

Sumit Kumar Versus Union of India and others.
CNR No.HPKA01-003470-2024.
CIS Registration No.18/2024.

And

NHAI Vs. CALA and others.
CNR No.HPKA01-003708-2024.
CIS Registration No.16/2025.

**In the Court of Chirag Bhanu Singh, District Judge,
Kangra at Dharamshala, District Kangra (H.P.)**

(1)

CNR Number	:	HPKA01-003470-2024.
CIS Registration No.	:	18/2024.
Arbitration Case No.	:	18/XIV/2024.
Presented on	:	14.10.2024.
Decided on	:	09.03.2026.

Sumit Kumar son of Shri Babu Ram, resident of Village
Paisha Khas, P.O. Paisha, Tehsil Dehra, District Kangra (H.P.).

-----Applicant.

-Versus-

1. Union of India, (Ministry of Road Transport and Highways) Transport Bhawan Sansad Marg New Delhi through its Secretary.
2. National Highways Authority of India (NHAI) having its Office at PIU House No.218, Ward No.1 Krishna Nagar Hamirpur, H.P. through its Project Director.
3. The Competent Authority Land Acquisition Officer-cum-Sub Divisional Magistrate Dehra, District Kangra (HP).
4. State of Himachal Pradesh through its District Collector Kangra at Dharamshala (HP).
5. The Arbitrator-cum-Divisional Commissioner Kangra at Dharamshala (HP).

-----Respondents.

Application under Section 34(2) of the
Arbitration and Conciliation Act, 1996
for setting aside the Arbitral Award
dated 16.07.2024 passed in Case
No.95/2021 by the learned Arbitrator.

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For the Applicant : Shri Virender Sharma,
Advocate.
For the Respondents No.1&2 : Shri M.P. Kanwar,
Advocate
For the Respondents No.3 to 5 : Shri N.S. Chauhan,
learned D.A.

(2)

CNR Number : HPKA01-003708-2024.
CIS Registration No. : 16/2025.
Arbitration Case No. : 16/XIV/2025.
Presented on : 24.10.2024.
Decided on : 09.03.2026.

National Highways Authority of India (NHAI) through its
Project Director Shri Vikram Singh Meena, Project
Implementation Unit Hamirpur, (Under the Ministry of Road
Transport and Highways, Government of India).

-----Applicant.

-Versus-

1. Competent Authority Land Acquisition (CALA)-cum-Sub Divisional Officer (Civil), Dehra, District Kangra (Himachal Pradesh).
2. Ruk

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6. Ravinder Kumar,
7. Swaran Singh, both sons of late Shri Kushal Singh son of Dalip Singh.
8. Smt. Vikrami Devi widow of late Shri Kushal Singh son of Dalip Singh.
9. Mahinder Singh son of Shri Nek Chand son of Rasil Singh.
10. Tamir Singh,
11. Sumit Kumar, both sons of Shri Babu Ram son of Shri Prabh Dayal.
12. Reeta Devi widow of late Shri Madan Lal son of Shri Rattanu.
13. Hakam Singh son of Shri Rattanu son of Shri Lachhman.
14. Mast Ram son of Shri Paras Ram son of Shri Ram Saran.
15. Pawan Kumar son of late Shri Roshan Lal.
16. Smt. Gayatri Devi widow of late Shri Roshan Lal.
17. Biasan Devi,
18. Nirmala Devi,
19. Santosh Kumari,
20. Roshan Lal, all son and daughters of Bajira.
21. Sushma Devi wife of Shri Narender Singh son of Shri Sita Ram.
22. Kiran Bala wife of Shri Major Singh son of Shri Mahinder Singh.
23. Joginder Singh,
24. Dhiyan Singh, both sons of late Shri Faqir Chand son of Shri Chaudhary.
25. Sita Devi widow of late Shri Faqir Chand son of Shri Chaudhary.
26. Nishant son of Shri Baldev Singh.
27. Seema Devi widow of Baldev Singh son of Shri Faqir Chand.

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28. Sushma Devi wife of Joginder Singh son of Shri Faqir Chand.
29. Arun Kumar,
30. Ajay Kumar, both sons of Shri Parkash Chand.
31. Susheela daughter of late Shri Jagdev Singh son of Shri Puran Chand.
32. Raj Kuthiyala widow of late Shri Jagdev Singh son of Shri Puran Chand.
33. Munshi Ram son of Shri Duni Chand son of Shri Chokas.
34. Roop Singh son of Duni Chand.
35. Balwant Singh son of Shri Chuhru Ram son of Shri Ragha alias Raghbir Singh.
36. Kaku son of Shri Sardara son of Shri Nijamdeen.
37. Joginder Singh,
38. Babu Ram,
39. Madan Lal,
40. Ram Singh,
41. Kahan Singh,
42. Nisha Devi,
43. Shanti Devi, all sons and daughters of late Shri Hari Singh son of Shri Ragha alias Raghbir Singh.
44. Sehna Devi widow of late Shri Hari Singh son of Shri Ragha alias Raghbir Singh.
45. Pritam Singh son of Shri Rasil Singh son of Shri Bakhtawar Singh.
46. Balwan Singh,
47. Chuni Lal,
48. Urmila Devi,
49. Nirmala Devi, all sons and daughters of late Shri Roshan Lal son of Shri Ganesha.
50. Kaushalya Devi widow of late Shri Roshan Lal son of Shri Ganesha.
51. Roop Lal,
52. Chander Mani,

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53. Kashmir Singh, all sons of Shri Mahant Ram son of Kahan Chand.
54. Roshan Lal,
55. Rattan Chand, both sons of Shri Bhag Singh son of Shri Lakha.
56. Hans Raj son of Shri Bidhia son of Shri Nandu.
57. Pushpindera Devi (deceased) wife of Shri Mohinder Singh through LRs:-
 - (i) Shri Varun Chambial
 - (ii) Shri Abhishek Chambial, sons,
 - (iii) Keerti, daughter, of Mohinder Singh.
58. Aditya Singh son of Shri Balwant Singh son of Shri Kuldeep Singh.
59. Daljeet Singh son of Shri Hoshnaku son of Shri Maghru.
60. Dharam Pal son of Shri Dalel Singh son of Shri Jangi Ram.
61. Ranu alias Ran Singh son of Shri Masadi son of Shri Kahan.
62. Jogindera Devi wife of Shri Raj Kumar son of Shri Ramesh Chand.
63. Parbhat Singh son of Shri Daya Shankar son of Shri Tek Chand.
64. Yogesh Kumar son of Shri Sant Kumar alias Ashwani Kumar son of Shri Tula Ram.
65. Parshotam Chand son of Shri Jai Ram son of Shri Raghnandan Gair Maurusi.
66. Dilli Mohammad son of Shri Faqir son of Shri Karima.
67. Faqar Deen son of Shri Barkat Ali son of Shri Nur Mohammad.
68. Jakir Deen son of Shri Sher Deen son of Shri

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74. Rakesh Kumar, both sons of Shri Chattar Singh son of Shri Pohlo Ram.
75. Biasan Devi widow of late Shri Prithu son of Sh. Santu.
76. Mehar Chand son of late Shri Pinja Ram son of Shri Khazana.
77. Sheela Devi widow of late Shri Pinja Ram son of Shri Khazana.
78. Nirmala Devi widow of late Shri Babu Ram son of Shri Dhani Ram.
79. Ravinder Kumar,
80. Narinder Kumar, both sons of late Shri Hukam Chand son of Shri Tulsi.
81. Raj Kumari widow of late Shri Hukam Chand son of Shri Tulsi.
82. Mahinder Singh,
83. Bindu alias Bipan, both sons of Kihru son of Ranjha.
84. Nikka Ram son of Sunku.
85. Sahi Bharti son of Nikka Ram.
86. Joginder Singh son of Shri Nikka Ram.
87. Sunehna Devi wife of Baldev Singh.
88. Piya Chand son of Shri Kihru son of Shri Karinu.
89. Parkash Chand son of Shri Dhiyan Singh son of Shri Shiv Dayal.
90. Milap Singh son of Shri Nek Chand son of Shri Rasil Singh.
91. Ashok Kumar son of Shri Jai Ram son of Sher Singh.
92. Sarita Devi wife of Shri Kuldeep Singh.
93. Sharmila Devi wife of Shri Bhoomi Chand.
94. Rani Devi wife of Shri Ashok Kumar.
95. Sudershana Devi wife of Shri Mohinder Singh.
96. Phoolan Devi wife of Shri Hem Raj son of Shri Pant Ram.
97. Jai Chand son

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101. Pawan Kumar, all sons of Shri Jai Chand son of Shri Gulaba.
102. Onkar Chand son of Shri Gorkhu son of Shri Rijhu.
103. Multan,
104. Sultan Singh,
105. Babli, all sons and daughter of late Shri Alaf Deen son of Faqiru.
106. Gian Dai widow of late Shri Alaf Deen son of Faqiru.
107. Sardara son of Shri Nizam Deen son of Shri Nabibakash.
108. Bidhi Chand,
109. Roop Chand,
110. Karam Chand, all sons of Gulaba Ram.

All residents of Village Paisa Khas, Tehsil Dehra,
District Kangra (H.P.).

-----Respondents.

Objection petition under Section 34
of the Arbitration and Conciliation
Act for setting aside the award
dated 16.07.2024 passed by the
learned Arbitrator-cum-Divisional
Commissioner, Kangra at
Dharamshala in Case No.439/2021
titled as NHAI Vs. CALA & Ors.

<u>For the Applicant/P</u>

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For the Respondent No.63 : Shri R.S. Rana,
Advocate.

For the Respondents No.82, : Ms. Payal, Advocate.
83 and 100.

For the Respondents No.108, : Shri Rohit Sharma,
109 and 110. Advocate.

***Respondents No.2, 13, 14, 16, 17, 20, 50, 51, 61, 64, 67,
71 and 90 have expired.***

***Respondents No.5, 21, 46 to 49, 55, 56, 65, 66, 69, 72, 75,
76, 79 to 81, 83, 87, 88, 89, 91, 93 to 99 and 101 to 106
ex-parte.***

Remaining respondents not served.

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applications are being disposed off by way of this common order.

3. The land of the villagers of Paisa Khas, Tehsil Dehra, District Kangra (H.P.) came to be acquired for the public purpose relating to the building of the National Highway between Jawalamukhi and Matour. A notification under Section 3A of the National Highways Act, 1956, (herein after to be referred as the NH Act) declaring the intention of the Central Government was issued on 09.03.2018 in the official gazette and came to be published in the local newspapers both English and Hindi i.e. The Tribune and Divya Himachal on 16.03.2018.

4. A notification under Section 3D of the NH Act came to be notified in the official gazette on 08.03.2019. It came to be published in the local newspapers, The Tribune and Divya Himachal on 16.06.2019.

5. The Competent Authority after going through the codal formalities envisaged under Section 3 of the NH Act assessed the market value of the acquired land at ₹ 1,684/- per square meter, irrespective of the classification of the land.

6. Feeling dissatisfied about the market value so assessed by the Competent Authority and invoking the provisions of Section 3G (5) of the N.H, Act, the applicant/petitioner approached the learned Arbitrator. Strangely, in this case, the NHAI too, feeling aggrieved qua

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the assessment of market value also impugned the decision of the Competent Authority.

7. The learned Arbitrator after due deliberations affirmed the compensation awarded by the Competent Authority at the rate of ₹ 1,684/- per square meter as appropriate compensation. The applicant/petitioner was also held entitled to “solatium amount” equivalent to 100% as per Section 30 of the of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter to be referred as the RFCTLARR Act, 2013) along with interest as contemplated under Section 30(3) of the RFCTLARR Act, 2013)

8. Feeling aggrieved, the applicant/petitioner has preferred the present application for setting aside the award passed by the learned Arbitrator on the premise that the Competent Authority had fixed the rate of ₹ 1,684/- per square meter in respect of the impugned award No.4 dated 31.03.2021 whereas in respect of the same village i.e. Paisa Khas, the Competent Authority had fixed the compensation at the rate of ₹ 3,334/- per square meter in award No.12 dated 28.06.2021.

9. It is further the contention of the applicant/petitioner that in the absence of any sale transaction abutting the road in village Paisa Khas, the Competent Authority had wrongly and illegally adopted the rate of nearest village i.e. Mohal Kandyala. The award of ₹ 1,684/- per square meter was also wrong and illegal

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because the rate of village Kandyala was around ₹ 4,500/- per square meter.

10. It is further the contention of the applicant/petitioner that the circle rate applicable in the revenue estate Paisa Khas from 01.04.2018 to 31.03.2019 was around ₹ 4,000/- per square meter and ₹ 4,500/- per square meter in the adjoining village Kandyala upon which the Competent Authority relied upon without appreciating the spirit of Section 26 of the RFCTLARR Act, 2013 and without keeping in mind the circle rates of the adjoining revenue estates including Rasuh, Thana and Bohan where the rates were between ₹ 6,000/- to ₹ 14,074/- per square meter.

11. It is further the contention of the applicant/petitioner that the revenue department had revised the circle rates w.e.f. 01.04.2018 i.e. just about 15 days after the date of notification under Section 3A of the NH Act, i.e. 16.03.2018, which were to be applicable from 01.04.2018. The Competent Authority happened to be the Sub Divisional Officer himself who was to notify the circle rates and the notification under Section 3A of the NH Act was thus intentionally made about 15 days prior to the revision of the circle rates.

12. The applicant/petitioner has also placed reliance upon a judgment of Hon'ble Supreme Court titled as **National Highways Authority of India Versus Sri P. Nagaraju @ Cheluvaiah & Another, 2022 Scale (9)**

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revision of the market value is made by the Department of Stamps and Registration within close proximity to the date of preliminary notification for acquisition, the escalation was open to be considered and applied by the learned Arbitrator while deciding the market value of the acquired land.

13. It is further the grouse of the applicant/petitioner that the learned Arbitrator failed to keep in mind the mandate of Section 26 of the RFCTLARR Act, 2013. He has failed to take into account the market rate prevalent in the revenue villages adjacent to Paisa Khas i.e. Ranital and Thana which were nearer than revenue estate Kandyala. The Central Government itself has made certain provisions of the RFCTLARR Act, 2013 applicable for assessing and determining the market value under Section 26 of the RFCTLARR Act, 2013.

14. It is also averred that as per the notification of the Central Government published vide gazette notification dated 09.02.2016, the factor by which the market value is to be multiplied has been reckoned as 2, for acquisitions in rural areas. The competent Authority in violation of the same has employed the multiplier of 1 which is also illegal and against the mandate of law.

15. The award further is stated to be in conflict with the public policy of India. The learned Arbitrator in awarding the compensation at the rate of ₹1,684/- per square meter has acted without any basis and has failed to act bonafide. He has failed to consider the statutory requirements of

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Sections 26 to 30 of the RFCTLARR Act, 2013 which is a necessary adjunct as per law and as such, the award is against the public policy of India. The applicant/petitioner thus prayed that the impugned award dated 16.07.2024 be set aside with costs.

16. The replies have been filed by the respondents. The respondents No.1 and 2 have filed a common and joint reply while the respondents No.3 to 5 filed a separate common reply.

17. The respondents No.1 and 2 while contesting the objections have raised preliminary objections vis-à-vis maintainability, the same being not maintainable under Section 34 of the Arbitration and Conciliation Act as the applicant/petitioner was seeking re-appreciation of the evidence, which is not permissive under law. However, strangely, the replying respondents have also averred that there is a patent error and illegality on the face of the award dated 16.07.2024 passed by the learned Arbitrator rendering it in conflict with the public policy of India and the fundamental law. However, the objection petition is liable to be dismissed.

18. It is further averred by the replying respondents that feeling aggrieved from the aforesaid award, they have also assailed the same by instituting an objection petition under Section 34 of the Arbitration and Conciliation Act.

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19. On merits, while denying the averments made in the objections, the replying respondents have also stated that they do not deny that the respondent No.3. i.e. Competent Authority has not properly assessed the market value of the acquired land. Even per the replying respondents, the respondent No.3 has violated the statutory provisions of Section 26 of the RFCTLARR Act, 2013 and as such, the learned Arbitrator has committed a serious error while passing the impugned award. The award is invalid being in conflict with public policy and fundamental law. As per the replying respondents, the meticulous examination of the record establishes that the learned Arbitrator did go wrong in upholding the conclusion of the CALA (Competent Authority).

20. Per the replying respondents, the CALA has not assessed the market value as per the provisions of Section 26 of the RFCTLARR Act, 2013. As per the record and evidence produced by both the sides, 13 sale transactions in the revenue estate relating to Paisa Khas had been produced before the learned Arbitrator. Even, the NHAI in its reference petition had placed on record the sale deeds pertaining to 13 sale transactions during the relevant period and as such, the learned Arbitrator erred in taking into account the market value of the adjoining village Kandyala. The explanation 1 to Section 26 of the RFCTLARR Act, 2013 relied upon by the learned Arbitrator was clearly inapplicable to the facts and circumstances of this case. Per the replying

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respondents, the categorization of the land of village Paisa Khas on the basis of the distance from the National Highway as adopted by the CALA and affirmed by the learned Arbitrator was stated to be against the express provisions of Section 26(1)(a) of the RFCTLARR Act, 2013. The learned Arbitrator and the CALA were thus duty bound to have taken into account the highest sale transaction in the village which was around ₹ 537/- per square meter. The learned Arbitrator had ignored the material, legal and factual aspects of the case by upholding the market value assessed by the CALA.

21. It is denied by the replying respondents that the respondent No.3 had also passed the award No.12 dated 28.02.2021 of the same village wherein the respondent No.3 had granted compensation at the rate of ₹ 3,334/- per square meter.

22. It is also averred by the replying respondents that the multiplication factor by which the market value is to be multiplied in case of rural areas shall be 1 as notified by the State Government and as such, the respondent No.3 had rightly applied the factor of 1 while determining the compensation payable to the applicant/petitioner. The rest of the contents of the objections were denied. However, it was prayed that the objections may be dismissed.

23. The respondents No.3 to 5 apart from raising preliminary objection vis-a-vis maintainability, have averred that the award was passed by taking into consideration all the factual and legal aspects.

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24. Per the replying respondents No.2 to 5, the award had been passed after following the provisions of RFCTLARR Act, 2013. The market value and compensation had been calculated in consonance with the provisions of Section 26 of the RFCTLARR Act, 2013. The correct market value was assessed, on the basis of the highest average sale price of village Kandyala which was the nearest village to village Paisa Khas. The average sale price of village Kandyala was ₹ 1,684/- per square meter which was much higher than the village Paisa Khas, being ₹ 643/- per square meter. The compliance of Sections 26, 27 and 28 of the RFCTLARR Act, 2013 had been done.

25. It is admitted by the replying respondents that in respect of award No.12 dated 28.06.2021, a higher amount of compensation at the rate of ₹ 3,334/- was awarded but that was done as per the circle rate of village Paisa as the publication had been issued on 25.02.2021. Per the replying respondents, the rate of the nearest village Kandyala was taken into consideration as no sale deed was executed from 01.04.2016 to 31.03.2018 i.e. immediately 3 years prior to the notification under Section 3A of the NH Act. The rest of the contents of the objections were denied. The replying respondents thus prayed for the dismissal of the objections.

26. While filing rejoinders, the applicant/petitioner denied the averments in the replies and reiterated those in the objections.

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Facts of the Objections filed by NHAI

27. The applicant/petitioner NHAI has also assailed the same award dated 16.07.2024 relating to village Paisa Khas in Case No.439/2021.

28. The applicant/petitioner NHAI dissatisfied by the market value so assessed by the CALA and invoking the provisions of Section 3G (5) of the NH Act had also approached the learned Arbitrator.

29. The learned Arbitrator after due deliberations upheld the market value assessed by the CALA at the rate of ₹ 1,684/- per square meter apart from the other statutory benefits.

30. Feeling aggrieved, the NHAI has also preferred the present objections for setting aside the award passed by the learned Arbitrator as have the claimants. The primary grouse raised by the NHAI is that the learned Arbitrator has erred in law by taking into account the market value of the adjoining village Kandyala when the valid and legal sale transactions of village Paisa Khas were available. The explanation 1 to Section 26 of the RFCTLARR Act, 2013 relied upon by the learned Arbitrator was clearly inapplicable in the facts and circumstances of the present case. The categorization of the land of village Paisa Khas on the basis of the distance from the National Highway as adopted by the CALA and the learned Arbitrator was also against the express provisions of Section 26(1)(a) of the RFCTLARR

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