Case Citation: (2026) ibclaw.in 5065 HC

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 31st OF AUGUST, 2026

ARBITRATION APPEAL No. 48 of 2017

UDAI PRAKASH MISHRA

Versus

UNION OF INDIA ROAD TRANSPORTATION AND NATIONAL HIGHWAY MINISTRY OF NATIONAL HIGHWAY AND OTHERS

Appearance:

Ms. Kriti Jain - Advocate for appellant.

Mr. Neetiraj Sharma - Advocate for respondent no.1.

Mr. Anvesh Shrivastava - Advocate for respondent no.2.

ORDER

The present appeal has been filed by the appellant under Section 37 of the Arbitration and Conciliation Act, 1996 (Hereinafter referred to as 'the Act of 1996' for the sake of brevity) being aggrieved by the order dated 06.09.2017 passed by the learned 2nd Additional District Judge, Mauganj, District Rewa, in Land Acquisition Case No.32 of 2014, whereby the application preferred by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act of 1996”) was dismissed.

2. The brief facts of the case are that the appellant is the owner of land bearing Survey No.188/1 Kha and Survey No.189/4 Kha, situated at Village Umartal Jagir, Tali Mauganj, District Rewa, which was acquired for construction of Rewa–Mauganj Road forming part of National Highway

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No.7. An award dated 01.12.2012 was initially passed, determining total compensation of Rs.31,65,360/- in favour of the appellant. However, the said award was subsequently altered on 01.05.2014 without notice to the appellant, reducing the compensation to Rs.15,82,680/-. Being aggrieved by the reduction in compensation, the appellant sought reference before the Arbitrator-cum-Commissioner, Rewa Division, under Section 3G(5) of the National Highways Act, contending that the compensation was inadequate considering the value and potential of the acquired land. However, the Arbitrator did not accept the said contention of appellant and accordingly, rejected the claim vide award dated 23.05.2014. Being aggrieved with the said award, an application has been filed before the Civil Court.

3. The application of the appellant filed under Section 34 was initially rejected on 07.07.2015 on the ground of want of jurisdiction. The appellant thereafter preferred W.P. No.14434 of 2015, which was decided by this Hon'ble Court on 01.02.2017, holding that the competent Court could consider the matter under Section 34 of the Act. Thereafter, vide impugned order dated 06.09.2017 passed in Land Acquisition Case No.32/2014, the learned 2nd Additional District Judge, Mauganj, District Rewa, dismissed the appellant's application under Section 34 of the Act. The respondents themselves admitted that the earlier award had been changed, but failed to explain the circumstances or reasons for such alteration, particularly when no notice or opportunity of hearing was afforded to the appellant. The acquired land is situated near National Highway No.7 and possesses substantial potential and market value. However, the relevant evidence regarding the

value and potential of the land was not properly appreciated while determining the compensation. Being aggrieved by the impugned order dated 06.09.2017, which has resulted in denial of fair and proper compensation for the acquired land, the instant appeal has been filed.

4. The only contention which has been raised by learned counsel for the appellant is that, while calculating the quantum of compensation, the competent authority had prepared a chart wherein 100% solatium was awarded on the amount of compensation. However, the said calculation was recalled and modified on 23.05.2014 without following the provisions of Section 13-A of the Land Acquisition Act, which require that, if any award is to be modified, the parties are required to be heard. It is submitted that, in the subsequent calculation, the amount of solatium has not been paid, and only the amount of compensation has been determined. Therefore, the Arbitrator has committed an illegality, which was challenged under Section 34 of Act, 1996, but the same was also not considered by the learned Civil/Commercial Court.

5. *Per contra*, learned counsel for the respondent has submitted that the authorities, taking into consideration that the calculation made by the competent authority, including 100% solatium on the amount of compensation, was incorrectly quantified, reviewed the same on the basis of the report of the District Level Committee vide order dated 23.05.2014, pursuant to the plea raised by the appellant under Section 3G(5) of the Act of 1956. Therefore, it is submitted that it was well within the jurisdiction of the authorities to take a decision with regard to the amount of compensation

calculated at the first instance and, subsequently, to review the same on the basis of the report of the Committee. It is further submitted that the appellant had not taken any such ground either under Section 3G(5) of the Act of 1956 or thereafter in the proceedings under Section 34 of the Arbitration and Conciliation Act, 1996. Therefore, at this stage, in the present appeal, the appellant cannot be permitted to raise such a ground.

6. Heard learned counsel for the parties and perused the record.

7. The Hon'ble Apex Court in the case of **Union of India and another vs. Tarsem Singh and others** reported in **(2019) 9 SCC 304** has held as under:-

> ***"46.*** *It is worthy of note that even in acquisitions that take place under the National Highways Act and the 1952 Act, the notification of 2015 under the new Acquisition Act of 2013 makes solatium and interest payable in cases covered by both Acts. In fact, with effect from 1-1-2015, Amendment Ordinance 9 of 2014 was promulgated amending the 2013 Act. Section 10 of the said Amendment Ordinance states as follows:*
>
> *"**10.** In the principal Act, in Section 105—*
>
> *(i) for sub-section (3), the following sub-section shall be substituted, namely—*
>
> *'(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the*

Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1-1-2015;

(ii) sub-section (4) shall be omitted."

47. It is only when this Ordinance lapsed that the Notification dated 28-8-2015 was then made under Section 113 of the 2013 Act. This notification is important and states as follows:

"ministry of rural development

order

New Delhi, 28-8-2015

S.O. 2368(E).—Whereas, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) (hereinafter referred to as "the Rfctlarr Act") came into effect from 1-1-2014;

And whereas, sub-section (3) of Section 105 of the Rfctlarr Act provided for issuing of notification to make the provisions of the Act relating to the determination of the compensation, rehabilitation and resettlement applicable to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR ACT Act;

And whereas, the notification envisaged under sub-section (3) of Section 105 of the RFCTLARR Act was not issued, and the RFCTLARR (Amendment) Ordinance, 2014 (9 of 2014) was promulgated on 31-12-2014, thereby, inter alia, amending Section

105 of the Rfctlarr Act to extend the provisions of the Act relating to the determination of the compensation and rehabilitation and resettlement to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act;

And whereas, the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was promulgated on 3-4-2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2014;

And whereas, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) was promulgated on 30-5-2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015);

And whereas, the replacement Bill relating to the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was referred to the Joint Committee of the Houses for examination and report and the same is pending with the Joint Committee;

And whereas, as per the provisions of Article 123 of the Constitution, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) shall lapse on the 31st day of August, 2015 and thereby placing the landowners at the disadvantageous position, resulting in denial of benefits of enhanced compensation and rehabilitation and resettlement to the cases of land acquisition under the 13 Acts specified in the Fourth Schedule to the RFCTLARR Act as extended to the landowners under the said

Ordinance;

And whereas, the Central Government considers it necessary to extend the benefits available to the landowners under the RFCTLARR Act to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule; and accordingly the Central Government keeping in view the aforesaid difficulties has decided to extend the beneficial advantage to the landowners and uniformly apply the beneficial provisions of the RFCTLARR Act, relating to the determination of compensation and rehabilitation and resettlement as were made applicable to cases of land acquisition under the said enactments in the interest of the landowners;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 113 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:-

1. (1) This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.

(2) It shall come into force with effect from the 1st day of September, 2015.

2. The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act.

[F. No. 13011/01/2014-LRD]

K.P. Krishnan, Addl. Secy."

48. *It is thus clear that the Ordinance as well as the notification have applied the principle contained in Nagpur Improvement Trust [Nagpur Improvement Trust v. Vithal Rao, (1973) 1 SCC 500] , as the Central Government has considered it necessary to extend the benefits available to landowners generally under the 2013 Act to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, the National Highways Act being one of the aforesaid enactments. This being the case, it is clear that the Government has itself accepted that the principle of Nagpur Improvement Trust [Nagpur Improvement Trust v. Vithal Rao, (1973) 1 SCC 500] would apply to acquisitions which take place under the National Highways Act, and that solatium and interest would be payable under the 2013 Act to persons whose lands are acquired*

for the purpose of National Highways as they are similarly placed to those landowners whose lands have been acquired for other public purposes under the 2013 Act. This being the case, it is clear that even the Government is of the view that it is not possible to discriminate between landowners covered by the 2013 Act and landowners covered by the National Highways Act, when it comes to compensation to be paid for lands acquired under either of the enactments. The judgments delivered under the 1952 Act as well as the Defence of India Act, 1971, may, therefore, require a re-look in the light of this development. [The Defence of India Act, 1971, was a temporary statute which remained in force only during the period of operation of a proclamation of emergency and for a period of six months thereafter — vide Section 1(3) of the Act. As this Act has since expired, it is not included in the Fourth Schedule of the 2013 Act.] In any case, as has been pointed out hereinabove, Chajju Ram [Union of India v. Chajju Ram, (2003) 5 SCC 568] , has been referred to a larger Bench. In this view of the matter, we are of the view that the view of the Punjab and Haryana High Court [Union of India v. Tarsem Singh, 2018 SCC OnLine P&H 6036]' [Jang Bahadur v. Union of India, 2018 SCC OnLine P&H 6034]' [Union of India v. Abhinav Cotspin Ltd., 2016 SCC OnLine P&H 19319] is correct, whereas the view of the Rajasthan High Court [Banshilal Samariya v. Union of India, 2005 SCC OnLine Raj 572 : 2005-06 Supp RLW 559] is not

correct."

8. Thereafter, the Hon'ble Apex Court has again reviewed the said judgment in **Review Petition (Civil) No. 2528/2025-National Highways Authority of India vs. Tarsem Singh and others** and vide judgment dated 25.03.2026 has drawn conclusion, which reads as under:-

"D. CONCLUSION AND DIRECTIONS

14. Considering the facts and circumstances explained in the instant proceedings along with the various submissions placed on record and with a view to balancing the equities regarding delay and the entitlements of the landowners, we issue the following directions:

***(i)** All landowners whose claims re: the quantum and/or components of compensation for their lands acquired under the NH Act were alive on or after 28.03.2008, i.e., they were pending before one of the prescribed fora, shall be entitled to seek addition of 'interest', 'solatium', and 'interest on the solatium' to their compensation claim;*

***(ii)** In the cases where compensation claims are alive on the aforesaid date, but the landowner has claimed 'interest', 'solatium', and 'interest on solatium' after 28.03.2008, no interest on both components shall be payable for the period of delay. Such landowner shall be entitled to 'interest' and 'interest on solatium' only from the date on which such claims were raised; and*

***(iii)** If the claims of the landowners stood concluded prior to*

28.03.2008, with no further appeal, Writ Petition, Special Leave Petition, etc., then such landowners are not entitled to seek reopening, review, or modification of the said decision for the purpose of claiming 'solatium' or 'interest'."

9. On following the law laid down by the Hon'ble Apex Court in the original case of **Tarsem Singh (supra)** and thereafter in the review petition, the principle which has been demystified is that the land owners are entitled for solatium as Section 3-J of the Act of 1956 has been struck down and declared *ultra vire.* The date of application of the notification as held by the Hon'ble Apex Court in paras 46 to 48 in the original case of **Tarsem Singh (Supra)** is to be determined by the arbitrator. The award as per the dictum can be awarded from the date when it was claimed by the appellant for the first time. However, it is also held in the review petition that all landowners whose claims re: the quantum and/or components of compensation for their lands acquired under the NH Act were alive on or after 28.03.2008, i.e., they were pending before one of the prescribed *fora*, shall be entitled to seek addition of 'interest', 'solatium', and 'interest on the solatium' to their compensation claim.

10. It is not disputed that the appellant is entitled for solatium as per the law laid down by the Hon'ble Apex Court on or after 28.03.2008, if the claim of the land owner is pending before any of the forum. Undisputedly, the claim of the appellant was very much pending before the forum i.e. under Section 34 of the Act of 1996 or before the arbitrator when such judgment in the case of **Tarsem Singh (supra) (Review Petition No. 2528/2025)** was

pronounced. Therefore, the case of the appellant ought to have been considered for grant of solatium, but as it has not been done by the arbitrator as well as not considered by the Civil/Commercial Court under Section 34 of the Act of 1996 by remanding the matter to the arbitrator to reconsider the case in the light of the judgment passed by the Hon'ble Apex Court in the case of **National Highways Authority of India vs. Sri. P. Nagaraju @ Cheluvaiah & Anr** reported in **2022 (15) SCC 1,** this Court finds it appropriate to set aside the award and remand the matter to the arbitrator to reconsider the case in the light of the judgment passed in the case of **Sri. P. Nagaraju (supra)** as well as the judgment passed in the case of **Tarsem Singh (supra) (Review Petition No. 2528/2025)** pronounced on 25.03.2026.

11. What emerges from the principle laid down by the Hon'ble Apex Court in the case of **Sri. P. Nagaraju (supra)** is that it would not be possible for the Court entertaining the petition under Section 34 or for the appellate court under Section 37 of the 1996 Act to modify the award and alter the compensation as it was open to the Court in the reference proceedings under Section 18 of the old Land Acquisition Act or an appeal under Section 54 of that Act, it should certainly be open to the Court exercising power under Section 34 of the 1996 Act to set aside the award by indicating reasons and remitting the matter to the arbitrator to reconsider the same in accordance with law. The said exercise can be undertaken to the limited extent without entering into merits where it is seen that the arbitrator has on the face of the award not appropriately considered the material on record or has not recorded reasons for placing reliance on materials available on record in the

background of requirement under the RFCTLARR Act, 2013.

12. The Hon'ble Apex Court in the case of **Sri. P. Nagaraju (supra)** has held that as the arbitration under the Act of 1956 is statutory arbitration by an arbitrator appointed by the Central Government in contrast with the adjudication of the dispute by an arbitrator appointed under Section 11 of the Act of 1996, if the merit of the case and the law laid down by the Hon'ble Apex Court has not been considered declaring section 3(J) of the act of 1956 ultra vires and solatium is applicable in the cases of the land owners whose claims are pending after 28.03.2008 then non-consideration of such issue goes to the root of the case which is against or in contravention with the fundamental policy of Indian law. Once Section 3-J of the Act of 1956 has been struck down and declared *ultra vires* and the applicability of the Act of 2013 has been appended and amended in the Schedule of the Act of 2013 then solatium is very much applicable to be granted to the appellant whose claims were pending when the judgment in the case of **Tarsem Singh (Review Petition)** has been pronounced by the Hon'ble Apex Court.

13. Section 34 (4) of the Act of 1996 provides power to the Tribunal to re-examine the award on an application submitted by the aggrieved person if on merits, the case has been left to be considered, therefore, in the considered opinion of this Court, the matter can be remanded to the arbitrator to reconsider the case of the appellant for award of solatium and interest thereon.

14. From perusal of the record, it is found that the Civil/Commercial Court has not dealt with the applicability of the judgment pronounced by the

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Apex Court in the case of **Tarsem Singh (supra) (Review Petition)**, this Court finds it appropriate to remand the matter to the arbitrator to consider the case on the question of solatium on the basis of available record.

15. Accordingly, the order dated 06.09.2017 passed by the learned 2 nd Additional District Judge, Mauganj, District Rewa, in Land Acquisition Case No.32 of 2014 and order dated 23.05.2017 passed by the Arbitrator are hereby set aside. The matter is remanded back to the Arbitrator to decide it afresh considering the available record and the applicability of the solatium and interest thereon in the light of judgment passed in Tarsem (Review) Supra. No further adjudication is warranted. The arbitrator shall pass award considering the available documents and record without getting influenced by this order within three months from the date of production of certified copy of this order.

16. Accordingly, Arbitration appeal is disposed of.

(DEEPAK KHOT)
JUDGE

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