



CGHC010025182025

2026:CGHC:36693

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 435 of 2025

- 1** - Smt. Vatsala Bai D/o Late Shri Kartikram Aged About 60 Years W/o Shri Sukhram Sinha R/o Village - Karanji, House No. 108, Plotpara Ward No 7, Tahsil And Distt. - Kondagaon (C.G.)
- 2** - Smt. Heera Bai D/o Late Shri Kartikram Aged About 58 Years W/o Shri Makhanlal Sinha, R/o House No. 102, Ward No.- 6, Banglapara, Kannewada, Tahsil And Distt.- Balod C.G. R/o Village- Arjuni, Post, Tahsil And Distt.- Dhamtari C.G.
- 3** - Smt. Kamal Bai D/o Late Shri Kartikram Aged About 56 Years W/o Shri Baldauram Sinha, R/o House No. 140, Ward No. 9, Kalarpara, Tarsinwa, Tahsil And Distt.- Dhamtari (C.G.) R/o Village- Arjuni, Post, Tahsil And Distt.- Dhamtari C.G.
- 4** - Smt. Bhuneshwari D/o Late Shri Kartikram Aged About 54 Years W/o Shri Khilawan Sinha R/o Village- Belhari, Tahsil-Patan, Distt. Durg (C.G.) R/o Village- Arjuni, Post, Tahsil And Distt.- Dhamtari C.G.
- 5** - Smt. Sangeeta Bai D/o Late Shri Kartikram Aged About 52 Years W/o Shri Gendlal Sinha R/o Village- Kesra, Tahsil- Patan, Distt.- Durg C.G. R/o Village- Arjuni, Post, Tahsil And Distt.- Dhamtari C.G.
- 6** - Smt. Rajeshwari D/o Late Shri Kartikram Aged About 50 Years W/o Shri Dev Kumar Sinha R/o Village- Chitaud, Mouli Chowk Miritola, Purur, Tahsil And Distt.- Balod C.G. R/o Village- Arjuni, Post, Tahsil And Distt.- Dhamtari C.G.

... Petitioners

versus

1 - State Of Chhattisgarh Through The Secretary, Revenue And Diaster Management Department, Mantralaya Mahanadi Bhawan, Naya Raipur Atal Nagar, Raipur District- Raipur C.G.

2 - Project Director Indian National Highways Authority, Unit-Raipur, Tahsil And Distt. - Raipur C.G.

3 - Collector Dhamtair, Distt.- Dhamtari C.G.

4 - Sub Divisional Officer (Revenue) And Land Acquisition Officer Dhamtari, District- Dhamtari C.G.

5 - Smt. Ramkali Sinha D/o Late Shri Kartikram Sinha Aged About 57 Years W/o Chetanlal Sinha R/o Village- Saloni, Post- Mahud (B), Tahsil- Gundardehi, Distt.- Balod C.G.

... Respondents

(Cause-title taken from Case Information System)

For Petitioners	:	Mr. Sunil Sahu, Advocate
For State	:	Mr. Shreyansh Mehta, Panel Lawyer
For Respondent No.2/NHAI	:	Mr. Sourabh Gupta, Advocate on behalf of Mr. Anand Kumar Gupta, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

17.08.2026

1 By filing the present petition, the petitioners, being the legal heirs of Late Shri Kartikram, have called in question the legality and validity of the order/modified award dated 24.10.2019 passed by respondent No.4, whereby the compensation awarded vide earlier award dated 18.06.2016 was reduced from Rs.33,10,248/- to Rs.13,71,958/-, without affording any notice or opportunity of hearing to the petitioners. The petitioners have prayed for following relief(s) :-

“10.1 That this Hon'ble court may kindly be pleased to call for the entire records pertaining to the petitioners' case.

10.2 That this Hon'ble court may kindly be pleased to issue an appropriate writ by quashing the impugned award dated 24.10.2019 (Annexure P-1) by which the amount has been reduced by modifying the earlier award dated 18.06.2016.

10.3 That this Hon'ble court may kindly be pleased to direct the respondents authority to disburse the award amount with appropriate rate of interest forthwith as per the letter dated 27.09.2016.

10.4 That, this Hon'ble Court may kindly be pleased to direct the respondents authority to consider and decide the representation of the petitioners by passing the Speaking order.

10.5 Any other relief, which may be suitable in the facts and circumstances of the case, may also be granted.”

- 2** Learned counsel appearing for the petitioners submits that the land bearing Khasra No.26, admeasuring 0.14 hectare, out of which 301 sq. metres was acquired for widening of the Raipur-Dhamtari road, belonged to Late Shri Kartikram, in whose favour the original award dated 18.06.2016 was passed determining compensation of Rs.33,10,248/-. It is submitted that possession of the acquired land was taken on 27.09.2016 and, thereafter, Kartikram expired on 14.10.2016 before disbursement of the

awarded amount. Learned counsel further submits that after his death, a civil suit filed by respondent No.5 was pending, which was ultimately dismissed on 03.08.2024, whereafter the petitioners applied for disbursement of the compensation amount and, for the first time, came to know that the original award had been modified on 24.10.2019 and the compensation reduced by Rs.19,38,289.50/-. It is contended that such modification was made in the name of a deceased person and without issuing any notice or affording any opportunity of hearing to the petitioners, who are the legal heirs of Late Kartikram. The impugned order is, therefore, alleged to be arbitrary, violative of the principles of natural justice and unsustainable in law, particularly when the acquired land had already been taken into possession and utilized for the road project.

- 3 On the other hand, learned counsel appearing for respondent-NHAI opposes the submissions advanced by learned counsel for the petitioners and submits that the present writ petition is not maintainable in view of the fact that the dispute raised by the petitioners pertains essentially to determination and/or re-determination of compensation under the National Highways Act, 1956 (for short, 'Act of 1956'), for which an efficacious statutory remedy has already been provided under Section 3-G(5) of the Act of 1956. It is further submitted that once the competent authority has determined the compensation and an award has been passed under Section 3-G, remedy of an aggrieved party, if

any, is to seek reference for re-determination before the arbitrator in accordance with Section 3-G(5) read with Section 3-G(6) of Act of 1956, and the writ jurisdiction under Article 226 cannot be invoked for adjudication of disputed questions relating to quantum of compensation.

- 4 In support of the said contention, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Project Director, National Highways No. 45E and 220 National Highways Authority of India v. M. Hakeem and Another, 2021 SCC OnLine SC 473***, wherein it has been held that disputes relating to compensation under the National Highways Act are to be resolved strictly through the mechanism of arbitration as provided under the statute. It is further submitted that the statutory scheme under the Act is a complete code in itself, and once the acquisition proceedings have attained finality by issuance of notification and award, the only surviving issue, if any, relates to compensation, which cannot be reopened in writ proceedings. The petitioners, therefore, have an alternative and efficacious remedy under Section 3-G(5) of Act of 1956, which they are at liberty to avail.
- 5 Accordingly, learned counsel for respondent-NHAI submits that no interference is called for in the present writ petition and the same deserves to be dismissed, however, with liberty to the petitioners to approach the competent authority under Section 3-G(5) of Act of 1956, if so advised.

- 6 Learned State counsel concurs with the submissions advanced by learned counsel appearing for respondent-NHAI and submits that the statutory scheme under the Act of 1956 provides an adequate and efficacious remedy for redetermination of compensation under Section 3-G(5) of Act of 1956. It is further submitted that in view of the availability of such statutory remedy and the settled legal position that disputes relating to quantum of compensation are not amenable to writ jurisdiction, no interference is warranted in the present writ petition. Accordingly, learned State counsel also submits that the writ petition deserves to be dismissed with liberty to the petitioners to avail the remedy as provided under law.
- 7 I have heard the learned counsel for the parties at length and have carefully perused the pleadings, documents, and other material available on record.
- 8 In order to appreciate the issue on hand it would be apposite to first extract the provisions of Section 3-G(5) and 3-G(6) of the National Highways Act and Section 34 of the Arbitration and Conciliation Act.

“Section 3-G(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central

Government. Section 3-G(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

Section 34 of the Arbitration and Conciliation Act. Application for setting aside arbitral award.-(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if-

(a) the party making the application 1 [establishes on the basis of the record of the arbitral tribunal that)-

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication. thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains

decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that-

(1) the subject matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India

[Explanation 1. For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if-

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81: or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or Justice.

Explanation 2.-For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award: Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.)

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party,

adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

((5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.)”

- 9 A reading of Section 3-G(6) of the National Highways Act clearly provides that, in respect of every arbitration under the Highways Act, the provisions of the Arbitration Act would apply. The language of Section 3-G is unambiguous. Therefore, it is clear that against the award passed under Section 3-G(5) it is only an application under Section 34 of the Arbitration and Conciliation Act to set aside the same can be filed.
- 10 The provisions of Section 3-G(5) of Act of 1956, vis-a-vis Section 11 of the Arbitration and Conciliation Act was called into question in a judgment of the Hon'ble Supreme Court reported in ***National Highways Authority of India v Sayedabad Tea Company***

Limited, (2020) 15 SCC 161 . The question that arose for consideration was whether the application under Section 11 of the Arbitration and Conciliation Act 1996 was maintainable in view of Section 3-G(5) of the National Highways Act which provides for appointment of an Arbitral Tribunal. In the said case, the land owner being dissatisfied with the award of compensation determined by the competent authority under Section 3-G(1) of the Act of 1956, had filed an application for appointment of an Arbitrator in terms of Section 3-G(5) of Act of 1956 to the Central Government. Since there was no response from the Central Government, the applicant had filed an application under Section 11(6) of the Arbitration and Conciliation Act. Thereafter, an Arbitrator was appointed. The High Court had observed that since the Central Government had refused to comply with the request of the applicant, their right to appoint an Arbitrator stood forfeited. A review application was thereafter filed bringing to the notice of the Court that as per the Highways Act the procedure for appointment of an Arbitrator exclusively vested with the Central Government under Section 3-G(5) of Act of 1956 and that the application under Section 11(6) of the Arbitration and Conciliation Act is not maintainable.

- 11 The Hon'ble Supreme Court relying upon the earlier judgment in **National Highways & Infrastructure Development Corpn. Ltd. v. Prakash Chand Pradhan, (2020) 15 SCC 533** had observed as follows:-

“18. After analysing the scheme, it can be assumed that the legislature intended the 1956 Act to act as a complete code in itself for the purpose of acquisition until culmination including disbursement and for settlement of disputes and this conclusion is further strengthened in view of Section 3-J of the Act which eliminates the application of the Land Acquisition Act, 1894, to an acquisition under the 1956 Act.

19. It is settled principles of law that when the special law sets out a self-contained code, the application of general law would impliedly be excluded. In the instant case, the scheme of the 1956 Act being a special law enacted for the purpose and for appointment of an arbitrator by the Central Government under Section 3-G(5) of the 1956 Act and sub-section (6) of Section 3-G itself clarifies that subject to the provisions of the 1956 Act, the provisions of the 1996 Act shall apply to every arbitration obviously to the extent where the 1956 Act is silent, the arbitrator may take recourse in adjudicating the dispute invoking the provisions of the 1996 Act for the limited purpose. But so far as the appointment of an arbitrator is concerned. the power being exclusively vested with the Central Government as envisaged under sub-section (5) of Section 3-G of the 1956 Act. Section 11 of the 1996 Act has no application.”

12 In *National Highways Authority of India v. Sheetal Jaidev Vade*, (2022) 16 SCC 391, the Hon'ble Supreme Court was considering a issue as to whether the High Court exercising power under Article 226 of the Constitution of India was competent to execute an award passed by the Arbitrator. The learned Judges had held as follows in paragraph Nos. 11 and 12:-

'11. Therefore, once the original writ petitioner was having an efficacious, alternative remedy to execute the award passed by the learned Arbitral Tribunal/Court, by initiating an appropriate execution proceeding before the competent executing court, the High Court ought to have relegated the original writ petitioners to avail the said remedy instead of entertaining the writ petition under Article 226 of the Constitution of India which was filed to execute the award passed by the Arbitral Tribunal/Court. If the High Courts convert itself to the executing court and entertain the writ petitions under Article 226 of the Constitution of India to execute the award passed by the Arbitral Tribunal/Court, the High Courts would be flooded with the writ petitions to execute awards passed by the learned arbitrator/Arbitral Tribunal/Arbitral Court.

12. We disapprove the entertaining of such writ petitions under Article 226 of the Constitution of India to execute the award passed by the learned Arbitral Tribunal/Court, without relegating the judgment creditor in whose

favour the award is passed to file an execution proceeding before the competent executing Court."

- 13** Reverting to the facts of the present case in the light of the aforesaid statutory scheme and the rival submissions, it is evident that the petitioners, being the legal heirs of Late Shri Kartikram, are aggrieved by the subsequent modification of the award dated 18.06.2016, whereby the compensation earlier determined at Rs.33,10,248/- has been reduced to Rs.13,71,958/-. The principal grievance of the petitioners is that the original award was passed in favour of Late Shri Kartikram, possession of the acquired land admeasuring 301 sq. metres was taken on 27.09.2016, and Late Shri Kartikram thereafter expired on 14.10.2016, whereas the impugned modified award came to be passed on 24.10.2019, i.e. after his death, without issuing any notice to or affording any opportunity of hearing to his legal heirs. The petitioners claim to have come to know of the said modification only after the dismissal of the civil suit on 03.08.2024 and upon approaching the authorities for disbursement of the compensation amount.
- 14** However, the grievance raised by the petitioners essentially pertains to the determination and/or re-determination of the amount of compensation payable in respect of the land acquired under the National Highways Act, 1956. Section 3-G(5) of the Act of 1956 specifically provides that where the amount determined by the competent authority under sub-sections (1) or (2) is not

acceptable to either of the parties, such amount shall, on an application made by either party, be determined by the Arbitrator appointed by the Central Government. Section 3-G(6) further makes the provisions of the Arbitration and Conciliation Act, 1996 applicable to every such arbitration, subject to the provisions of the Act of 1956. Thus, the statute itself provides a specific and efficacious mechanism for adjudication of a dispute concerning the compensation determined under Section 3-G of the Act of 1956.

- 15** In view of the aforesaid statutory scheme, this Court is of the considered opinion that the grievance of the petitioners, including their challenge to the reduction of the compensation amount from Rs.33,10,248/- to Rs.13,71,958/- and the consequential claim for payment of the originally awarded amount, is required to be raised before the forum provided under Section 3-G(5) of the Act of 1956. The contention of the petitioners that the modified award was passed after the death of Late Shri Kartikram and without notice to his legal heirs, as well as the effect thereof upon their entitlement to compensation, can appropriately be considered by the competent forum in accordance with the statutory mechanism. This Court, therefore, is not inclined to adjudicate upon the disputed issue of determination of compensation in exercise of its writ jurisdiction.

- 16** Accordingly, without expressing any opinion on the merits of the rival claims, the present writ petition is disposed of with liberty to the petitioners to avail the remedy available to them under Section 3-G(5) of the National Highways Act, 1956, in accordance with law. If the petitioners prefer an appropriate application before the competent authority/Arbitrator, the same shall be considered and dealt with in accordance with the provisions of the Act of 1956 and the applicable law.
- 17** It is made clear that the dismissal/disposal of the present writ petition shall not come in the way of the petitioners in availing the statutory remedy available to them.
- 18** It is further directed that upon receipt of such application, the competent authority shall consider and decide the same strictly in accordance with law, as prescribed under the National Highways Act, 1956, expeditiously and preferably within a reasonable time frame.
- 19** With the aforesaid observations and directions, the instant writ petition stands **disposed of**.
- 20** There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh