

# HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Before:**

**Justice Arbab Ali Hakro**

**Justice Muhammad Jaffer Raza**

**I.A. No. D-18 of 2024**

[Aleem v. Mst.Lanjan and 50 others]

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**I.A. No.D- 28 of 2024**

[Mst.Khatijan v. Jadeen and 11 others]

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**I.A. No. 29 of 2024**

[Jalal v. Luqman and 10 others]

Appellants by : Mr.Ghulam Mustafa Hingorjo, Advocate

Private Respondents by : Mr.Abdul Raheem Chandio, Advocate

Official Respondents by : Mr.Harish Chander, Assistant A.G  
Sindh

Dates of Hearing : **30.04.2026**

Date of Decision : **14.05.2026**

## **J U D G M E N T**

**ARBAB ALI HAKRO, J:-** These three cognate matters arise out of identical circumstances. In First Appeal No.D-18 of 2024, the appellant Aleem asserted that he was a co-sharer in Survey Nos.70, 39 and 42, claiming inheritance through his mother Mst.Ameenat, daughter of Samand S/o Habib Lanjo. He maintained that no foti-khata-badal had ever been effected after the death of the original Khatedar and that subsequent mutations in favour of Ismail @ Esso, Habib and Luqman were fraudulent. He further alleged that portions of the land were illegally sold to private respondents without his knowledge. Upon learning during the Thar Coal survey that compensation was being processed without recognising his share, he instituted a civil suit, which was later withdrawn upon the District Attorney's statement that the land had already been acquired. In his application, the Land Acquisition

Officer forwarded a reference seeking a determination of his entitlement and the apportionment of compensation.

2. In First Appeal No.D-28 of 2024, the appellant, Mst.Khatijan claimed co-ownership of Survey No.14 measuring 12-09 acres, asserting inheritance from her father, Loung S/o Jadeen, and ultimately from the original owner, Mst.Sharifan. She alleged that her siblings had procured mutation in their exclusive names and thereafter sold the land to a private respondent without disclosing her share. She came to know of the acquisition only upon publication of a newspaper notice announcing the readiness of compensation for Thar Coal Block-I. Her civil suit was similarly withdrawn after the District Attorney's statement, and the Land Acquisition Officer transmitted a reference for adjudication of her claim for compensation.

3. In First Appeal No.D-29 of 2024, the appellant Jalal asserted ancestral ownership in Survey No.15 measuring 13-19 acres, claiming inheritance from his grandfather Hussain S/o Tusidino. He alleged that the private respondents had procured a fabricated "bakhshish" entry in 1981, purportedly executed by Hussain long after his death in 1978 and on that basis mutated the land in their names and subsequently sold it through a registered sale deed. He came to know of the fraud only when the Land Acquisition Officer published a notice relating to Thar Coal Block-I. His civil suit was withdrawn upon disclosure of the acquisition, and a reference was forwarded for the determination of his entitlement.

4. In all three matters, the Land Acquisition Officer, acting upon the directions of the civil courts, transmitted references under Sections 18 r/w Sections 30 and 31 of the Land Acquisition Act, 1894, asserting that the appellants had raised objections to the award and claimed shares in the acquired land. The references contained pedigrees, revenue entries, details of the award and the appellants' assertions that they had neither been served

notices under section 12(2) nor afforded an opportunity to contest the award or assert their shares.

5. Learned Additional District Judge-I, Tharparkar at Mithi, before whom all three references ultimately came, examined the question of limitation alone and, relying exclusively on the proviso to Section 18 of the Act, held that the references were hopelessly time-barred as they were not filed within six weeks or six months of the award. Without entering into the merits of title, inheritance, fraud or apportionment, the learned Judge dismissed all three references through identical orders dated 16.03.2021.

6. Learned counsel for the appellants, in all three connected appeals, submitted that the learned Referee Court adopted an unduly rigid and legally untenable view of limitation, ignoring the settled jurisprudence that once the Collector transmits a reference, the question of limitation becomes redundant and cannot be used as a ground to non-suit the claimants. He argued that the civil courts, upon being apprised of the acquisition, expressly directed the Land Acquisition Officer to refer the disputes under sections 18, 30 and 31 of the Land Acquisition Act, 1894 and the Collector, acting in compliance, forwarded the references along with the entire record. Once such a statutory reference had been made, the Reference Court was bound to adjudicate the matter on the merits rather than dismiss it summarily. In support of this contention, learned counsel relied upon **2020 CLC 1202 (Peshawar)**, wherein it was held that once the Collector has made a reference, the Referee Court cannot decline to entertain it on the ground of limitation and must decide it in accordance with law. He further placed reliance on **2020 CLC 1916**, where the Court reiterated that the moment a reference is forwarded by the Collector, the bar of limitation ceases to have relevance and the Reference Court is obligated to determine the dispute on merits. Learned counsel also referred to **2004 MLD 314 and 1994 MLD 2339**, which categorically hold that no period of limitation is prescribed for objections

under section 30 of the Act and that the Collector may refer such disputes at any time, particularly where rival claims to compensation arise. He further cited **2005 MLD 168**, affirming that when a new claimant emerges after the award, the Collector may still make a reference under section 30, and such reference cannot be defeated on the ground of limitation. Learned counsel further submitted that the appellants were never served with notices under section 12(2), nor were they aware of the award proceedings and therefore the computation of limitation could not commence against persons who were neither notified nor present before the Collector. He argued that the appellants were bona fide litigants pursuing their rights before the civil courts, and that any delay was sufficiently explained by their continuous litigation. He maintained that the impugned orders, being cryptic and confined solely to limitation, warrant interference.

7. Conversely, learned counsel for the private respondents supported the impugned orders and submitted that the references were hopelessly barred by time and the learned Referee Court rightly declined to entertain them. He argued that section 18 of the Land Acquisition Act prescribes a mandatory and inflexible period of limitation, and any application filed beyond six weeks or six months, as the case may be, is liable to be rejected outright. He contended that the appellants' objections were raised long after the award had attained finality, and that the Collector had no authority to entertain or transmit a time-barred application. In support of his submissions, learned counsel relied upon **2017 YLR Note 14**, wherein this (High) Court held that the Collector has jurisdiction to determine whether an application under section 18 is time-barred and that he has no power to condone delay either suo motu or on application. It was further held that if an application is presented more than six months after the award, the Collector has no option but to dismiss it, and any reference to a time-barred application is invalid. Learned counsel also relied on **2005 MLD 1530**, where the Lahore High

Court held that a reference filed after one and a half years of the award was clearly barred by time and that the Referee Court was justified in dismissing it. He further cited **2015 CLC 97 (Balochistan)**, which reiterates that if pleadings are submitted beyond the prescribed period, they cannot be entertained, and that the Collector is competent to reject a reference beyond limitation. Learned counsel argued that the appellants' claims of inheritance and allegations of fraud were afterthoughts raised only when compensation became imminent, and that the revenue record at the time of acquisition reflected the private respondents as the lawful owners. He submitted that the appellants had slept over their alleged rights for decades and could not now circumvent the mandatory limitation by invoking civil litigation as a pretext. He maintained that the award had been duly published, that notices were issued in accordance with law, and that compensation had already been disbursed to the recorded owners; therefore, re-opening the matter at this belated stage would unsettle settled rights and prejudice bona fide purchasers.

8. Learned Assistant A.G. Sindh supported the impugned orders.

9. Heard and perused the record.

10. These three 1<sup>st</sup> Appeals arise out of identically worded orders dated 16.03.2021, passed by the learned Additional District Judge, Tharparkar at Mithi, acting as Referee Court under the Land Acquisition Act, 1894, whereby references transmitted by the Land Acquisition Officer were dismissed in limine solely on the ground of limitation, with the learned Judge reproducing section 18 of the Act and observing that the references had been filed with more than ample delay which not explained by applicant. The factual background, as already noticed, is that each appellant had first approached the civil court by way of a suit seeking declaration of co-ownership, cancellation of revenue entries and sale deeds and consequential injunctions, upon discovering that their alleged ancestral lands had been

mutated and transferred in favour of private respondents and that the same lands had, in the meantime, been acquired for Thar Coal Block-I. During the pendency of those suits, the District Attorney, appearing for the official defendants, disclosed that the lands had been acquired under Award No. 22 dated 18.03.2020 and took the position that the civil court lacked jurisdiction to decide questions of apportionment and entitlement to compensation. On that basis, the civil court permitted the withdrawal of the suits, with observations directing the Land Acquisition Officer to refer the matter to the competent court. Acting on such directions and on written applications of the appellants, the Land Acquisition Officer/Assistant Commissioner Islamabad prepared references expressly invoking section 18 read with sections 30 and 31 of the Land Acquisition Act, 1894, reciting the award, the total compensation assessed for the survey numbers in question, the rival claims inter se between the recorded owners and the appellants as alleged legal heirs and praying that the Referee Court decide the apportionment and entitlement to compensation. It is these references which have been non-suited on limitation.

11. The first and central question, therefore, is whether, in law, the learned Referee Court was competent to decline to entertain the references on the ground that the underlying applications to the Collector were time-barred under the proviso to section 18(2), or whether, once the Collector had in fact made a reference, the Referee Court was confined to the objections transmitted. It could not sit in judgment on limitation. This necessarily requires a close reading of the statutory scheme in Part III of the Act, particularly sections 18, 19, 20 and 21.

12. Section 18(1) confers on “any person interested who has not accepted the award” a right, by written application to the Collector, to require that the matter be referred for determination of the Court, whether the objection be to measurement, amount of compensation, the person to whom it is payable, or

apportionment among persons interested. Sub-section (2) mandates that the application shall state the grounds of objection and then, by way of proviso, prescribes strict time limits: where the applicant was present or represented at the time of the award, within six weeks from the date of the award; in other cases, within six weeks of receipt of notice under section 12(2) or within six months from the date of the award, whichever first expires. Sub-section (3), as applicable in Sindh, separately enables the Federal Government, Provincial Government, a Company or a local authority, if dissatisfied, to refer the matter within six months of the award, subject to a prima facie case. Section 19 then obliges the Collector, "in making the reference", to state in writing the situation and extent of the land, the names of persons he believes interested, the amounts awarded and, where the objection is to compensation, the grounds on which he determined it, and to attach a schedule of notices and statements. Section 20 requires the Court, upon receipt of the reference, to issue notice of the day fixed for determination of the objection to the applicant, all persons interested in the objection (save those who have accepted compensation without protest) and where the objection concerns area or amount of compensation or costs, to the Collector and the acquiring authority. Section 21 then restricts that "the scope of the enquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection".

13. The settled legal contours governing the respective roles of the Collector and the Referee Court under this scheme are now well-defined in the case of **the Government of N.W.F.P.**<sup>1</sup>, the Supreme Court, after reviewing earlier authorities including *Sindh Industrial Trading Estates Ltd. v. First Assistant Judge, Hyderabad* (PLD 1960 Kar 826) and *Bashir Ahmad v. Collector, Multan* (PLD 1962 Lah 292), reaffirmed that it is the Collector who has jurisdiction to decide whether an application under section 18 is within

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<sup>1</sup> Government of N.W.F.P. v. Allah Dad (1996 SCMR 384)

time and to refuse to make a reference if it is found to be barred; conversely, once a reference has in fact been made, the Referee Court's inquiry is "restricted to a consideration of the objections raised by the interested parties in accordance with subsection (1) of section 18" and "does not contemplate a decision on the question of limitation because that apparently is matter for the Collector to decide". In that case, the plea of limitation, though raised, had not been pursued before the Referee Court or the High Court, and the Supreme Court declined to entertain it at that stage, emphasising that the Referee Court's jurisdiction is confined to the merits of the objections transmitted.

14. The same principle is echoed in a consistent line of High Court decisions, some of which have been placed on record. It has been held that the Collector is competent, and indeed bound, to examine limitation at the stage of the section 18 application and if the application is beyond the statutory period, to decline to make a reference; but once he has decided to refer, the Court hearing the reference is a tribunal of limited jurisdiction and has no power to review the Collector's decision on limitation or to go behind the reference. The period of six months in clause (b) of the proviso to section 18(2) has been construed as running from the date on which the Collector formally signs the award, not from the date of knowledge and section 5 of the Limitation Act has been held inapplicable to proceedings under the Land Acquisition Act.

15. The appellants have placed reliance on 2020 CLC 1202 and 2020 CLC 1916, where it was held that once the Collector has made a reference, the Referee Court cannot decline to entertain it on the ground of limitation and must decide it in accordance with law and that, particularly in references under section 30, the question of limitation becomes redundant. They have also cited 2004 MLD 314 and 1994 MLD 2339, which hold that no period of limitation is prescribed for filing objections under section 30 and that the

Collector can refer such disputes at any time, as well as 2005 MLD 168, recognising that where a new claimant emerges after the award, the Collector may still make a reference under section 30 and such reference cannot be defeated on limitation.

16. On the other hand, the private respondents have relied on 2017 YLR Note 14, 2005 MLD 1530 and 2015 CLC 97, which emphasise the mandatory nature of the time limits in section 18, the Collector's lack of power to condone delay, and the competence of the Collector to reject time-barred applications, with the consequence that a reference founded on a patently time-barred application is invalid.

17. When these authorities are read together with the case of the Government of N.W.F.P (supra), the doctrinal position which emerges may be summarised thus. First, the time limits in the proviso to section 18(2) are mandatory, and the Collector has no power to extend them by resort to section 5 of the Limitation Act or otherwise; an application made beyond six weeks or six months, as the case may be, is liable to be rejected at the threshold. Secondly, the question whether an application is within time is, in the first instance, for the Collector to decide; if he finds it barred, he may refuse to make a reference. Thirdly, once the Collector has, rightly or wrongly, made a reference, the Referee Court's jurisdiction is confined by sections 20 and 21 to the objections transmitted and does not extend to re-opening the question of limitation or to declaring the reference itself invalid on that ground. Fourthly, references under section 30, which deal with disputes as to apportionment or entitlement to compensation among rival claimants, are not subject to any express period of limitation and the Collector may refer such disputes whenever they arise, including upon the emergence of a new claimant after the award; in such cases, the Referee Court is obliged to adjudicate the inter se rights without importing the time bar of section 18(2).

18. Applying these principles to the present appeals, certain features stand out. In each case, the Land Acquisition Officer has, in express terms, framed the reference as one under section 18 read with sections 30 and 31 of the Land Acquisition Act, 1894. The recitals make it clear that the lands in question are Survey Nos. 39 and 42 in the case of Aleem, and Survey No. 14 in the case of Mst.Khatijan and Survey No.15 in the case of Jalal had been acquired under Award No.22 dated 18.03.2020, that compensation had been assessed and notices under section 12 had been issued to the recorded owners, that those recorded owners had not objected to the award nor sought a reference and that the acquiring agency had also not objected. The references further recite that the appellants, claiming to be legal heirs of the original khatedars, had instituted civil suits challenging the revenue mutations and sale deeds in favour of the recorded owners and that during those suits, the District Attorney pointed out the acquisition and the civil court directed that the matter be referred to the competent court under the Land Acquisition Act. It is on that basis that the Land Acquisition Officer, treating the appellants as “interested persons” within the meaning of section 3(b), has referred the disputes as to whether and to what extent they are entitled to share in the compensation already assessed and payable in respect of the acquired survey numbers.

19. On this factual matrix, the dominant character of the references is plainly that of section 30 references concerning apportionment and entitlement, rather than classic section 18 references by recorded owners seeking enhancement of compensation. The appellants do not dispute the quantum of compensation fixed by Award No. 22; their grievance is that they were excluded from the revenue record and from the award, and that the entire compensation has been earmarked for persons whom they allege to be transferees under fraudulent mutations and sale deeds. The Land Acquisition Officer has not purported to re-open the award or to question the

amount; he has merely sought the Court's determination as to who, among the rival claimants, is entitled to receive the compensation already assessed. In such a situation, the jurisprudence on section 30 is directly attracted: no period of limitation is prescribed for such disputes; the Collector may refer them whenever they arise and once referred, the Referee Court must decide them on the merits. The learned Referee Court, by treating the references as if they were pure section 18 enhancement references and by non-suiting the appellants on the basis of the six-month bar, has, with respect, misdirected itself as to the true nature of the proceedings and has failed to exercise the jurisdiction vested in it under section 30.

20. Even if, for argument's sake, one were to assume that the references also contain an element of objection to the award within the contemplation of section 18, such as an objection that the award failed to recognise the appellants as persons entitled to compensation, the learned Referee Court still could not have dismissed the references on limitation in the manner it did. The Land Acquisition Officer, mindful of the civil court's directions and the appellants' claims, chose to make the references. The question whether the underlying applications were within time was for him to decide; once he had, in fact, made the references, the Referee Court's inquiry was restricted by section 21 to the "interests of the persons affected by the objection" and did not extend to revisiting limitation. If the Collector erred in treating a time-barred application as within time, that error could be corrected, if at all, in appropriate proceedings against his order, but not by the Referee Court declining to entertain the reference. The impugned orders, by purporting to declare the references "hopelessly time barred" and by dismissing them without issuing notice to the recorded owners or the acquiring agency, trench upon an area which the statute reserves to the Collector and thereby offend the jurisdictional limits delineated by sections 18, 20 and 21.

21. There is yet another dimension. The appellants have consistently pleaded that they were never served with notices under section 9 or section 12(2), that they were not recorded as owners at the time of acquisition, that they came to know of the acquisition only when public notices were published in newspapers or when they approached the revenue offices and that they promptly instituted civil suits and thereafter sought references upon being told that the civil court lacked jurisdiction. The case law on record shows that, in circumstances where no real effort is made to serve landowners who are abroad or otherwise absent, some courts have treated the period of limitation as running from the date of knowledge, particularly to avoid manifest injustice. Other decisions, however, have insisted that the six-month period runs from the date of the award and that knowledge is irrelevant. It is not necessary, for present purposes, to resolve this doctrinal tension finally, because the present appeals can be disposed of on the narrower and firmer grounds already discussed: the predominance of section 30 in the references and the lack of jurisdiction of the Referee Court to re-open limitation once the Collector has referred. Nonetheless, the appellants' narrative of having been kept out of the acquisition proceedings and of having pursued their rights diligently in civil litigation reinforces the conclusion that a summary dismissal on limitation, without any inquiry into service, knowledge or the equities of the case was inconsistent with the spirit of Article 24 of the Constitution, which guarantees that no person shall be deprived of property save in accordance with law and subject to compensation.

22. The private respondents' reliance on 2017 YLR Note 14, 2005 MLD 1530 and 2015 CLC 97 does not advance their case in the present factual and procedural posture. Those authorities correctly state that the Collector has no power to condone delay and that a time-barred application under section 18 must be rejected; they do not, however, authorise the Referee

Court to assume the Collector's function and to declare a reference invalid on limitation once it has been made. Nor do they deal with the special position of section 30 references, where no limitation is prescribed. On the contrary, when read with the case of the **Government of N.W.F.P.**, they support the proposition that limitation is a threshold issue for the Collector, not for the Referee Court.

23. In the result, we are of the considered view that the impugned orders suffer from a two-fold legal infirmity: first, a mischaracterisation of the references as being governed exclusively by section 18, to the exclusion of sections 30 and 31 and secondly, an assumption of jurisdiction to decide limitation which the statute reserves to the Collector and which, in any event, had become academic once the references were made. The learned Referee Court has thereby failed to exercise jurisdiction vested in it to adjudicate the rival claims to compensation and has acted with material irregularity in the exercise of its jurisdiction by non-suiting the appellants on an extraneous ground.

24. For the reasons recorded above, all three 1<sup>st</sup> Appeals are **allowed**. The impugned orders dated 16.03.2021, passed by the Referee Court in the references, are set aside. The references made by the Land Acquisition Officer/Assistant Commissioner Islamabad under section 18 read with sections 30 and 31 of the Land Acquisition Act, 1894, are remanded to the Referee Court, which shall proceed to decide them strictly in accordance with law, on merits.

**JUDGE**

**JUDGE**

"Saleem"