

FCC: No Enhanced Land Compensation Without a Section 18 Reference

Pakistan's Federal Constitutional Court held that landowners who accepted an acquisition award or missed Section 18 cannot claim compensation enhanced in another owner's case.

Judgment analysis | Published 29 August 2026 | Shahbaz Shah, Advocate High Court

The holding

In *Fazale Haq College, Mardan v. Sanobar Khan and others*, with thirteen connected matters, the Federal Constitutional Court of Pakistan held that a landowner who accepted the Collector's award without protest, failed to seek a reference under Section 18 of the Land Acquisition Act, 1894 within time, or did not pursue the available appeal cannot later claim the enhanced compensation obtained by another landowner in separate proceedings.

The Court allowed the connected appeals and review petitions, set aside the High Court judgments that had extended or reopened enhanced compensation, and restored the orders of the Land Acquisition Collectors and other competent authorities. It also reviewed *Saddaqa Ali Khan and others v. Collector Land Acquisition and others*, PLD 2010 SC 878, to the extent that the earlier majority had given non-objecting or non-litigating owners the benefit of another owner's enhanced award.

The result is a strict rule of finality. Equality, sympathy, Article 199, Article 25, Article 187, Order XLI Rule 33 CPC, execution proceedings, and other collateral routes cannot replace the statutory reference that the landowner did not file.

Why this judgment matters

Land acquired under one notification may belong to many owners. Some challenge the Collector's valuation, incur the cost and risk of litigation, and ultimately obtain a higher rate. Others accept the original award or allow the statutory time to expire. The recurring question is whether the second group can later demand the higher rate merely because the land and acquisition are similar.

The Federal Constitutional Court answered no. Its reasoning reaches beyond land acquisition and addresses several broader questions:

- when a statute creates a right and prescribes the exclusive way to enforce it;
- when an alternative statutory remedy restricts Article 199 jurisdiction;

- the difference between a binding legal precedent and the operative relief granted only to the parties;
- the limits of Article 187 and Order XLI Rule 33 CPC;
- waiver, acquiescence, election, limitation, and past and closed transactions; and
- whether constitutional equality can be used to disregard statutory conditions.

The Court treated the issue as one of public importance because reopening old awards can create substantial, unplanned liabilities for public projects and make completed acquisition proceedings indefinitely uncertain.

The connected acquisition disputes

The fourteen proceedings arose from acquisitions for different public purposes, including educational institutions, motorways, defence projects, and a grid station. In each group, some owners invoked Section 18 and succeeded in obtaining higher compensation through the Reference Court and appellate proceedings.

The respondents were differently placed. Some had accepted the Collector's award without protest. Some had not applied for a Section 18 reference within limitation. Some had failed to challenge later decisions. They nevertheless sought the benefit secured by successful litigants through applications to the Collector, constitutional petitions, execution proceedings, or other collateral steps.

The Peshawar High Court and Lahore High Court had granted relief in different forms. Some respondents were given the enhanced rate directly. Some matters were remanded for evidence about title or land classification. In some cases, respondents were treated as decree-holders even though no decree had been passed in their favour.

The common legal question was whether any of those routes could lawfully substitute for the statutory objection and reference.

Section 18 is the jurisdictional gateway

The Court described the Land Acquisition Act, 1894 as a complete and self-contained code for acquisition, valuation, compensation, objections, references, and appeals.

Section 12 makes the Collector's award final and conclusive between the Collector and interested persons, subject to the remedies that the Act itself provides. Section 18 permits an interested person who has not accepted the award to require the Collector to refer an objection to the Court. The objection may concern measurement, compensation, entitlement, or apportionment.

The limitation is strict. A person who was present or represented when the award was made must ordinarily apply within six weeks of the award. In other cases, the application must be made within six weeks after receipt of notice under Section 12(2), or within six months from the award, whichever period first expires.

The Court held that the Reference Court has no inherent power to redetermine compensation. Its jurisdiction is derivative and arises only from a valid statutory reference.

Without a Section 18 reference, there is no judicial jurisdiction to reassess that owner's compensation.

Section 31 reinforces the same scheme. Its second proviso to subsection (2) bars a person who received compensation otherwise than under protest from making a Section 18 application. Acceptance under protest preserves the objection; unconditional acceptance closes it.

The award is final for an owner who does not object

The judgment applies the doctrines of waiver, election, and acquiescence together.

A landowner has a choice: accept the Collector's award, or preserve and pursue the statutory objection. If the owner knowingly accepts payment without protest or permits limitation to expire, the owner elects finality and waives the personal statutory remedy. If the owner later declines to appeal an adverse decision, that decision likewise becomes final against that owner.

The Court relied on *Ghulam Muhammad v. Government of Pakistan*, PLD 1967 SC 191, for the statutory effect of accepting compensation without protest. It also referred to *Khushi Muhammad v. Fazal Bibi*, PLD 2016 SC 872, on the strict and inflexible operation of limitation, and *Syed Ali Nawaz Gardezi v. Lt. Col. Muhammad Yousaf*, PLD 1963 SC 51, on the principle that a person cannot complain of an act to which the person passively assented.

The ruling therefore rejects a wait-and-see strategy. An owner cannot accept the original award, avoid the burden of litigation, and then adopt only the successful result obtained by someone else.

Article 25 does not create parity between legally different owners

The respondents' equality argument failed because Article 25 applies to persons who are similarly situated in law and fact.

An owner who filed a timely objection, produced evidence, participated in the reference, and obtained a decree is not legally situated like an owner who accepted the award or slept over the remedy. The distinction comes from Sections 18 and 31 of the Act, not from arbitrary executive treatment.

The Court held that equality reinforces lawful and uniform application of the statute. It does not authorize a court to erase limitation, dispense with protest, or invent a substantive benefit for someone who did not satisfy the statutory conditions.

This is an important qualification. The judgment does not say that owners of comparable land may lawfully be valued on irrationally different principles when both have properly invoked the Act. It says that a person who never opened the statutory adjudicatory route cannot rely on Article 25 to claim the result of another person's decree.

Article 199 cannot become a substitute reference

The Court treated the Section 18 remedy as adequate, efficacious, and complete. A constitutional petition cannot ordinarily be used to bypass a forum, limitation period, pleading requirement, and evidentiary process specifically created by the legislature.

Compensation disputes are also heavily factual. Market value may depend on comparable sales, location, access, potential use, classification, development, and the nature of the particular parcel. Questions of title and apportionment may require revenue records, mutations, inheritance evidence, leases, mortgages, maps, witnesses, and expert material.

The Court held that such issues belong to the Reference Court. Article 199 is supervisory and corrective; it is not a substitute trial or an alternative mechanism for enhancement after the statutory right has lapsed.

A Reference Court award is in personam, not in rem

One of the judgment's most useful parts is its distinction between precedent and operative relief.

Section 21 confines the reference inquiry to the interests of the persons affected by the objection. Section 26(2) treats the Reference Court's award as a decree and its reasons as a judgment under the Code of Civil Procedure. A decree determines the rights of the parties before the Court. Under Order XXI, it is executed by the decree-holder, not by a stranger who considers himself similarly situated.

The Court therefore classified a compensation award as a judgment in personam. It fixes compensation for the litigating owner on the evidence in that reference. It does not determine legal status against the whole world and does not automatically revise every other owner's award.

Articles 189 and 201 preserve the binding force of a legal principle stated by a superior court. They do not make the operative benefit granted to one litigant automatically payable to everyone whose facts appear similar. The ratio may bind a later court; the decree remains between the parties.

Article 187 and Order XLI Rule 33 CPC have limits

The Court accepted that Article 187 gives an extraordinary power to do complete justice in a pending matter. It nevertheless treated that power as supplemental. It cannot create a substantive right contrary to an express statute or revive a right that the legislature made conditional on a timely reference and protest.

Order XLI Rule 33 CPC also permits an appellate court to mould relief among parties before it, including in appropriate circumstances a respondent who did not file a separate appeal. The Court held that the rule does not confer rights on complete strangers to the proceedings and cannot turn a non-party into a decree-holder.

The same principle governed equity. The Court repeatedly said that equity follows the law. Hardship or sympathy may explain why a result feels severe, but neither supplies

jurisdiction that the Act withheld.

PLD 2010 SC 878 was reviewed to a defined extent

In *Saddaqt Ali Khan*, PLD 2010 SC 878, the majority had extended enhanced compensation to non-litigating owners, principally through Article 187 and Order XLI Rule 33 CPC. Justice Rehmat Hussain Jaffery dissented and emphasized the finality of the Collector's award, the exclusive Section 18 mechanism, acceptance without protest, and the limits of equitable power.

The Federal Constitutional Court approved the dissenting approach. In paragraph 74, it held that the earlier majority did not lay down the correct law to the extent that it extended enhanced compensation to owners who neither invoked Section 18 nor remained parties to the reference. The two review petitions were allowed and the earlier majority judgment was reviewed to that extent.

Accuracy requires that this be stated carefully. The operative paragraph does not erase every proposition in PLD 2010 SC 878. It disapproves and reviews the specific extension of compensation to non-objecting or non-litigating owners.

Final order

The Court answered the common question in the negative. It held that an owner cannot claim another owner's enhanced compensation where that owner:

- 1 accepted the Collector's award without protest;
- 2 failed to seek a Section 18 reference within the prescribed period; or
- 3 did not pursue the remedies available against the Reference Court or High Court determination.

The connected civil appeals were allowed. The petitions for leave were converted into appeals and allowed. The impugned High Court judgments were set aside, and the orders of the Land Acquisition Collectors and other competent authorities were restored. Pending miscellaneous applications were disposed of.

Compensation already paid is not refundable

Justice Syed Arshad Hussain Shah added a separate concurring note. He agreed with the main judgment but protected amounts already paid under *Saddaqt Ali Khan*.

Landowners who had received enhanced compensation in good faith under the earlier judicial rule were not to be asked to refund or reimburse it. The note relied on the reasoning in the *Judges Pension Case*, PLD 2013 SC 829: money received bona fide under a judicial declaration then holding the field should not ordinarily be recovered from recipients who committed no fraud or wrongdoing.

This creates an important temporal distinction. The new rule controls entitlement going forward and pending disputes, but the additional note protects completed payments made in good-faith reliance on the former rule.

The Section 148 CPC observation requires caution

Paragraph 4 of the additional note says that landowners who were not parties to, or did not agitate, acquisition proceedings may avail the benefit of Section 148 CPC if they now seek to join pending cases at any stage.

That sentence should not be read as a general exception to the main judgment. Section 148 CPC ordinarily permits enlargement of a period fixed or granted by a court for doing an act prescribed or allowed by the Code. It is not, by its text alone, a power to extend the statutory limitation in Section 18 of the Land Acquisition Act, revive an award accepted without protest, or confer decree-holder status on a stranger.

The observation is part of an additional concurring note and is not fully developed. Its operation will depend on the procedural posture of the pending case, the order sought to be enlarged, the rules on addition of parties, and whether the applicant had already preserved a lawful claim. Counsel should not cite it as an automatic cure for a missed Section 18 reference. A safer submission is to identify the exact pending proceeding, the court-fixed act or period, the proposed mode of joinder, and why the relief does not contradict paragraphs 72 to 75 of the main judgment.

Practical checklist for landowners and counsel

Immediately after an acquisition award, counsel should determine:

- the date of the award and the date and mode of notice under Section 12(2);
- whether the owner was present or represented when the award was announced;
- whether compensation has been accepted and, if so, whether the protest was express and recorded;
- the applicable six-week or six-month deadline under Section 18;
- every ground of objection, including measurement, market value, classification, title, and apportionment;
- the khasra numbers, area, land use, comparable sales, maps, and valuation evidence;
- whether all necessary interested persons are before the Reference Court; and
- every appellate deadline after the reference is decided.

The objection should not merely request the rate awarded in another case. The claimant must establish a valid reference and prove why the particular land merits the claimed valuation.

For acquiring authorities, the judgment supports a finality objection, but the record must still prove the award, notice, payment, absence of protest, expiry of limitation, and procedural history. Finality should not be asserted through assumption when the statutory notice or payment record is disputed.

What the judgment does not decide

The ruling does not deny the constitutional right to lawful compensation for compulsory acquisition. It holds that the right must be enforced through the procedure enacted under Article 24.

It does not prevent an owner who filed a valid and timely Section 18 reference from relying on comparable awards as evidence, subject to similarity of land and proof.

It does not make every action of a Land Acquisition Collector immune from constitutional review. Article 199 may still address a jurisdictional defect, unlawful action, or denial of a statutory duty in an appropriate case. What it cannot do is create the very compensation claim that the owner allowed to become final.

It does not order recovery of enhanced compensation already paid in good faith under the former rule.

It does not clearly resolve every procedural consequence of paragraph 4 of the additional note concerning Section 148 CPC. That issue will require careful application in a concrete pending case.

Critical legal analysis

The judgment's strongest feature is doctrinal discipline. It keeps jurisdiction, substantive entitlement, procedure, limitation, and equity in their proper order. Its distinction between a precedent's legal rule and a decree's operative benefit is particularly valuable because the two are often blurred in parity litigation.

The judgment also gives meaningful effect to Sections 18, 21, 26, and 31. If every owner could automatically adopt a successful neighbour's decree, protest and limitation would lose much of their purpose.

The hard part is fairness. Similar land acquired for the same project may ultimately attract different compensation because one owner litigated and another did not. The Court's answer is that judges cannot create a redetermination mechanism that Parliament omitted. Paragraph 76 expressly leaves broader equalization to the legislature.

That answer is legally coherent, but it exposes a policy gap. A carefully designed statutory redetermination procedure could protect equal valuation while imposing a short limitation period, documentary requirements, and fiscal certainty. Until such legislation exists, the Court has chosen finality over a free-standing parity claim.

The Section 148 CPC sentence in the additional note is the least clear part of the decision. Read broadly, it would sit uneasily with the main ratio. Read narrowly, it allows ordinary procedural enlargement only where a valid pending claim already exists. The narrow reading is safer because a concurring observation should not undo the express holdings of the main judgment.

Conclusion

Fazale Haq College v. Sanobar Khan is now a leading 2026 authority on Section 18 of the Land Acquisition Act, finality of the Collector's award, Article 199, Article 25, Article 187, Order XLI Rule 33 CPC, and the difference between precedent and a decree.

Its rule is direct: an owner who did not preserve and pursue the statutory objection cannot later claim the fruits of another owner's litigation. The old majority rule in PLD 2010 SC 878 has been reviewed to that extent. Good-faith payments already made are protected, but future and pending claims must be tested against the strict statutory route.

Judgment record

The complete 46-page judgment announced on 20 August 2026 and approved for reporting is available on this page for viewing and download. The cause list, connected proceedings, bench, hearing and announcement dates, statutory provisions, authorities, holdings, final order, and additional note were checked page by page against the supplied judgment and the matching official Federal Constitutional Court copy.

This commentary is independent legal analysis for research and general information. Before relying on it in proceedings, counsel should verify the official judgment, the applicable federal or provincial text of the Land Acquisition Act, any later reported citation or judicial treatment, and the complete acquisition record.

Primary sources

Federal Constitutional Court of Pakistan, Fazale Haq College, Mardan v. Sanobar Khan and others, C.A. No. 192-P of 2010 and connected matters, announced 20 August 2026, approved for reporting.

Official judgment: <https://fccp.gov.pk/> (judgment PDF linked on the corresponding article page).

Land Acquisition Act, 1894: Pakistan Code and Khyber Pakhtunkhwa Code official law portals.

General legal information only. Verify the official judgment, current statutory text, later citation and the complete record before relying on this analysis in proceedings.