

# HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Before:**

**Justice Arbab Ali Hakro**

**Justice Muhammad Hasan (Akber)**

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| 1   | C.P No.D-11 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 2   | C.P No.D-12 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 3.  | C.P No.D-13 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 4.  | C.P No.D-14 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 5.  | C.P No.D-15 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 6.  | C.P No.D-16 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 7.  | C.P No.D-17 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 8.  | C.P No.D-18 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 9.  | C.P No.D-19 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 10. | C.P No.D-20 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 11. | C.P No.D-21 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 12. | C.P No.D-22 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 13. | C.P No.D-23 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 14. | C.P No.D-24 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |
| 15. | C.P No.D-25 of 2026 | Sindh Engro Coal Mining Company Ltd v. Province of Sindh and others |

Mr.Nazar Muhammad Leghari, Advocate for Petitioner (s)

Mr.Vasand Thari, Advocate for Respondents No.21(a) to (d) in C.P No.D-25 of 2026

Mr.Ayaz Ali Rajper, Assistant Advocate General Sindh a/w Mukhtiarkar Islamkot (**Anwar Ali**)

**Date of hearing : 18.02.2026**

**Date of Decision : 11.03.2026**

## **ORDER**

**ARBAB ALI HAKRO J:-** The above petitions have been heard together as they arise from a common order dated 18.09.2025, passed by the learned Additional District Judge-II, Tharparkar at Mithi, whereby applications filed under sections 31(2) read with 32 of the Land Acquisition Act, 1894 were dismissed. Since the petitions involve identical questions of law and substantially similar factual circumstances, they are being decided through this consolidated order.

2. The petitioner, Sindh Engro Coal Mining Company Limited (SECMC), is a joint venture of the Government of Sindh and Engro Powergen Limited, engaged in coal mining and power generation in Thar Coal Block-II. For the purposes of village relocation, common facilities, CSR infrastructure and other public purposes, private land was acquired under the Land Acquisition Act, 1894. Notifications under sections 4 and 6, read with section 17 of the Act, were issued by the competent authorities and duly published in the Sindh Government Gazette. After completion of statutory formalities, awards under section 11 were passed by the Land Acquisition Collector, Islamkot, for various survey numbers situated in Dehs Kumbhariyo, Kuran, Khariyo Ghulam Shah, and other adjoining areas. The record reflects that possession of the acquired land was taken under the urgency clause, and compensation amounts were determined through the respective awards. However, the private landowners/interested persons did not appear to have received the compensation despite the issuance of notices, the holding of an open katcheri, and the publication of notices in newspapers. In view of the non-appearance of the interested persons, the Land Acquisition Collector submitted applications before the District Court under section 31(2) read with section 32 of the Act, seeking permission to deposit the compensation. Learned Additional District Judge-II dismissed the applications on 18.09.2025.

3. The impugned order records that the applicant "produced no proof of tender of compensation, no acknowledgement or refusal from the interested persons and no evidence of dispute regarding title or apportionment," and further observed that the award appeared to have been prepared "without associating the interested persons in the proceedings under Sections 9 and 11.

4. Aggrieved by the dismissal of the applications, the petitioner has approached this Court seeking a writ of mandamus directing the District Court to permit the deposit of the compensation amount and to proceed in accordance with sections 31 and 32 of the Act.

5. The Assistant Commissioner / Land Acquisition Collector, Islamabad (Respondent No.4), has filed comments. He confirms that the applications were filed for permission to deposit unpaid compensation under section 31(2) read with section 32, and that the same were dismissed by the learned Additional District Judge-II. The Land Acquisition Officer admits the factual assertions in the petitions, including the issuance of notifications, the passing of awards, and the non-attendance of the interested persons. He states that the undisbursed compensation "stands deposited in the Government Treasury, and it will be withdrawn and deposited in the Court when permission is accorded." The official respondent does not object to the prayer sought by the petitioner.

6. Learned counsel for the petitioner (s) submits that the learned Additional District Judge-II misdirected himself in dismissing the applications despite the statutory mandate under section 31(2). It is argued that once the interested persons fail to appear or refuse to receive compensation, the Collector is obligated to deposit the amount in Court, and the Court cannot decline such a deposit. Counsel contends that the learned Court erred in holding that proof of tender was not produced, as notices under section 9, public notices and press publications were already annexed with the applications. It is further argued that the Act does not prescribe any limitation for depositing the amount in Court, and the delay, if any, cannot defeat the statutory right of the acquiring agency to discharge its obligation. It is submitted that the petitioner continues to incur financial liability in the form of statutory interest from the date of taking possession, and refusal to permit the deposit of compensation exposes the acquiring agency to irreparable loss. Counsel maintains that the impugned order is contrary to the scheme of the Act and liable to be set aside.

7. Learned A.A.G. adopts the comments filed by the Land Acquisition Officer and submits that the official respondents have no objection if the petitions are allowed. He states that the compensation amount is already lying

in the Government Treasury and will be deposited before the District Court upon permission of this Court. Learned A.A.G. submits that the purpose of section 31(2) is to safeguard the rights of landowners and ensure that compensation remains available for disbursement. Therefore, refusal to accept a deposit defeats the statutory intent.

8. We have heard learned counsel for the petitioner, the learned A.A.G., and have examined the impugned order as well as the material placed on record.

9. Before delving into the merits, it is essential to determine whether the present petition under Article 199 of the Constitution is maintainable or whether the petitioner ought to have pursued an appeal under section 54 of the Land Acquisition Act, 1894. The question is not merely procedural; it goes to the jurisdiction of this Court to entertain the matter. The answer must be found in the statutory architecture of the Land Acquisition Act and the authoritative pronouncement of the Supreme Court in the case of **Rehm Dad**<sup>1</sup>, which has clarified the contours of Section 54 and the circumstances in which constitutional jurisdiction remains available.

10. Section 54 of the Act provides that an appeal shall lie to the High Court *"from the award, or from any part of the award, of the Court."* The term "Court" is defined in section 3(d) to mean the principal civil Court of original jurisdiction or an Additional District Judge exercising the functions of the reference Court under section 18. The statutory scheme, therefore, contemplates a sequential process: first, an award by the Collector under section 11; second, a reference to the Court under section 18 by a person who has not accepted the award; and third, an appeal under section 54 from the decision of the reference Court. The right of appeal is thus derivative and arises only after the reference Court has adjudicated upon objections to the award. Where no reference under

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<sup>1</sup> Rehm Dad v. Province of Punjab (PLD 2024 SC 499)

section 18 has been filed, the jurisdiction of the reference Court is never invoked, and consequently, no appeal under section 54 can arise.

11. The Supreme Court, in the case of **Rehm Dad** (supra), has reaffirmed this statutory structure. The Supreme Court held that the availability of an appeal under section 54 is contingent upon the existence of a reference under section 18 and that where the subject matter of the dispute does not fall within the limited scope of section 18, the remedy under section 54 is not attracted. The Court observed that Section 18 is confined to objections regarding measurement, quantum of compensation, the person to whom compensation is payable or apportionment. Matters falling outside these parameters, such as challenges to the purpose of acquisition, the utilisation of land, or administrative decisions under the Land Acquisition Rules, do not trigger the reference mechanism and therefore do not give rise to an appeal under section 54. The Supreme Court emphasised that the mere existence of the Land Acquisition Act does not bar constitutional jurisdiction unless the law applicable to the original order provides a statutory appeal, revision or review.

12. Applying this reasoning to the present case, it is evident that the petitioner has not challenged the award under section 11, nor has any reference under section 18 been filed. The grievance before this Court does not relate to the measurement of land, the quantum of compensation or apportionment. Rather, the petitioner seeks enforcement of the statutory duty under section 31(2) to deposit compensation where the landowners have not appeared to receive it. This issue does not fall within the ambit of section 18, and therefore cannot be adjudicated by the reference Court. As a result, no appeal under section 54 is competent. The statutory appellate mechanism is not engaged.

13. The impugned order of the learned Additional District Judge was not passed in the exercise of reference jurisdiction under section 18, but in the exercise of the Court's limited jurisdiction under section 31(2) to receive deposits of compensation. Such an order is not an "award" within the meaning

of section 54, nor is it a decision of the reference Court. The Supreme Court in ***Rehm Dad*** has clarified that where the law applicable to the original order does not provide a right of appeal, the bar contained in the proviso to section 3(2) of the Law Reforms Ordinance, 1972 does not apply, and constitutional jurisdiction remains available. The same principle applies here: the Land Acquisition Act provides no appeal, revision or review against an order refusing to accept a deposit under section 31(2). The petitioner, therefore, has no alternate statutory remedy. In these circumstances, the petition under Article 199 is maintainable. The petitioner seeks enforcement of a statutory obligation, not the reopening of an award. The absence of a reference under section 18 does not bar the petition; rather, it confirms that the statutory appellate route is unavailable. The constitutional jurisdiction of this Court is therefore properly invoked to correct a jurisdictional error and to ensure compliance with the mandatory provisions of the Act.

14. Now adverting to the merits of the case, having examined the record with the care that the matter demands, it becomes necessary to consider the statutory scheme under the Land Acquisition Act, 1894, the obligations imposed upon the Collector and the legal consequences that flow from non-compliance with those obligations. The impugned order proceeds on an understanding of the Act that is inconsistent with its text, its structure and the authoritative pronouncements of the superior Courts. The question before us is not whether the award is correct in its quantum or apportionment, those matters fall within the remit of a reference under section 18, which admittedly was not invoked, but whether the Collector, having taken possession of the land and having made an award, could be denied permission to deposit the compensation in Court under section 31(2). The answer must be found in the statute itself.

15. The Act creates a carefully calibrated framework. Once an award is made under section 11, the Collector is required to tender payment of the compensation to the persons interested. Section 31(1) is categorical: the

Collector "shall tender payment of the compensation awarded by him... and shall pay it to them unless prevented by one or more of the contingencies mentioned in subsection (2)." The statutory language is imperative, not permissive. The Collector's obligation is not contingent upon the landowners' willingness to accept the amount, nor upon the filing of a reference under section 18. It arises by operation of law upon the making of the award.

16. Section 31(2) then provides the mechanism for situations where payment cannot be made directly. It states that if the persons interested "shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted." The statutory design is clear: the deposit is the safeguard that ensures compensation remains available to landowners, even when they are absent, unwilling, or embroiled in inter se disputes. The deposit is not a matter of judicial discretion; it is a statutory command.

17. Learned Additional District Judge, however, declined to permit the deposit on the ground that the Collector had not produced proof of tender, nor demonstrated compliance with sections 9, 11, 12 and 19. The reasoning overlooks the fact that the Collector's duty to deposit arises precisely when the tender has failed or cannot be effected. The impugned order, therefore, imposes a precondition that the statute does not contemplate. The Act does not require the Collector to establish perfect compliance with every procedural step before being permitted to deposit the compensation. The deposit is not a reward for procedural regularity; it is a statutory obligation triggered by the non-receipt of compensation by the landowners.

18. The Supreme Court has repeatedly affirmed the mandatory nature of section 31. In the case of **Syeda Nasreen Zohra**<sup>2</sup>, the Supreme Court held

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<sup>2</sup> Syeda Nasreen Zohra (deceased) through LRs v. Government of Punjab (2022 SCMR 890)

that “on making of Award under section 11 of the Act, the Collector is bound to tender the payment of compensation... and in case the Collector is prevented from tendering compensation... the Collector is required to deposit the compensation in the Court.”

The Court further held that compliance with section 31 is mandatory because its non-compliance gives rise to the penal consequences under section 34. The ratio is unequivocal: the statutory duty to deposit is independent of any reference under section 18 and arises solely from the fact of non-payment after possession has been taken.

19. The Divisional Bench of this Court in the case of **Khan Muhammad**<sup>3</sup> reached the same conclusion, holding that “in case if the parties are not receiving the award amount or the parties are not traceable then land acquisition officer is duty-bound to follow the provision of section 31(2)... though the parties have approached to him... or not.” The Court described section 31 as a “complete code” for the payment and deposit of compensation. The reasoning applies with equal force here. The Collector cannot be faulted for seeking to discharge a statutory duty that the law itself imposes.

20. The impugned order also proceeds on the premise that the delay in filing the application, nearly eight years after the award, undermines the bona fides of the request. The Act, however, prescribes no limitation for depositing compensation in the Court. The obligation to deposit continues until it is fulfilled. Delay may have consequences under Section 34, which imposes compound interest for non-payment after possession, but it does not extinguish the duty to deposit. To hold otherwise would allow the acquiring authority to retain both the land and the unpaid compensation, a result wholly incompatible with the constitutional guarantee against deprivation of property without lawful compensation.

21. Learned Additional District Judge further held that Section 32 was inapplicable because the landowners were not persons incompetent to

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<sup>3</sup> Khan Muhammad v. Land Acquisition Officer (2010 YLR 330)

alienate. This reasoning again misconceives the statutory scheme. The Collector's application was made under section 31(2) read with section 32. The reference to section 32 was ancillary, not foundational. The primary relief sought was permission to deposit the compensation under section 31(2). Whether section 32 applies to the investment of the amount after deposit is a matter for the Court to determine subsequently. It is not a ground to refuse the deposit itself.

22. The record before us includes the comments of the Land Acquisition Officer, who has candidly stated that the compensation amount stands deposited in the Government Treasury and will be withdrawn and deposited in Court upon permission. The comments further acknowledge that the landowners did not appear to have received the compensation despite notices, an open katcheri, and publication in newspapers. The factual predicate for invoking Section 31(2) is therefore established. The Collector has demonstrated that a tender was attempted and that the landowners did not come forward. The statutory duty to deposit thus stands triggered.

23. It is also significant that the petitioner, as the acquiring agency, continues to bear the financial burden of statutory interest under section 34. The Supreme Court, in the case of **Nasreen Zohra**, held that interest under section 34 is "mandatory in nature and its payment cannot be denied." The longer the compensation remains unpaid or undeposited, the greater the liability. The refusal to permit deposit therefore not only contravenes the statute but also perpetuates financial prejudice to the acquiring agency without advancing any legitimate purpose.

24. The impugned order's reliance on alleged procedural deficiencies in the acquisition process is misplaced. The District Court, when seized of an application under Section 31(2), is not sitting in appellate review over the award. It is not empowered to examine the validity of the acquisition, the adequacy of notices, or the sufficiency of the Collector's inquiry. Those matters fall within the jurisdiction of the reference Court under section 18. The District

Court's role under section 31(2) is limited: to receive the deposit and to safeguard the compensation for the benefit of the persons interested. It is not a forum for collateral challenges to the acquisition.

25. The statutory purpose of Section 31(2) is to ensure that compensation is secured in Court where direct payment is not possible. The refusal to accept the deposit frustrates that purpose. It leaves the compensation in the Government Treasury, inaccessible to the landowners and outside the supervisory jurisdiction of the Court. It also exposes the acquiring agency to continuing liability under section 34. The impugned order, therefore, defeats both the protective and the compensatory objectives of the Act.

26. In these circumstances, the impugned order cannot be sustained. Learned Additional District Judge exercised jurisdiction on considerations that the statute does not recognise and declined to exercise jurisdiction that the statute mandates. The refusal to permit a deposit under section 31(2) is contrary to the text of the Act, inconsistent with binding precedent, and inimical to the rights of both the landowners and the acquiring agency. The petitions, therefore, merit interference.

27. For the reasons recorded above, these petitions are **allowed**. The impugned order dated 18.09.2025 passed by the learned Additional District Judge-II, Tharparkar at Mithi, is hereby set aside. The Land Acquisition Officer/Collector, Islamkot, is directed to withdraw the compensation amount from the Government Treasury and deposit the same before the District Court within fifteen days from the date of this order. Upon deposit, the District Court shall proceed in accordance with sections 31 and 32 of the Land Acquisition Act, 1894, and shall ensure that the amount is invested or disbursed strictly in terms of the statute.

**JUDGE**

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