P. and others) arising out of L.A.R. No.71 of 1983, which was allowed on 05.04.2004, and First Appeal No.193 of 1991 filed against the order dated 14.03.1990 in L.A.R. No.59 of 1983 (Moti through L.Rs. Yad Ram vs. State of U.P.), which too was allowed on 05.04.2004, whereby this Hon’ble High Court remitted the matters to the Reference Court with a direction to re-determine the compensation.

4.4. In compliance of the aforesaid directions of this Hon’ble High Court, the Reference Court re-opened the matters and proceeded afresh. Vide judgment dated 30.01.2016, it decided L.A.R. Nos.60 of 1983 (Ram Prasad vs. State of U.P.), 64 of 1983 (Jagram vs. State of U.P.), 65 of 1983 (Hori Lal vs. State of U.P.) and 58 of 1983 (Jhabban Singh and others vs. State of U.P. and others), awarding compensation at the rate of

Rs.108/- per square metre. Subsequently, vide judgment dated 19.09.2017 in L.A.R. No.59 of 1983 (Moti through L.R. Yad Ram vs. State of U.P. and others), similar compensation @ Rs.108/- per square metre was awarded.

4.5. Against the orders of the Reference Court dated 30.01.2016 and 19.09.2017, the KUMS preferred First Appeals before this Hon'ble Court, which were numbered as First Appeal Nos.246 of 2016, 229 of 2016, 233 of 2016, 231 of 2016 and 230 of 2016, and all of which came to be dismissed vide common judgment dated 05.02.2020. First Appeal No.26 of 2018 filed against the order dated 19.09.2017 in L.A.R. No.59 of 1983 was also dismissed on 08.02.2021, following the decision dated 05.02.2020.

4.6 The judgment of this Hon'ble Court dated 05.02.2020 was challenged by the KUMS before the Hon'ble Apex Court by filing Special Leave to Appeal (C) No.8759 of 2020, which too was dismissed by the Hon'ble Apex Court on 26.10.2020.

4.7. Thereafter, claimants/ landowners moved applications before the SLAO, Moradabad on 10.02.2021 for disposal of their applications filed under Section 28-A, notices were issued to the KUMS calling for objections. The KUMS filed detailed objections on 01.11.2021 and 25.11.2021 raising the plea of limitation and maintainability of the application under Section 28-A. Thereafter, the SLAO, Moradabad proceeded to pass the impugned order dated 17.02.2022 allowing the applications under Section 28-A of the Act, 1894, whereby the compensation was re-determined at Rs.108/- per square metre along with statutory benefits, solely relying upon the Reference Court's award dated 19.09.2017 in L.A.R. No.59 of 1983, and thereby enhanced compensation was accorded to the landowners for their acquired land.

4.8. Consequently, the petitioners preferred the leading writ petition for compliance of the aforesaid order dated 17.02.2022. The KUMS has preferred the writ petitions noted above at Serial Nos.2 to 10 for

quashing of the impugned order dated 17.02.2022. The writ petitions preferred by the KUMS were dismissed by the writ court vide order dated 12.12.2022 and the leading writ petition was disposed of on 14.03.2023. The said orders were challenged before the Apex Court in Civil Appeal Nos. 12973–12980/2024 and other connected appeals, in which Honble Apex Court has clarified that Section 28A(3) can only be invoked by aggrieved claimants, and not by the acquisition beneficiary. Consequently, the High Court's orders were set aside by the Apex Court by order dated 21.11.2024, and the matters were remitted for fresh consideration on merits, with all issues left open. In light of the order dated 21.11.2024 passed in Civil Appeal No. 12973 of 2024 [@ SLP (CIVIL) NO.9683/2023], a report was placed before the learned Registrar General for restoring the instant matters, whereupon the same have been restored.

4.9. The facts noted above have not been disputed by the parties.

C. <u>SUBMISSIONS</u>:

5. Shri Sudeep Harkauli, learned counsel for the landowners, **in support of the leading writ petition**, submits that this petition has been filed seeking implementation of the order dated 17.02.2022 passed in eight separate applications under Section 28-A moved by the landowners, wherein it was held that their land had been acquired under the same notification as that of other landowners who were granted enhanced compensation by the Reference Court vide order dated 30.01.2016. Consequently, the landowners were found entitled to compensation at the enhanced rate of Rs.108/- per sq. mtr. along with 30% solatium, 12% additional compensation, and interest at the rate of 9% from the date of possession for the first year and 15% thereafter till actual payment. Despite the lapse of eight months, no payment has been made, although the order has not been challenged before any court. Hence, in the absence of any interim order, the KUMS is duty-bound to comply, and the leading writ petition deserves to be allowed.

5.1. Shri Sudeep Harkauli, learned counsel for the landowners, in opposition of the writ petitions noted at Sl. Nos. 2 to 10 filed by the KUMS, submits that the sole objection raised by the KUMS before the SLAO as well as before this Hon'ble Court is that the applications under Section 28-A were not filed within the statutory period of three months, contending that since the first order of enhancement was passed on 14.03.1990, the applications ought to have been filed within three months thereof. He submits that this objection is wholly misconceived and unsustainable, as the said order was challenged by the KUMS in First Appeal and was set aside by this Hon'ble Court, thereby ceasing to exist and hence cannot be relied upon for computing limitation under Section 28-A. He further submits that the controversy in hand is no more *res integra* and stands conclusively settled by the Hon'ble Apex Court in ***Banwari and others v. Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and another***[5], wherein it has been clarified that applications may be filed within three months of any reference order relied upon by the landowners. In the present case, the landowners relied on the order dated 30.01.2016 and filed their applications on 26.04.2016, well within limitation. As no other objection has been raised, it is evident that the connected petitions lack merit and deserve dismissal.

5.2. Lastly, **Shri Sudeep Harkauli, learned counsel for the landowners,** submits that the landowners have been running from pillar to post since 2016 and despite the order dated 17.02.2022, the respondent–KUMS has failed to accord them the benefit.

6. Shri Suresh C. Dwivedi, learned counsel for the KUMS submits that the impugned order dated 17.02.2022 passed by the SLAO, Moradabad is wholly illegal, arbitrary, and liable to be set aside. It is argued that the claimants accepted the compensation determined in 1982 without protest and did not prefer any reference under Section 18 of the Land Acquisition Act. Even when compensation was enhanced by the

5 2025 AIR (SC) 165

Reference Court in 1990, and again in 2016, the claimants did not file any application under Section 28-A of the Act, 1894 within the prescribed period of 90 days. Instead, they remained silent for nearly 27 years and moved an application only on 18.12.2017 after the order dated 19.09.2017. Such a delayed application is clearly barred by limitation and cannot be entertained. The SLAO failed to appreciate this vital aspect and decided the matter mechanically without recording any finding on limitation or considering the KUMS' objections. Furthermore, interest on enhanced compensation cannot be awarded under Section 28-A, as the Collector has no such power. It is settled law that stale claims cannot be revived after inordinate delay, and public authorities cannot be financially burdened for the negligence of the claimants. Hence, the impugned order dated 17.02.2022 deserves to be quashed.

6.1. Shri Devesh Vikaram, learned Additional Chief Standing Counsel for the State-respondents supports the arguments advanced by learned counsel for the KUMS.

D. <u>DISCUSSION AND FINDINGS</u>:

7. Having heard the learned counsel for all parties and having perused the record, this Court finds that the present case involves the fundamental question of whether landowners who did not initially file references under Section 18 of the Act, 1894, can seek redetermination of compensation under Section 28-A based on enhanced awards granted to similarly situated landowners under the same acquisition notification. The resolution of this issue requires a careful examination of the statutory provisions, the object and purpose of Section 28-A, and the authoritative pronouncement of the Hon'ble Supreme Court in **Banwari and others** (supra).

7.1. Before delving into the specific contentions raised, it is imperative to understand the legislative intent behind Section 28-A of the Act, 1894. For ready reference, Section 28 of the Act, 1894 is reproduced herein below:

*"**28. Collector may be directed to pay interest on excess compensation.-** If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of [nine per centum][6] per annum from the date on which he took possession of the land to the date of payment of such excess into Court:*

[Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.][7]

> ***[28-A. Re-determination of the amount of compensation on the basis of the award of the Court[8] .-*** *(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.*
>
> *(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.*
>
> *(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of*

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6 *Substituted by Act 68 of 1984, Section 18, for " six per centum" (w.e.f. 24.9.1984).*
7 *Inserted by Act 68 of 1984, Section 18 (w.e.f. 24.9.1984)*
8 *Inserted by Act 68 of 1984, Section 19 (w.e.f. 24.9.1984)*

sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.]".

7.2. As eloquently observed by the Hon'ble Apex Court in **Union of India and another vs. Pradeep Kumari and Others**[9] case (which has been reaffirmed in **Banwari'** case), Section 28-A is a beneficent provision enacted to address the inherent inequality in compensation awards that arose due to the inability of inarticulate and poor landowners to effectively utilize the reference mechanism under Section 18 of the Act, 1894. The Statement of Objects and Reasons reveals that the primary objective underlying Section 28-A is to remove disparity in compensation payments for lands of similar quality and characteristics that fall under the same acquisition notification. This provision recognizes the harsh reality that while some landowners, owing to their resources, awareness, and access to legal counsel, could successfully challenge inadequate compensation awards through references, others - particularly the poor, illiterate, and marginalized sections of society - remained deprived of just compensation despite owning land of identical or similar quality.

7.3. The Hon'ble Apex Court in **Banwari and others (supra)** has categorically held that Section 28-A being a beneficent legislation must be construed liberally to advance its policy objective of extending benefits rather than adopting a restrictive interpretation that would curtail the relief intended to be provided. This principle of beneficial construction demands that courts should not, through judicial interpretation, read words into the statute that are not present therein, particularly when such reading would restrict the scope and amplitude of the beneficial provision. As observed in **Pradeep Kumari** (supra) and reiterated in **Banwari *and others* (supra),** that "***in the matter of construction of a beneficent provision it is not permissible by judicial interpretation to read words which are not there and thereby restrict the scope of the said provision."*** This fundamental principle must guide our interpretation of Section 28-A in the present case.

9 (1995) 2 SCC 736

7.4. The primary contention raised by the KUMS relates to the question of limitation, arguing that applications under Section 28-A should have been filed within three months of the first enhancement order dated 14.03.1990. This argument is fallacious as it demonstrates a fundamental misunderstanding of both the statutory provision and the judicial precedents. The Hon'ble Supreme Court in **Banwari *and others*** (supra) has conclusively settled this controversy by holding that the limitation period under Section 28-A commences from the date of the specific award on the basis of which redetermination is sought, not from the date of any earlier award that may have been subsequently challenged or set aside. The Court observed that "**the limitation for moving the application under Section 28-A will begin to run only from the date of the award on the basis of which redetermination of compensation is sought.**"

7.5. Applying the principles laid down in **Banwari *and others*** (supra) to the facts of the present case, it is undisputed that all the lands in question were acquired under the same notification dated 30.04.1977. This satisfies the fundamental requirement that the person seeking benefit under Section 28-A must be interested in land covered by the same notification as that of the landowner who obtained enhanced compensation. The Reference Court vide judgment dated 30.01.2016 awarded enhanced compensation at Rs.108/- per square metre to similarly situated landowners. This award was upheld by this Court and subsequently by the Hon'ble Apex Court, attaining finality. The landowners filed their applications under Section 28-A on 26.04.2016, well within three months of the Reference Court's judgment dated 30.01.2016. This satisfies the limitation requirement as interpreted in **Banwari *and others* (supra)**. Additionally, the landowners had not filed any reference under Section 18, which is a prerequisite for invoking Section 28-A.

7.6. The KUMS' argument that limitation should be computed from date of the order dated 14.03.1990 is legally untenable for multiple reasons.

First, the order dated 14.03.1990 was successfully challenged by the KUMS itself in First Appeals, which were allowed by this Court, thereby setting aside the said order. An order that has been judicially annulled cannot serve as the foundation for computing limitation for subsequent proceedings. Second, as clarified in **Banwari *and others*** (supra), the cause of action for a Section 28-A application arises from the specific award on which the applicant relies for redetermination. In the present case, the landowners specifically relied upon the award of the year 2016, not any order of the year 1990. Third, accepting the KUMS' argument would lead to the absurd situation where landowners would be required to file applications based on awards that were subsequently set aside, rendering the entire exercise futile.

7.7. The Hon'ble Supreme Court in **Pradeep Kumari** (approved in **Banwari *and others***) has addressed scenarios similar to the present case where multiple awards are rendered at different times. The Hon’ble Apex Court held that persons entitled to apply under Section 28-A are not restricted to relying only on the earliest award but can invoke the provision based on any subsequent award that grants higher compensation, provided the application is filed within three months of such award. This interpretation serves the beneficial purpose of the legislation by ensuring that landowners are not penalized for circumstances beyond their control, such as becoming aware of enhancement awards at different times or relying on awards that provide better compensation.

7.8. The KUMS' contention that these are "stale claims" after 27 years is misconceived. The concept of stale claims typically applies to situations where parties sleep over their rights for unreasonably long periods without justifiable cause. However, in the present case, the landowners could not have filed applications under Section 28-A until a valid, final award granting enhancement was available. The 1990 award was challenged and set aside, making it impossible to rely upon. The landowners promptly filed their applications within three months of the

2016 award, demonstrating diligence rather than negligence. The delay, if any, was occasioned by the prolonged litigation initiated by the KUMS itself, and it would be inequitable to penalize landowners for delays caused by the acquiring body's own actions.

7.9. The argument that public authorities should not bear financial burden due to negligence of landowners/claimants is misplaced in the present context. Section 28-A was enacted precisely to address situations where landowners, due to various constraints, could not initially challenge inadequate compensation. *The legislative intent is clear - to ensure that all landowners under the same acquisition receive equitable compensation regardless of their initial ability to pursue legal remedies.* Moreover, as observed in **Banwari *and others (supra)***, the provision serves the inarticulate and poor, who form a significant portion of landowners affected by acquisitions. Denying them the benefit of enhanced compensation would perpetuate the very inequality that Section 28-A was designed to eliminate.

7.10. Regarding the KUMS' objection to the award of interest, it is well-settled that when compensation is enhanced under Section 28-A, the landowner becomes entitled to statutory benefits including interest as prescribed under the Act, 1894. The SLAO's power to redetermine compensation necessarily includes the authority to grant consequential benefits that flow from such redetermination. The KUMS' allegation that the SLAO decided the matter "mechanically" is unfounded. A perusal of the impugned order dated 17.02.2022 reveals that the SLAO carefully considered the applications, issued notices to all concerned parties, heard their objections, and applied the correct legal principles. The decision to grant enhanced compensation based on the Reference Court's award was legally sound and well-reasoned.

7.11. The Hon'ble Supreme Court in **Banwari and others** (supra) has comprehensively addressed and resolved the apparent conflict between the judgments in **Union of India v. Pradeep Kumari and Others** (supra) and **Ramsingbhai (Ramsangbhai) Jerambhai v. State of**

Gujarat and another[10]. The Hon’ble Apex Court observed that both cases were decided by Benches of equal strength comprising three learned Judges, with **Pradeep Kumari** being rendered on 10th March 1995 and **Ramsingbhai** on 24th April 2018. However, upon careful analysis, the Court noted that the Ramsingbhai judgment failed to take note of the earlier view taken by the three-Judge Bench in **Pradeep Kumari**, making it a case decided *per incuriam*. The Apex Court emphasized that Pradeep Kumari, being earlier in point of time and having elaborately considered the relevant statutory provisions of Section 28-A of the Act, 1894, along with its Statement of Objects and Reasons and principles of beneficial interpretation, would constitute the binding precedent. In contrast, the **Ramsingbhai (supra)** judgment was characterized as a "short judgment" that merely referred to the text of Section 28-A(1) without the comprehensive analysis undertaken in **Pradeep Kumari (supra)**.

7.12. Relying on the Constitution Bench decision in **National Insurance Company Limited v. Pranay Sethi and others**[11], the Hon’ble Apex Court reiterated that an earlier decision of a co-equal Bench binds subsequent Benches of the same strength, and a judgment can be considered *per incuriam* when it cannot be reconciled with a previously pronounced judgment of a co-equal Bench. Consequently, the Apex Court held that **Pradeep Kumari (supra)**, having undertaken elaborate consideration of the beneficent nature of Section 28-A and its interpretative principles, remains the correct legal position, while **Ramsingbhai (supra)**, not having considered this precedent, cannot be treated as laying down the accurate legal principle.

7.13. The Hon'ble Apex Court in another Constitution Bench judgment of **Union of India vs. Hansoli Devi**[12]**,** has also definitively clarified the scope and application of Section 28-A of the Land Acquisition Act, 1894, particularly addressing two fundamental questions that had

10 (2018) 16 SCC 445
11 (2017) 16 SCC 680
12 (2002) 7 SCC 273

generated considerable litigation across various High Courts. The Hon'ble Apex Court has categorically held that when a landowner's application seeking reference under Section 18 is dismissed on grounds of delay or other technical reasons, such dismissal amounts to "not filing an application" within the meaning of Section 28-A, thereby preserving the landowner's right to seek benefits under this beneficial provision.

7.14. The Hon’ble Apex Court emphasized that the expression "did not make an application" should be interpreted as "did not make an effective application" that was entertained and resulted in a substantive reference being answered, noting that a time-barred application that does not fructify into any meaningful reference cannot be considered an effective application. Furthermore, the Apex Court has unequivocally ruled that accepting compensation from the Land Acquisition Collector, whether with or without protest, does not disqualify a person from being considered "aggrieved" under Section 28-A, observing that imposing such additional conditions would amount to denying substantial rights not contemplated by the Legislature itself.

7.15. The Apex Court's interpretation ensures that the beneficial nature of Section 28-A is preserved in its true spirit, allowing eligible landowners to seek re-determination of compensation based on enhanced awards obtained by others in similar circumstances, while maintaining the legislative intent of providing relief to those who had not initially sought reference but subsequently became aware of higher compensation awards granted to similarly situated landowners.

7.16. The principles laid down in ***Hansoli Devi*** (supra) also support the case of the petitioners in the present matter. In fact, the case of the landowners herein stands on an even stronger footing than that of ***Hansoli Devi*** (supra), where the landowner had indeed made an application under Section 18 of the Act, 1894, which was dismissed on the ground of delay and laches, but the Hon’ble Apex Court held that such application was not an "effective application" and, considering the beneficial nature of Section 28-A, granted relief. However, in the instant

case, the landowners never made any application under Section 18 of the Act, 1894, which makes their position squarely within the protective scope of Section 28-A as interpreted by the Hon’ble Apex Court.

7.17. Beyond the strict legal interpretation, the case also involves fundamental principles of equity and natural justice. It would be manifestly unjust to deny the landowners enhanced compensation when their lands were acquired under the same notification, at the same time, and for the same public purpose as those who received higher compensation. The doctrine of equal treatment demands that similarly situated persons should receive similar compensation for similar lands. The record reveals that all procedural requirements have been meticulously followed. The landowners filed proper applications, notices were issued to all parties, objections were heard, and a reasoned decision was rendered. The SLAO's order dated 17.02.2022 demonstrates due application of mind and correct appreciation of legal principles.

7.18. While the KUMS raises concerns about financial implications, it must be remembered that compensation for land acquisition is not a gratuitous payment but a constitutional obligation under Article 31 of the Constitution of India. The State's duty to provide just compensation is not diminished by financial considerations. Moreover, Section 28-A serves the larger public policy of ensuring equitable treatment of all landowners affected by acquisition. The fact that the Hon'ble Apex Court in Civil Appeal No. 12973 of 2024 remanded the matter for fresh consideration on merits, with all issues left open, provides this Court with the opportunity to examine the case in light of the settled legal position in **Banwari *and others (supra)***. The remand order clarifies that Section 28-A(3) can only be invoked by aggrieved claimants, not by acquisition beneficiaries, further supporting the landowners' case.

7.19. The Hon'ble Supreme Court in **Banwari *and others (supra)*** has laid down specific conditions which are required to be satisfied for invoking the provisions of Section 28-A(1) of the Act, 1894. In the

present case, all these conditions are satisfied comprehensively. These conditions are as follows:

"(i) An award has been made by the Court under Part III of the Act after coming into 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 move the application under Section 18;

(v) The application is moved within three months from the date of the award on the basis of which redetermination of amount of compensation is sought; and

(vi) Only one such application can be moved under Section 28-A for redetermination of the compensation by the applicant."

7.20. The Hon'ble Apex Court in **Banwari *and others (supra)*** has emphasized that the object underlying the enactment of Section 28-A of the Act, 1894 is to remove inequality in the payment of compensation for same or similar quality of land arising on account of 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, 1894. The Hon'ble Apex Court observed 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, 1894. While construing the provisions of such a legislation, the Court should adopt a construction 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.

7.21. The Hon'ble Apex Court has further elaborated that it has to be seen from the point of view of inarticulate and poor people who cannot be expected to keep track of all the references that were pending in court on the date of coming into force of Section 28-A and may not be in a

position to know, in time, about enhancement awards. Such persons would be deprived of the benefit extended by Section 28-A if a restrictive interpretation is adopted. Such a construction would result in perpetuating the inequality in the payment of compensation which the legislature wanted to remove by enacting Section 28-A. The object underlying Section 28-A would be better achieved by giving the expression "an award" in Section 28-A its natural meaning as meaning the award that is made by the court in Part III of the Act, 1894 after the coming into force of Section 28-A.

7.22. The beneficent nature of Section 28-A of the Act, 1894 and the imperative of ensuring equal treatment to similarly situated landowners has also been reinforced by the Hon'ble Apex Court in **Narendra and others vs. State of U.P. and others**[13]**,** wherein the Apex Court emphasized that the spirit underlying Section 28-A mandates that all landowners whose lands are acquired under the same notification should receive fair and equal compensation, regardless of technical limitations in their initial claims. The Hon'ble Apex Court observed that once a particular rate of compensation is judicially determined as fair compensation, the benefit thereof should be extended even to those who could not approach the court or who may have initially claimed lesser compensation due to poverty or other constraints. The Court categorically held that "*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.*" The Apex Court further emphasized that in matters of compulsory acquisition, landowners are not willing parties and are compelled to surrender their land for public purpose, making it imperative that they receive just and fair compensation without being penalized for technical deficiencies or their inability to claim higher

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amounts initially. This principle of distributive justice and equal treatment forms the very foundation upon which Section 28-A operates, ensuring that the economically disadvantaged and inarticulate sections of society are not deprived of their rightful compensation merely due to procedural constraints or lack of legal awareness.

E. CONCLUSION:

8. Based on the comprehensive analysis of the legal issues, statutory provisions, and authoritative precedents, this Court arrives at the following conclusions:

(a) Section 28-A of the Act, 1894 is a beneficent provision that must be interpreted liberally to achieve its object of removing inequality in compensation awards.

(b) The limitation period for filing applications under Section 28-A commences from the date of the award on which the applicant relies for redetermination, not from any earlier award.

(c) The landowners' applications filed on 26.04.2016 were well within the prescribed limitation period of three months from the Reference Court's award dated 30.01.2016.

(d) The SLAO's order dated 17.02.2022 granting enhanced compensation at Rs.108/- per square metre along with statutory benefits is legally sound and deserves implementation.

(e) The KUMS' objections regarding limitation and maintainability lack merit and are contrary to established legal principles.

F. FINAL ORDERS/ DIRECTIONS:-

9. In light of the above findings, this Court hereby:

(i) ALLOWS the leading writ petition (WRIT-C No. 35876 of 2022) filed by the landowners.

(ii) DISMISSES the writ petitions (Serial Nos. 2 to 10) filed by the Krishi Utpadan Mandi Samiti (KUMS).

(iii) DIRECTS the KUMS to immediately comply with the order dated 17.02.2022 passed by the SLAO, Moradabad and deposit the enhanced compensation amount along with statutory benefits within six weeks from today.

(iv) DIRECTS that in case of non-compliance within the stipulated period, the amount shall carry interest at 12% per annum from the date of default until actual payment.

(v) DECLARES that the landowners are entitled to enhanced compensation at Rs.108/- per square metre along with 30% solatium, 12% additional compensation, and interest at the prescribed rates as determined by the SLAO.

10. Before parting, this Court notes with concern the prolonged litigation that has denied the landowners their rightful compensation for over four decades. The wheels of justice, though they grind slowly, must ultimately ensure that justice is not only done but is seen to be done. The beneficial legislation like Section 28-A exists precisely to protect the rights of those who, due to various constraints, cannot initially assert their claims through formal legal processes.

10.1. The judgment in **Banwari *and others (supra)*** serves as a beacon for courts dealing with similar issues, emphasizing that technical objections cannot be allowed to defeat the substantive rights of landowners, particularly when such objections arise from the very parties who initially challenged and delayed the compensation determination process.

10.2. Finally, this Court expresses the hope that the authorities will implement this order in letter and spirit, ensuring that the landowners receive their due compensation without further delay or harassment. The compensation awarded is not a largesse but a legal entitlement that has been long overdue.

11. The writ petitions are **disposed of** accordingly. No order as to costs.

(Hon. Amitabh Kumar Rai, J.) **(Hon. Mahesh Chandra Tripathi, J.)**

September 23, 2025
NLY

Digitally signed by :-
NAND LAL YADAV
High Court of Judicature at Allahabad