

CNR NO.MHJG050008092025
MANGILAL JAWARILAL JAIN (DEAD) THR LRS.
V/S
THE COMPETENT AUTHORITY (LAND
ACQUISITION) NH NO. 6 & OTHERS

ORDER BELOW EXH.15 IN ARBITRATION REGULAR DARKHAST
NO.441 OF 2025.

1) Judgment-Debtor No.5 National Highway Authority of India (it is hereinafter referred as 'NHAI') moved this application for seeking directions against Judgment-Debtor No.4 Competent Authority (Land Acquisition) & Special Land Acquisition Office, (it is hereinafter referred as 'CALA') for calculating amount of statutory benefits (which flowing from the Judgment of *Union of India V/s. Tarsem Singh & Others, 2019 SCC Online 1230*) to the Decree-Holder.

2) In this application, Judgment-Debtor No.5 NHAI contended that this execution petition filed by the Decree-Holder for getting statutory benefits which flowing from the Judgment of *Union of India V/s. Tarsem Singh & Others (supra)* wherein the Hon'ble Supreme Court directed Judgment-Debtor No.4 CALA to calculate amount of solatium and interest. In absence of such calculation and demand from Judgment-Debtor No.4 CALA, the present execution petition is not tenable. Judgment-Debtor No.5 NHAI also disputed amount (of 10%) determined by the learned Arbitrator in respect of loss of easementary right under Section 3-G(2) of the National Highways Act and 9% interest thereon. According to him, he was already paid said amount to the Decree-Holder. In this petition, the Decree-Holder again incorporated the said calculations in this execution petition. In view of decision of *Gurpreet Singh vs Union Of India, MANU/SC/4736/2006*, the Decree-holder cannot seek to reopen the entire transaction and proceed to re-calculate the interest on the whole amount and seek a re- appropriation as a whole. On

these grounds, he urged to issue directions to Judgment-Debtor No.4 CALA to determine or to calculate the amount payable to the Decree-holder.

3) The Decree-holder strongly objected this application by filing reply (at Exh.21). He contended that, whatever objections raised by Judgment-Debtor No.5 NHAI in this application are false, misleading and illegal. In fact, he has not deposited entire decretal amount. In the present case, the Decree-holder had claimed the benefits of Section 23(1-A), 23(2) and 28 in the original arbitration petition. Even the learned Arbitral Tribunal passed an order on the issue. Therefore, granting of such benefits would not result in modification of award and would not fall under the ratio of judgment cited by Judgment Debtor No.5 NHAI. The Decree-holder further contended that Judgment Debtor No.5 NHAI cited the case of *Union of India v Tehal Singh* (along with order dated 30/07/2021 passed therein) which filed separately for clarification of the issue relating to Section 23(1-A) only for that specific case. It must be noted that no other connected case in *Union of India v Tarsem Singh (supra)* was listed. On these grounds, the Decree-holder urged for rejection of this objection raised by Judgment-Debtor No.5 NHAI.

4) Heard the learned Advocate for the Decree-holder. The learned Advocate for Judgment-Debtor No.5 NHAI filed written notes of argument (at Exh.23). I have gone through the said written notes of arguments. Perused the record & documents available therein.

5) The learned Advocate for Judgment-Debtor No.5 NHAI argued that interest calculated by the Decree-holder under Section 28 of the Land Acquisition Act is not at all admissible. As the Decree-holder is entitled to get 9% interest under Section 3H of the National Highways Act, 1956 & which was already paid to him. Section 3H of the National Highways Act, 1956 is in existence in the Statute Book.

He also argued that in the case of Union of India V/s. Tarsem Singh & Others (supra), the Hon'ble Supreme Court in para 36 held that the land owners are not entitled to double compensation for easement rights under Section 3G(2) of the National Highways Act, 1956, as such rights pertain primarily to the third parties (i.e. tenants, licensees) & not to the land owners. Hence, the Decree-holder is not entitled to get compensation for easement rights as sought for. He further argued that the Decree-holder is not entitled to get Additional Market Value under Section 23(1A) of the Land Acquisition Act in view of the order dated 30/07/2021 passed by the Hon'ble Supreme Court in case of Union of India v Tehal Singh. Accordingly, it is legally settled that additional compensation at the rate of 12% under Section 23(1A) of the Land Acquisition Act is not payable to the Decree-holder. On these grounds, he urged to direct Judgment-Debtor No.4 CALA for calculating amount of statutory benefits (excluding benefits under Section 3G(2) of the National Highways Act, Sections 23(1A) & 28 of the Land Acquisition Act) to the Decree-Holder.

6) On the other hand, the learned Advocate for the Decree-holder submitted that the arbitral award in execution (at Exh.3/1) attained finality. Therefore, the statutory benefits flowing from the judgment of the Hon'ble Supreme Court in Union of India V/s. Tarsem Singh & Others (Supra) are crystallized. Accordingly, the Decree-holder has claimed such statutory benefits in this petition. Judgment-Debtor No.5 relied upon decision of Union of India v Tehal Singh (dated 30/07/2021). However, it was filed separately for clarification of the issue relating to section 23(1-A) only for that specific case. It must be noted that no other connected case in Union of India v Tarsem Singh (supra) was listed. On these grounds, the Decree-holder urged for rejection of this objection raised by

Judgment-Debtor No.5.

7) I have given thoughtful consideration to the argument advanced by the learned Advocates for the rival parties. Also perused the record & proceeding of this matter.

8) I have minutely gone through the decision of **National Highway Authority of India and Ors. vs. Resham Singh and Ors., MANU/PH/0601/2023**, which relied by Judgment-Debtor No.5 NHAI. In this judgment, the Hon'ble Punjab & Haryana High Court considered point as to whether the land owners are entitled to additional market value (under Section 23(1-A), solatium (under Section 23(2)) and interest (under Section 28) of the Land Acquisition Act, 1894? While answering the same, the Hon'ble Punjab & Haryana High Court held that,

“32. Thus, both before the 1997 Amendment Act to the National Highways Act, 1956 and also after coming into force of the 2013 Act, additional market value, solatium and interest are payable to landowners whose property is compulsorily acquired for purposes of national highways.

33. So the Government itself accepted that it is not possible to discriminate between landowners covered by the 2013 Act and landowners covered by the National Highways Act, 1956 when it comes to compensation to be paid for lands acquired under either of the enactments.

34. Taking note of this, the Supreme Court in **Tarsem Singh MANU/SC/1292/2019 : 2019 (9) SCC 304 (supra)** held as under:

"31. Nagpur Improvement Trust (MANU/SC/0518/1972 : 1973 1 SCC 500) has clearly held that ordinarily a classification based on public purpose is not permissible under Article 14 for the purpose of determining compensation. Also, in para 30, the seven-Judge Bench unequivocally states that it is immaterial whether it is one Acquisition Act or another Acquisition Act under which the land is acquired, as, if the existence of these two Acts would enable the State to give one owner different treatment from another who is similarly situated, Article 14 would be infringed. In

the facts of these cases, it is clear that from the point of view of the landowner it is immaterial that his land is acquired under the National Highways Act and not the Land Acquisition Act, as solatium cannot be denied on account of this fact alone.

.....

52. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of justice we decline to interfere with such orders, given our discretionary jurisdiction under Article 136 of the Constitution of India. We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Sections 23(1-A) and (2) and interest payable in terms of Section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3-J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, appeal arising out of SLP (C) No. 9599 of 2019 is dismissed."

35. Thus, the Supreme Court held that the provisions of the Land Acquisition Act relating to solatium and interest contained in Sections 23(1-A) and (2) and interest payable in terms of Section 28 proviso will apply to acquisitions made under the National Highways Act, 1956 and classification based on public purpose is impermissible.

36. However, NHAI filed a clarification application Miscellaneous Application diary No. 2572 of 2020 to clarify the judgment in **Tarsem Singh (supra)**; and the

Supreme Court, on 30.07.2021, modified its order in the Tarsem Singh case (supra) and deleted Section 23(1-A) observing that issue regarding entitlement to benefit under the said provision was not present before any authority or court in the said batch of cases.

37. Therefore, by virtue of the decision in **Tarsem Singh MANU/SC/1292/2019 : 2019 (9) SCC 304 (supra)** as modified on 30.07.2021, all landowners whose lands are acquired by invoking the National Highways Act, 1956, are entitled to solatium and interest under section 23(2) and section 28 of the Land Acquisition Act, 1894 but not to additional market value under section 23(1-A) of the said Act.

38. The said decision being binding on this Court, we follow the same and hold that landholders whose lands were acquired by invoking the National Highways Act, 1956 are only entitled to solatium and interest akin to that under section 23(2) and section 28 of the Land Acquisition Act, 1894 and not to additional market value under section 23(1-A) of the said Act.”

9) The aforesaid ratio is squarely applicable to the facts of the present case. Upon relying the decision of **Tarsem Singh (supra)** as modified on 30.07.2021 & **National Highway Authority of India and Ors. vs. Resham Singh and Ors (Supra)**, I have no hesitation to hold that the Decree-holder is only entitled to solatium under section 23(2) and interest under Section 28 of the Land Acquisition Act, 1894 and not to additional market value under Section 23(1-A) of the Land Acquisition Act.

10) Now, I am turning to deal with the objection of easement right as agitated by Judgment-Debtor No.5 NHAI. Admittedly, this execution petition is filed for execution of Arbitral Award (at Exh.3/1) passed by the Arbitral Tribunal & District Collector, Jalgaon in case bearing Case No.190/2015 (dated 31/12/2018). On perusal of the same, it seems the Decree-holder filed application under Section 3G-(5) of the National Highways Act, 1956 for seeking enhancement of compensation and determination of the same by the

Arbitrator. The learned Arbitrator passed the Arbitral Award (at Exh. 3/1) & thereby granted enhancement of compensation @ Rs. 3500/- per square meter for the suit land and further directed payment of additional amount of 10% of total compensation for loss of easementary rights, as per Section 3-G(2) of the National Highways Act, 1956.

11) In this context, the learned Advocate appearing for Judgment-Debtor No.5 NHAI contended that the Hon'ble Supreme Court in the case of *Union of India vs. Tarsem Singh (supra)* had held that payment of 10% of amount of compensation towards loss of easementary rights under Section 3-G(2) of the National Highways Act, 1956 was not permissible to the land owners. Reliance was placed on paragraph 44 and 45 of the said Judgment in order to support the said contention.

12) On the other hand, the learned Advocate for the Decree-holder has argued that the Hon'ble Supreme Court had not specifically laid down that land owners would not be entitled to the benefit of 10% of compensation for loss of easementary rights under Section 3-G(2) of the National Highways Act, 1956. In support of his argument, he relied upon the decision of *Sarjuprasad and Ors. Vs. National Highways Authority of India and Ors., MANU/MH/4543/2021.*

13) I have minutely gone through decision of *Sarjuprasad and Ors. Vs. National Highways Authority of India and Ors.(Supra)*, wherein the Hon'ble Bombay High Court has taken note of paragraph 44 and 45 containing in the decision of *Union of India vs. Tarsem Singh (supra)* and it has been held that,

“25. This Court has perused the above quoted paragraphs and it is found that the Hon'ble Supreme Court has not categorically laid down that the land owners would not be entitled to the relief under Section 3-G(2) of the Act of 1956. A

perusal of the said provision would show that where the right of user or any right in the nature of easement of the owner or any other person has been affected in any manner whatsoever by the reason of acquisition, an amount calculated at 10% of the amount of compensation determined would be paid to such owner or any other person. Thus, such statutory mandate is akin to the mandate of payment of solatium and interest payable under the provisions of the Land Acquisition Act as recognized by the Hon'ble Supreme Court, even where acquisitions are undertaken as per the Act of 1956. Such amount flows from the determination of compensation payable to the land owners. Thus, **the District Court in the present cases erred in modifying the Award by deducting the amount of 10% of compensation payable to the land owners under Section 3-G(2) of the Act of 1956, when it was specifically directed to be paid under the Award passed by the Arbitrator. ”**

14) Upon relying the decision of *Sarjuprasad and Ors. Vs. National Highways Authority of India and Ors. (Supra)* it is safe to conclude that the Decree-holder is entitled benefit of 10% of compensation for loss of easementary rights under Section 3-G(2) of the National Highways Act, 1956. Beside this, once the Arbitrator awarded 10% of compensation for loss of easementary rights under Section 3-G(2) of the National Highways Act, 1956 to the Decree-holder, then this Executing Court has no jurisdiction to narrow its scope and is required to execute the decree as made. As the Executing Court can not go beyond the decree. In this view, there is no substance in objection raised by Judgment-Debtor No.5 NHAH having regard to deducting the amount of 10% of compensation payable to the land owners under Section 3-G(2) of the National Highways Act, 1956. Thus, this objection is hereby rejected.

15) Judgment-Debtor No.5 NHAH also raised objection to calculations submitted by the Decree-holder & submitted that the Decree-holder cannot seek to re-open the entire transaction and proceed to recalculate the interest on the whole amount and seek a re-appropriation as a whole in the light of the appellate decree. In

support of the same, he relied upon the decision of *Gurpreet Singh vs Union Of India (supra)*.

16) I have gone through the decision of *Gurpreet Singh vs Union Of India (Supra)*, wherein the Hon'ble Supreme Court observed that

“24. On the scheme of the Act, it is seen that the award of compensation is at different stages. The first stage occurs when the award is passed. Obviously, the award 2024 takes in all the amounts contemplated by Section 23(1) of the Act, Section 23(1A) of the Act, Section 23(2) of the Act and the interest contemplated by Section 34 of the Act. The whole of that amount is paid or deposited by the Collector in terms of Section 31 of the Act. At this stage, no shortfall in deposit is contemplated, since the Collector has to pay or deposit the amount awarded by him. If a shortfall is pointed out, it may have to be made up at that stage and the principle of appropriation may apply, though it is difficult to contemplate a partial deposit at that stage. On the deposit by the Collector under Section 31 of the Act, the first stage comes to an end subject to the right of the claimant to notice of the deposit and withdrawal or acceptance of the amount with or without protest.

25. The second stage occurs on a reference under Section 18 of the Act. When the reference Court awards enhanced compensation, it has necessarily to take note of the enhanced amounts payable under Section 23(1), Section 23(1A), Section 23(2) and interest on the enhanced amount as provided in Section 28 of the Act and costs in terms of Section 27. The Collector has the duty to deposit these amounts pursuant to the deemed decree thus passed. This has nothing to do with the earlier deposit made or to be made under and after the award. If the deposit made, falls short of the enhancement decreed, there can arise the question of appropriation at that stage, in relation to the amount enhanced on the reference.

The third stage occurs, when in appeal, the High Court enhances the compensation as indicated already. That enhanced compensation would also bear interest on the enhanced portion of the compensation, when Section 28 is applied. The enhanced amount thus calculated will

have to be deposited in addition to the amount awarded by the reference Court if it had not already been deposited.

The fourth stage may be when the Supreme Court enhances the compensation and at that stage too, the same rule would apply.”

17) I have applied the ratio laid down by the Hon’ble Supreme Court in the case of *Gurpreet Singh vs. Union of India (Supra)*, to the facts of the present execution petition. The present execution petition is at second stage as contemplated in the aforesaid authority. It is the matter of the record that Judgment-Debtor No.4 CALA passed or declared the award under Section 3G(1) of the National Highways Act. The whole of that amount is paid or deposited by Judgment-Debtor No.4 CALA in terms of Section 3H(1) of the National Highways Act to the Decree-Holder. At this stage, no shortfall in deposit is contemplated, since Judgment-Debtor No.4 CALA has to pay or deposit the amount awarded by him. Admittedly, the present Decree-Holder has not pointed any shortfall in deposit of the amount awarded. Accordingly, the first stage comes to an end in the case in hand.

18) The second stage occurs on filing of the application by the Decree-holder under Section 3G(5) of the National Highways Act. In this case, the learned Arbitrator passed the Arbitral Award (at Exh. 3/1) & thereby granted enhancement of compensation @ Rs. 3500/- per square meter for the suit land. This has nothing to do with the earlier deposit made or to be made under and after the award. In view of the Arbitral Award (at Exh. 3/1), Judgment-Debtor No.4 CALA is under obligation to deposit the amount awarded by the learned Arbitrator but he failed to do so. Hence, the Decree-Holder is constrained to file this execution petition.

19) It is the well settled position that the Executing Court is

competent to make calculations of amount of compensation payable to the Decree-Holder. Accordingly, I am going to calculate the said amount as per the Arbitral Award (at Exh. 3/1) & statutory benefits under Section 23(2) & 28 of the Land Acquisition Act in view of the decision of *Tarsem Singh (supra)* as modified on 30/07/2021 in the following table,

SR. NO.	PARTICULARS	ENHANCED MARKET VALUE OF LAND DETERMINED BY ARBITRATOR (Rate per square meters)	ACQUIRED AREA OF THE LAND (in square meters)	AMOUNT (in Rupees)
(A)	(B)	(C)	(D)	(E) = (C) X (D)
1.	Market Value of Acquired Land	3500	72	2,52,000.00
2.	Compensation towards loss of easement rights	350	72	25,200.00
3.	Compensation towards loss caused to severing of land (i.e., damages)	498	72	35,856.00
4.	Compensation towards building restrictions	994	72	71,568.00
5.	Compensation towards Well/ Water tank/construction	0	0	0.00
6.	Total Amount (1+2+3+4+5)			3,84,624.00
7A.	Solatium @ 30% under Section 23(2) of the Land Acquisition Act as per Arbitrator's Award [(i.e., Total amount (1+2+3+4) X 30%]	3,84,624.00	30%	1,15,387.20
7B.	Solatium @ 30% under Section 23(2) of the Land	1,06,056.00	30%	31,816.80

	Acquisition Act as per CALA'S Award[(i.e., (Rs.1473/- per square meters X 72 square meters) X 30%]			
8.	Total Amount (5+6A+6B)			5,31,828.00
9.	Interest @ 9% per annum for 1 st year commencing from date of possession/ award (i.e. 10/07/2013 to 09/07/2014) under Section 28 of the Land Acquisition Act on amount calculated in column (8)	5,31,828.00	9%	47,864.52
10.	Interest @ 15% per annum for 2 nd year commencing from date of possession/ award (i.e. 10/07/2014 to 31/03/2019 under Section 28 of the Land Acquisition Act on amount calculated in column (8)	5,31,828.00	@ 15% per annum (i.e., 4 years 8 months 21 days)	3,76,906.50
		ratio	0.7087	
11.	Total Amount (8+9+10)			9,56,599.02
12.	Amount received on 31/03/2019 by the D.H. against the Arbitral Award (3/1)			6,01,552.00
13.	Total Amount (10-11)			3,55,047.02
14.	Interest @ 15% per annum for 2 nd year commencing from date of possession/ award (i.e. 01/04/2019 to 01/03/2026) under Section 28 of the Land Acquisition Act on amount calculated in column (13)	3,55,047.02	@ 15% per annum (i.e., 6 years 11 months)	3,68,361.29
		ratio	1.0375	
15.	Total Amount due (13+14)			7,23,408.31

Accordingly, the Decree-holder is entitled to get recovery of Rs.7,23,408.31/- rounded of **Rs.7,23,409/-** from the Judgment-

Debtors till 01/03/2026. It is further clarified that the Decree-holder is entitled to get interest @ of 15% per annum on outstanding compensation from 01/03/2026 till realization of the entire compensation amount.

20) While doing so, I have calculated Interest on solatium upon relying the decision of Gurpreet Singh vs Union Of India (Supra), wherein the Hon'ble Supreme Court observed that,

“ 27. In Sunder v. Union of India 2001 Suppl. (3) S.C.R. 176, this Court posed the question, what is meant by "the compensation" awarded. The Court concluded,

We make it clear that the compensation awarded would include not only the total sum arrived at as per Sub-section (1) of Section 23 but the remaining sub-sections thereof as well. It is thus clear from Section 34 that the expression "awarded amount" would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-Sections thereof.

This shows that there is no distinction made between land value and solatium on the one hand and the interest awardable on the other, under Section 23(1A) of the Act. It is on this sum that the interest under Section 34 of the Act is awarded and if it were a reference, awarded under Section 28 of the Act, in addition to costs, if any. Thus, the award by the Collector and the deemed decree passed on reference contain the components of compensation and interest in the first and interest and costs in the second.

54. But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of Sunder (supra) and say that the compensation awarded

includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in Sunder (September 19, 2001) and not for any prior period. We also clarify that this will not entail any re-appropriation or fresh appropriation by the decree-holder. This we have indicated by way of clarification also in exercise of our power Under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.”

21) In the light of aforesaid discussion, I find there is no substance in the objections raised by Judgment-Debtor No.5 NHAI in the present application. Thus, it is liable to be rejected. Accordingly, following order is passed.

:- ORDER :-

- 1.) The objections raised by Judgment-Debtor No.5 NHAI in the application are hereby rejected.
- 2.) The Decree-holder is entitled to get recovery of **Rs. 7,23,409/-** from the Judgment-Debtors till 01/03/2026.

Date : 23/03/2026.

Place : Jalgaon

(Sharad S. Pardeshi)
Joint Civil Judge Senior Division,
Jalgaon.