

**(1993) 10 P&H CK 0010**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 2027 of 1992**

Sh. Mangal Singh

APPELLANT

Vs

Land Acquisition Collector, Urban Estates

RESPONDENT

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**Date of Decision :** 07-10-1993

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Land Acquisition Act, 1894 — Section 28A

**Citation :** (1994) 106 PLR 695

**Hon'ble Judges :** V.K. Bali, J

**Bench :** Single Bench

**Advocate :** Ram Chander, for the Appellant; Jagdev Sharma, Addl. A.G. and Suresh Monga, DAG, for the Respondent

**Final Decision :** Allowed

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## Judgement

V.K. Bali, J.—Mangal Singh through present petition filed by him under Articles 226/227 of the Constitution of India seeks issuance of a writ in the nature of Certiorari so as to quash orders Annexures P1 and P2 vide which his application seeking reference u/s 28A of the Land Acquisition Act was declined by the Land Acquisition Act for sending the matter to the District Judge for adjudication was also dismissed.

2. The only ground for declining reference to the District Judge is that the first award was given by the Court on 13.2.979 and, therefore, the reference was barred by time. His application u/s 28A(3) was also dismissed on the same ground. As stated in the order Annexure P2, there was delay of more than 66 days. It is further stated in the order impugned i.e. Annexure P2 that Section 18A(8) will come into force only if the party is aggrieved with the award of the Collector u/s 28(3) and there being no order as to the making of an award u/s 28A(3), proceedings u/s 28A(3) could not be initiated.

3. The contention of learned counsel for the petitioner is that there is no provision in the Land Acquisition Act which might provide that Section 28A of the

Act would apply only in respect of first award given by the Court and the application seeking reference being within three months from one of the awards dealing with the same acquisition wherein the land of the petitioner was acquired, the Land Acquisition Collector had necessarily to make a reference u/s 28A(3) of the Land Acquisition Act. In support of his contention, the learned counsel relies upon "Lila Krishan and Ors. v. The Land Acquisition Collector, Urban Estates, Panchkula, Haryana (1991) 100 P.L.R. 65.

4. I do not wish to go into this question in detail as concededly the matter is squarely covered in favour of the petitioner. In Lila Krishan and other's case (supra), this is how the Division Bench proceeded with the matter:-

" We do not find anything in the language of Section 28A of the Act which compels us to take the view that the limitation should be counted from the other awards given by the Court with regard to the same land. The land-owner who comes to the Court u/s 28A of the Act, by relying on a particular award, the limitation should count for purposes of Section 28A of the Act, from the date of the award relied upon by the land-owner. We consider that such an interpretation is in consonance with the spirit of Section 28A of the Act. In this view of the matter, we hold that the application of the petitioners u/s 28A(3) of the Act was within limitation."

5. Following the decision of the Division Bench in Lila Krishan and others's case (supra) I quash the orders Annexures P1 and P2 and direct the Land Acquisition Collector etc refer the application of the petitioner u/s 28A(3) of the Land Acquisition Act to the District Judge concerned. However, since there has been delay of more than two years, the petitioner who might ultimately be held entitled to enhanced compensation evidenced through awards relied upon by him will not be entitled to interest for the period of two years as the State cannot be burdened with interest for this period on account of the fault of the petitioner who woke up after a period of two years to agitate the matter in this Court.

6. With the observations made above, this petition is allowed. There shall, however, be no order as to costs.