

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2547 of 2026**

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DAJIBHAI BAVALBHA PARMAR & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR Y J PATEL(3985) for the Petitioner(s) No.

1,10,10.1,11,12,12.1,13,14,15,15.1,15.1.1,16,16.1,17,17.1,18,18.1,
19,2,20,20.1,21,2.1,21.1,22,22.1,23,3,3.1,4,4.1,5,5.1,6,6.1,7,8,8.1,9
,9.1

MR. NARENDRASINH ZALA(14072) for the Petitioner(s) No.

1,10,10.1,11,12,12.1,13,14,15,15.1,15.1.1,16,16.1,17,17.1,18,18.1,
19,2,20,20.1,21,2.1,21.1,22,22.1,23,3,3.1,4,4.1,5,5.1,6,6.1,7,8,8.1,9
,9.1

MS HETAL PATEL, AGP for the Respondent(s) No. 1,2,3,4

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR.JUSTICE D.N.RAY**

Date : 18/06/2026

**ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

1. The petitioners herein are aggrieved by the order dated 24.12.2025 passed by the Deputy Collector and Special Land Acquisition Officer, Rajkot in rejection of application dated 12.02.2018 under Section 28A of the Land Acquisition Act' 1894 (in short as the Act' 1894") on the premise that the Reference Application filed by the petitioners challenging the award dated 20.11.1997 had been rejected by the Principal District Judge, Surendranagar vide order dated 14.09.2005 on the

ground of delay.

2. The petitioners herein claim to be owner of the land bearing revenue survey no. 216 paiki admeasuring 0.36.78 acres which has been acquired under the Act' 1894. It is submitted that challenging the original award, the petitioners filed different reference applications which were all rejected on the ground of delay, inasmuch as, reference applications were filed in the year 2004 seeking re-determination of the compensation under the award date 20.11.1997.
3. It is submitted that the reference applications registered as LRC (PH) No.2 of 2004 and LRC (PH) No.3 of 2004 were dismissed by the Principal District Judge, Surendranagar on 14.09.2005 for the delay noticing that the impugned award was passed on 20.11.1997 and all the claimants came to know about the award in the month of December 1997 itself, when they had accepted the compensation in respect of their acquired land.
4. However, it seems that one of the reference applications registered as LRC (PH) No.99 of 2004 challenging the award dated 20.11.1997, with respect to the same acquisition notification dated 14.09.1995 was entertained and the compensation amount was enhanced vide judgement and order dated 27.12.2017 passed by the Principal Senior Civil Judge, Surendranagar.
5. The petitioners herein, thereafter moved applications under Section 28A seeking benefit of the reference court

award dated 27.12.2017. On receipt of the said application, the Deputy Collector and Special Land Acquisition Officer(Irrigation), Rajkot sought opinion of the Revenue Department vide communication dated 19.04.2025, replied vide communication dated 20.12.2025, wherein it was opined that :-

“As per the provisions of Section 28(A) of the Land Acquisition Act, when a Reference Court awards compensation higher than the award declared under Section 11, then other applicants covered under the same notification of Section 4, who may not have initially approached the Reference Court because they were aggrieved by the Section 11 award, shall also be entitled to the enhanced compensation determined by the Reference Court. For this, the concerned applicant must submit an application within the stipulated time limit.

In the present case, if the applicants have not received benefits under Section 18 and have applied for the benefits of Section 28(A) within the time limit, such applicants will be eligible for the increased compensation determined by the Reference Court. Taking this into consideration, you are requested to carry out the further appropriate proceedings.”

6. A perusal of the communication sent by the Revenue department dated 20.12.2025, appended as Annexure ‘R1’ to the affidavit indicates that on the directions sought by the Deputy Collector, vide communication dated 19.04.2025, only this much was communicated that if the applicants had not received benefits under Section 18 and have applied for the benefits under Section 28A within the time limit, such applicants will be

eligible for the increased compensation determined by the Reference Court and that taking into consideration of the said fact, appropriate proceedings were to be carried out.

7. However, vide impugned order dated 24.12.2025, the Deputy Collector and Special Land Acquisition Officer rejected the reference applications filed under Section 28A with the observation that earlier reference applications filed by the petitioners before the Principal District Judge on 16.12.2004 were already rejected on 14.09.2005, while refusing to condone the delay.
8. The stand of the respondent no.2 in its affidavit filed in the present matter to defend the order impugned dated 24.12.2025 is based on the decision of the Principal District Judge, Surendranagar dated 14.09.2005 of rejection of Section 18 application on the ground of delay. There is no other reasoning in the order impugned nor any other circumstance has been brought before us in the affidavit filed on behalf of respondent no.2 justifying the order of rejection of applications under Section 28A of the Act' 1894.
9. Taking note of the above, we may refer to the provisions of Section 28A of the Land Acquisition Act, 1894, as under :-

“28A. 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.

(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, required that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18."

10. We may also take note of Section 18 of the Act' 1894, which reads as under :-

"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.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

11. A careful reading of Section 18 of the Act' 1894 indicates that any person interested within the meaning of the Act' 1894 who has refused to accept the award of the Collector/Special land acquisition officer may file a written application to the Collector seeking reference of the dispute for determination of the compensation to the Court including measurement of the land, the amount of compensation, entitlement of the persons interested or the apportionment of compensation amongst the persons interested.
12. As per sub-section (2) of Section 18, such application can be filed within the time period prescribed therein. In the instant case, the applications moved by the land holders/petitioners in the year 2005 had been rejected by the

competent court on the ground of delay noticing that the land holders had failed to explain the delay when they were already aware of the passing of award.

13. However, a further reading of Section 28A of the Act '1894 indicates that any person interested in the land covered by the same notification under Section 4 (1) of the Act' 1894, who is aggrieved by the award of the Collector, may make an application to the Collector within three months from the date of award of the reference court with respect to land covered by the same notification, passed under Section 18 of the Act' 1894. Sub-section (1) of Section 28A provides that such an application can be made by any person interested notwithstanding the fact that he/they had not made an application to the Collector under Section 18.
14. It is, thus, evident that for moving application under Section 28A seeking benefit of the reference court award by persons interested in the lands covered by the same notification, there is no necessity for them to move to the reference court. The further requirement to maintain the application under Section 28A is the limitation which runs from the date of passing of the reference court award with respect to a similar land covered by the same notification under Section 4(1) which is not disputed before us.
15. The fact remains that the petitioners moved applications under Section 18 of the Act' 1894 but they were rejected on the ground of delay and not on merits. The

application moved by one of land holders/owners with respect to a land covered by the same notification had been entertained and registered as LRC No. 99 of 2004, challenging the award passed in LAQ Case No.59 of 1994 dated 20.11.1997. The said application has been decided vide judgement and order dated 27.12.2017 by the competent civil court. There is nothing on record which would indicate that the reference court award dated 27.12.2017 was subjected to challenge by the acquiring body or the State. The award dated 27.12.2017 has attained finality and the applications under Section 28A filed by the petitioners herein were well within limitation.

16. In this scenario, the Deputy Collector/Special land acquisition officer had committed a grave error of law in rejection of the application under Section 28A solely on the ground that the reference applications filed by the petitioners were rejected on the ground of limitation in challenging the land acquisition award dated 20.11.1997.
17. Suffice it to say that for moving the application under Section 28A, the date of the original award passed by the Special land acquisition officer would not be relevant. The relevant date is the date of passing of the reference court award which 27.12.2017 to compute limitation under Section 28A of the Act' 1894.
18. The petitioners application being well within the period prescribed under Section 28A of the Act' 1894 and in the

opinion of the Revenue Department, Gandhinagar dated 20.12.2025 communicated to the Deputy Collector/Special land acquisition officer, it was not open for the said officer to reject the applications under Section 28A of the Act' 1894 seeking for benefit of the reference court award dated 27.12.2017, taking aid of the decision of the reference Court dated 14.09.2005 of rejection of the reference applications filed by the petitioners on the ground of limitation.

- 19.** In view of the above, the order 24.12.2025 passed by the Deputy Collector and Special Land Acquisition Officer, Rajkot is hereby set aside. The matter is remitted back to the Deputy Collector/Special land acquisition officer for redetermination of compensation strictly in accordance with the provisions of Section 28A of the Land Acquisition Act' 1894 by proceedings with the applications on merits without raising any objections as to the maintainability thereof. A reasoned and speaking order strictly in accordance with law shall be passed, preferably within a period of four weeks from the date of receipt of copy of this order, after providing due opportunity of hearing to all concerned including the petitioners/applicants. Disposed of, accordingly.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

BIJOY B. PILLAI