



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**Pronounced on: 08.07.2025**

**1) CR No.2891 of 2025**

National Highways Authority of India ...Petitioner

Versus

Nirmal Kumar and others ...Respondents

**2) CR No.2896 of 2025**

National Highways Authority of India ...Petitioner

Versus

Lovekesh Kaushal and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. R.S. Madan, Advocate, and  
Mr. Chirag Choudhary, Advocate, for the petitioners.

Mr. Vijay Kumar Jindal, Senior Advocate, with  
Mr. Satbir Rathore, Advocate, and  
Mr. Abhishek Shukla, Advocate,  
for respondents no.1 to 5 in both petitions.

**TRIBHUVAN DAHIYA, J.**

These two petitions are being decided together as identical issues on similar facts arise for consideration therein. For brevity, the facts



are being referred to from CR No.2891 of 2025, which has been filed for setting aside orders dated 17.01.2025, 15.02.2025, 19.03.2025 and 29.04.2025, Annexures P-1 to P-4, respectively, whereby the Executing Court/Additional District Judge, Amritsar, has dismissed the objections of petitioner/National Highways Authority of India (NHAI)/judgment debtor, directing it to pay balance amount of compensation as per calculation sheet submitted by the Competent Authority for Land Acquisition-cum-Sub Divisional Magistrate (CALA-cum-SDM), Amritsar-I, forthwith.

2. To refer to the relevant facts, the petitioner/NHAI acquired land of the private respondents/land owners for construction of a national highway (NH-15) in village Verka under Section 3A of the National Highways Act, 1956 (hereinafter referred to as 'the 1956 Act'), vide notification dated 23.05.2008 and, thereafter, notification under Section 3D(1) of the Act was issued on 13.05.2009. The competent authority/CALA, Amritsar-I, delivered an award, dated 31.05.2010, awarding compensation for the acquired land at the rate of ₹8926 per square yard along with benefit under Section 3G(2) of the 1956 Act, i.e., ten per cent easement amount of the basic rate.

2.1. Dissatisfied with the award, the land owners approached the Arbitrator by filing a claim petition under Section 3G(5) of the 1956 Act for enhancement of compensation, which was, however, dismissed vide order/award dated 15.11.2011. They approached the Additional District Judge against it by filing objection petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the 1996 Act'), for setting aside the arbitrator's award and allowing the claim petition



filed under Section 3G(5). This was also dismissed vide order dated 21.03.2014.

2.2. Thereupon, the land owners filed first appeal, FAO No.8090 of 2014, which was decided by this Court along with connected appeal, vide order dated 19.05.2016, setting aside the Arbitrator's award and holding that, '*...the land owners shall be entitled to the enhanced compensation @ ₹30,000 per sq. yard with all statutory benefits as per the ratio decidendi culled out in M/s Golden Iron and Steel Forging Vs. Union of India, 2011(4) RCR Civil 375*'.

2.3. The order was subsequently reviewed in review application, RA-CR-142-CII-2017 (O&M) in FAO No.8090 of 2014, which was partly allowed vide order dated 20.12.2017, holding that, '*...the landowners shall be entitled to compensation @ ₹26,000 per square yard with all statutory benefits as per the ratio decidendi culled out in "M/s Golden Iron and Steel Forging V/s Union of India"2011(4) RCR (Civil) 375*'. The said order, dated 20.12.2017, was challenged by the NHAI before the Supreme Court by filing SLP, which was dismissed.

2.4. Thereafter, the land owners filed execution application before the Court at Amritsar, and vide order dated 09.10.2018 the NHAI was directed to deposit unpaid balance amount of compensation including additional amount of twelve per cent as per Section 23 (1-A) and (2) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'). This was challenged by the NHAI before this Court by filing a revision petition, CR No.7872 of 2018, on the ground that the land owners were not entitled to interest over interest, as claimed by them by filing the execution application. The petition remained pending with this Court and was finally disposed of



vide order dated 11.05.2023 by recording that, the only surviving grievance was with regard to calculation of the un-paid amount including statutory benefits and interest on interest. And during pendency of the petition, the law regarding statutory benefits and interest had been settled by the Supreme Court in *Union of India and another v. Tarsem Singh and others*, 2019(9) SCC 304, as clarified in *National Highways Authority of India and another v. Tehal Singh and others*, 2021 SCC Online SC 3175. Accordingly, the order dated 09.10.2018 was set aside, remanding the matter to the Executing Court to decide it afresh in accordance with law.

2.5. In these circumstances, fresh calculation sheets were submitted by the parties before the Executing Court detailing the balance amount of compensation payable. The objection taken by the NHAI to the calculation sheet submitted by the land owners is that they are not entitled to the benefit under Section 3G(2) of the 1956 Act, and it has been wrongly claimed. The objection was overruled by the Executing Court vide impugned order dated 17.01.2025, directing the NHAI/judgment debtor to pay the balance amount of compensation as per calculation sheet submitted by the CALA-cum-SDM by holding as under:

17. The only contention of the learned counsel for the Objector is regarding the provisions under Section 3G (2) of the N.H. Act, 1956, which pertains to amount which is a statutory benefit as per NH Act. It is very much evident that this amount under Section 3G(2) of the N.H. Act, 1956, has been duly awarded by CALA and paid by the NHAI to the land owners on already paid amount at the time of passing of Award on dated 31.05.2010.

18. Further, more importantly, as already observed that the benefit/amount under 3G (2) of the N.H. Act, 1956, awarded by CALA was never challenged by the NHAI in any court of law



till the finality of the present case in Hon'ble Supreme Court of India. As the issue of additional amount was challenged by the NHAI in Hon'ble Supreme Court of India as well as in Hon'ble High Court also. The amount of easement money was duly awarded by the Land Acquisition Collector in 2010 at the time of passing of award and if it was not acceptable to the NHAI, they could have challenged it before the Arbitrator or any other concerned Court, however, it was impliedly accepted and the amount was paid by the NHAI to the landowners including statutory benefits. Now when the case has attained finality upto the Hon'ble Supreme Court of India and there is no such order of any court of law not to pay the easement money, the objections petition of the NHAI at this stage is not maintainable. Moreover, the benefits under Section 3G (2) of the N.H. Act, 1956 are in the nature of statutory benefits and are fixed amount calculated at 10% of the amount paid under Section 3G (2) of the N.H. Act, 1956. In my considered view, the calculations submitted by the CALA-cum-SDM, Amritsar-I are based upon correct appreciation of law, taking into account the statutory provisions of Law, while making all the necessary adjustment, before arriving at final conclusion by way of calculation. On the contrary, the undated, unsigned and unverified calculation sheet submitted by the objector/JD are without any basis or logic. In view of the above observations, in my considered view, there is no ground to deny the benefits of Section 3G (2) of the N.H. Act, 1956. Hence, the present objections petition filed by the JD No.1/NHAI is hereby dismissed being without any merit. The objection petition is disposed of accordingly with direction to JDs to pay the balance amount of compensation as per the calculation sheet submitted by the CALA-cum-SDM, Amritsar-I forthwith.

3. In this factual background, Mr. Madan, learned counsel for the petitioner/NHAI has contended that the Executing Court has wrongly held that benefit under Section 3G(2) of the 1956 Act is payable as statutory



benefit. The same was never accepted as a statutory benefit by the petitioner, nor were the land owners awarded ten per cent easement amount under Section 3G(2) of the Act by this Court vide order dated 20.12.2017. The statutory benefits awarded to the respondents/land owners only pertain to the benefits admissible under Sections 23(2), (1-A) and 28 of the 1894 Act, which are payable solely on the basis of compensation assessed by the competent authority, without the need of recording any specific finding to that effect. *Secondly*, in appeal filed by the respondents/land owners, the arbitral award was set aside by this Court vide order dated 19.05.2016, and they were only held entitled to statutory benefits under the 1894 Act. The compensation payable to the land owners, including ten per cent easement amount, in terms of the amount determined by CALA, vide award dated 31.05.2010, already stands paid. The said award is no longer in existence and has merged with the subsequent final order, dated 20.12.2017, passed by this Court. The execution in question only pertains to the compensation awarded in terms of this order. Since the benefit of easement amount has not been granted to the respondents/land owners by this Court by recording any finding to that effect, the Executing Court has no jurisdiction to direct the NHAI to deposit the same. Learned counsel has placed reliance upon the law laid down in *Tarsem Singh* case (*supra*) in this regard, and contended that easement amount under Section 3G(2) of the 1956 Act can only be awarded to a person other than the land owner, having rights as a tenant or licensee over the land acquired under the 1956 Act. The respondents are owners of the land undisputedly, and accordingly they are not entitled to claim easement amount.



4. *Per contra*, Mr. Jindal, learned senior counsel for the respondents/land owners contends that they were awarded easement amount by the CALA in 2010, and the same was paid to them as well by the NHAI. The award was never challenged by the latter, as only the land owners approached this Court by filing appeal against dismissal of their objections by the Arbitrator. Even cross objections to the appeal were not filed by the NHAI, and the award of easement amount was accepted; it cannot be challenged at this stage. In this regard, learned senior counsel has relied upon the Supreme Court judgment in *J. Kodanda Rami Reddy v. State of Andhra Pradesh and others*, 2011(1) SCC 197, to contend that even if the award was erroneous it was required to be challenged by the NHAI to dispute the respondents' easement rights. As it has not been done by resorting to the available remedies, the award has attained finality and the petitioner cannot be allowed to dispute the same. *Secondly*, he has also relied upon the judgment rendered in *Tarsem Singh* case (*supra*) to contend that easement under Section 3G(2) of the 1956 Act is a valuable right given to the land owners for which they are entitled to be compensated, as held in paragraph 44 of the judgment. And the provision of Section 3G(2) recognising easement right was never struck down by the Court. Accordingly, the respondents/land owners cannot be denied entitlement to easement amount.

5. Submissions made by learned counsel for the parties have been considered.

6. The undisputed facts on record are, the petitioner/NHAI acquired the land belonging to private respondents for construction of a national highway, NH-15, vide notification dated 23.05.2008. CALA



awarded them compensation at the rate of ₹8926 per square yard along with easement amount under Section 3G(2) of the 1956 Act, vide award dated 31.05.2010. The same was paid to the land owners as well along with the compensation awarded. A limited challenge to the award seeking enhancement of compensation was made by the land owners before the Arbitrator by filing a petition under Section 3G(5) of the 1956 Act, which was dismissed vide award dated 15.11.2011. Objections against the same filed under Section 34 of the 1996 Act were also dismissed by the Additional District Judge vide order dated 21.03.2014. Finally, in appeal this Court, vide order dated 20.12.2017, enhanced the compensation to ₹26,000 per square yard along with statutory benefits as per *ratio* of *M/s Golden Iron and Steel Forging* case (*supra*), by setting aside the Arbitrator's award. This case was decided with other connected cases holding the petitioners therein, whose land had been acquired by the NHAI under the 1956 Act, entitled to the benefits under Sections 23(2) and 28 of the 1894 Act, and declared Sections 3G and 3J of the 1956 Act violative of Article 14 of the Constitution to the extent these provisions denied the statutory benefits of solatium and interest to the land owners. The matter went up to the Supreme Court and the issue was finally settled by it in *Tarsem Singh* case (*supra*), holding as under:

52. ... We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Section 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.



Accordingly, the land owners have been held entitled to statutory benefits of solatium and interest under Sections 23(1-A), (2) and proviso to Section 28 of the 1894 Act along with compensation for the acquired land at the rate of ₹26,000 per square yard, vide order dated 20.12.2017.

7. Award of compensation for acquisition of land and violation of easementary rights under the 1956 Act is regulated by the following provision:

3G. Determination of amount payable as compensation.—(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

As apparent, easement amount, calculated at ten per cent of the amount of compensation determined under sub-section (1) of Section 3G, becomes payable to a person whose right of enjoyment in the acquired land has been affected in any manner whatsoever by reason of the acquisition. It will be appropriate to refer to the following observations in *Tarsem Singh* case (*supra*) regarding the provision;

44. Section 3-G(2) makes it clear that rights of user and rights in the nature of easement being valuable property rights, compensation must be payable therefor. It is obvious that there is no double payment to the owner on this score as the owner and/or any other person has to prove that a right in the nature of an easement has also been taken away. Obviously, the right of



user being subsumed in acquisition of ownership, the owner cannot get a double benefit on this score. The right of user is, therefore, referable only to persons other than the owner, who may have tenancy rights, and other rights of licence on land which is acquired under the National Highways Act.

It has clearly been held that under the provision compensation is payable for infringement of the right of user to persons other than the owner, and for the right of easement to the owner and/or any other person on establishing that his/her right of easement over the acquired land has been taken away.

7.1. Undisputedly, the respondents/land owners have been awarded easement amount under Section 3G(2) of the 1956 Act by CALA vide award dated 31.05.2010, which stands executed as well. And this amount is based on the amount of compensation awarded for the acquired land. The same has been enhanced to ₹26,000 per square yard along with statutory benefits under the 1894 Act, vide order dated 20.12.2017. The provision of Section 3G(2) of the 1956 Act clearly mandates that the land owner whose right to easement has been affected by the acquisition of land shall be paid easement amount calculated at ten per cent of the amount of compensation determined for the land under sub-section (1) of Section 3G. No doubt taking away of easement right has to be proved, but that has already been done by the respondents/land owners leading to award of easement amount to them by CALA, as aforementioned, which has been accepted by the petitioner/NHAI. There is no challenge to it to date. Therefore, the land owners' entitlement to enhanced easement amount based upon the enhanced compensation for land awarded by this Court cannot be questioned.

7.2. Mr. Madan has laid much stress on the fact that the respondents/land owners have not been awarded any easement amount by



this Court under Section 3G(2) of the 1956 Act. And the order, dated 20.12.2017, only grants enhanced compensation for the acquired land along with statutory benefits, and nothing beyond. This is a misconceived argument, and cannot be accepted. As discussed hereinbefore, the respondents/land owners, violation of whose easement rights has already been established, become entitled to the enhanced easement amount under Section 3G(2) on enhancement of compensation. The unquestioned facts regarding violation of easement rights need not be established again to be entitled to the benefit. Further, the second contention by Mr. Madan based upon the doctrine of merger, that only the final order passed by this Court, dated 20.12.2017, can be executed whereby the land owners have been held entitled to statutory benefits under the 1894 Act and not the easement amount, is also not sustainable. The argument is fallacious, as execution is that of CALA award and not of the final order. It is evident on record that the land owners were awarded compensation for the acquired land along with easement benefit under Section 3G(2) vide CALA award dated 31.05.2010. The award of easement amount was never challenged by the NHAI; the land owners filed claim petition under Section 3G(5) only seeking enhancement of compensation which was declined by the Arbitrator, as also by the Additional District Judge by deciding objections against it, but was granted by this Court in appeal vide order dated 20.12.2017, by setting aside the Arbitrator's award. It essentially amounts to modification of CALA award to the extent compensation for the acquired land has been assessed therein. The award as such granting easement amount was never set aside, nor could it be considered to have been done in the absence of any order to that effect. It has instead been accepted and implemented by the NHAI and they cannot be



permitted to take a stand in derogation thereof alluding to the doctrine of merger which has no application in the facts of this case. The award not under challenge cannot merge with the final order. Instead, with the passing of final order, dated 20.12.2017, the CALA award stands modified in terms thereof, which needs to be executed by payment of due benefits.

8. In view of the discussion, the petitions are dismissed, and the Executing Court is directed to proceed and decide the execution application(s) expeditiously in accordance with law.

9. A photocopy of this judgment be also placed on the connected petition.

**(TRIBHUVAN DAHIYA)**  
**JUDGE**

08.07.2025  
Maninder

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No