

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court

**Case No. LPA No. 276/2025 in
OWP No. 2416/2018
CM No. 7239/2025**

**Reserved on: 22.12.2025
Pronounced on: 30.12.2025
Uploaded on: 30.12.2025**

Whether the operative part or full judgment
is pronounced: Full.

**National Highways Authority of
India, G-5 and G-6, Sector No. 10,
Dwarka, New Delhi through its
Project Director, National
Highways Authority of India, PIU-
Ramban, Ramban.**

.....Appellant(s)/Petitioner(s)

Through: Mr. Vipin Gandotra, Advocate
Vs

- 1. Kushlaya Devi W/o Chuni Lal
R/o Dhalwas, Tehsil & District
Ramban.**
- 2. Union Territory of Jammu and
Kashmir Through
Commissioner/Secretary, Revenue
Department, Civil Secretariat, J&K
Jammu/Srinagar.**
- 3. Deputy Commissioner, Ramban.**
- 4. Additional Deputy Commissioner,
Ramban.**
- 5. Gammon India Pvt. Ltd. C/o
General Manager, Head Office,
Gammon House, Veer Savarkar
Marg Prabhadevi, Mumbai.**
- 6. Union of India Through
Commissioner/Secretary, Ministry of
Roads, Transport and Highways
Transport Bhawan, Parliament
Street New Delhi.**

..... Contesting Respondent

.....Performa Respondent(s)

Through:

**Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

(Rajnesh Oswal-J)

1. The appellant, being aggrieved of the judgment dated 14.08.2025 rendered by the learned Writ Court in OWP No. 2416/2018, whereby the appellant has been directed to pay compensation of Rs. 3,91,100/- along with interest @ 6% per annum from the date of filing of the writ petition till its actual realization, has assailed the same through the medium of instant *intra court* appeal only on the ground that the learned Writ Court has wrongly placed reliance upon the report dated 27.10.2022, as in the said report, the Committee of Officers had stated that the damage was not attributable to the appellant. This is the only ground urged by the appellant for challenging the judgment impugned in this appeal.
2. The facts necessary for the disposal of this appeal are that respondent No. 1 filed a writ petition seeking a direction to respondent No. 3 to conduct an inquiry and assess the damage caused to her property. The property, measuring 5 Kanals and 17 Marlas (Survey No. 924) in Village Dhalwas, Ramban, allegedly sustained damage due to the actions of respondent No. 5. Specifically, the petitioner sought a direction for Respondent No. 5 to clear culverts and drains and remove construction debris illegally dumped on her land. These reliefs were sought on the ground that illegal dumping and blockage of the drainage systems caused a direct flow of mountain water onto her un-acquired land, damaging five shops she had constructed there. She further claimed to have made a representation to respondent No. 4 to direct respondent No. 5 to stop illegal dumping and

to open the culverts and drains so that the water causing damage to her land stops and further to assess the damages caused to her land.

3. The appellant came up with the response, thereby asserting that the land measuring 10 Kanal 19 Marlas came to be acquired for the appellant and rest of the land measuring 5 Kanal 17 Marlas remained with the respondent No. 1. The appellant categorically denied having dumped any soil or stones on the un-acquired portion of the land, nor were any culverts or drains blocked. Furthermore, the appellant maintained that respondent No. 1's un-acquired land was never utilized for construction. Notably, the appellant contended that the respondent No.1 raised her structures along the road in violation of the required 75-foot setback from the centre line. Consequently, the appellant denied that any damage was caused to the respondent's property.
4. Respondent No. 5, in turn, in its response stated that the land measuring 10 Kanal 19 Marla was acquired after private negotiation and in terms of a final award dated 08.08.2017. It was further stated that pursuant to interim order dated 26.11.2018 passed by the learned Writ Court, the report was sought from Tehsildar, Ramban, who in his report stated that the shops and house existed in the land of respondent No. 1 but are not in a position to be used for commercial/residential purpose due to cracks developed in the structure and the shops and house could collapse at any time. It was further stated that the land measuring 5 Kanal 17 Marlas under Survey No. 924 min has not been used for muck dumping by the executing agency. Regarding the representation submitted by respondent No. 1 to assess the damages, the matter was taken up with the Executive Engineer, PWD (R&B) Department, Circle Doda for assessment of

damages and in response thereto, the Superintendent Engineer, PWD (R&B) Department, Circle Doda has assessed the valuation of damaged structure as Rs. 39.11 lacs. Accordingly, the Collectorate, vide communication dated 23.02.2022, requested the Project Director, NHAI PIU Ramban for release of compensation of 71 damaged structures including the structure of respondent No. 1. In response thereto, the Project Director, PIU Ramban of the appellant vide communication dated 19.05.2022, conveyed the approval of the competent authority for payment of compensation regarding the damaged structures, to the Collectorate. To assess the percentage of actual damage, the Deputy Commissioner, vide order dated 08.07.2022, constituted a committee of officers headed by concerned Tehsildars for joint inspection/verification to assess the percentage of damaged structures due to construction of four-laning of the National Highway in District Ramban.

5. Heard learned counsel for the appellant.
6. The appellant's primary contention is that the report relied upon by the learned Writ Court attributed the structural cracks to natural land subsidence (sinking) rather than construction activity. The appellant maintains that the damage cannot be attributed to the NHAI because the structures are located on the valley side of the road, whereas all excavation and cutting were confined strictly to the hillside. Consequently, since the damage was not a direct result of the four-laning works, compensation from the NHAI was not recommended.
7. The report submitted by the Tehsildar, Ramban, in compliance with the interim order dated 26.11.2018, reveals that 10 Kanals and 6 Marlas of land was utilized for dumping. Although the shops and house belonging

to respondent No. 1 were not acquired, the report indicates that the accumulation of muck and debris has so altered the topography of the land that the structures have been rendered unfit for residential or commercial use.

8. Record further indicates that in communication dated 02.07.2020 of Superintendent Engineer, PWD (R&B), Circle Doda to Ex. Engineer, PWD(R&B) Div. Ramban, the valuation of the structure of the respondent No.1, damaged due to cutting of four-lanes of National Highway, was reflected as 39.11 lacs. Thereafter, vide communication dated 23.02.2022, the Collector-respondent No. 3 requested the appellant to place an amount of Rs. 11,02,78,000/- at the disposal of the Collectorate to compensate for the damages caused to 71 number of structures. In turn, the appellant vide communication dated 19.05.2022 addressed to respondent No. 3, intimated the approval of the competent authority to compensate for the damages caused to the structures and the land due to construction activities on National Highway NH-44 and further respondent No. 3 was requested to communicate the details of the account for transfer of the amount. Subsequently, by order dated 08.07.2022, Respondent No. 3 constituted a committee to assess the percentage of damage to structures located beyond the ROW of the National Highway (NH-44) resulting from the four-laning construction in District Ramban. On 27.10.2022, the committee submitted its report quantifying the percentage of the damage to these structures. The specific remarks recorded against the appellant in this report, as narrated above, form the primary basis for the present intra-court appeal.

9. It is not in dispute that the representative of the appellant vide communication dated 19.05.2022 intimated the approval for the payment of amount of Rs. 11,02,78,000/- as compensation for the damages in respect of 71 structures including the structure of the respondent No. 1. So far as report dated 27.10.2022 is concerned, it was submitted only pursuant to the order dated 08.07.2022. The Committee's mandate was strictly limited to assessing the percentage of damage to the structures, not determining the underlying cause. This is evidenced by the appellant's communication dated 19.05.2022, which had already accorded in principle approval for compensation for the 71 affected structures, including that of Respondent No. 1. Consequently, any remarks regarding the cause of damage were beyond the Committee's mandate and cannot be considered to deny Respondent No. 1's claim. As the Committee assessed the damage at 10%, the learned Writ Court accordingly awarded compensation of Rs. 3,91,100/- (representing 10% of the total valuation of Rs. 39.11 lacs).
10. We have examined the judgment passed by the learned Writ Court and we do not find any illegality or perversity necessitating any interference at our end.
11. This appeal is found to be misconceived. The same is **dismissed**.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
30.12.2025
Neha-II

Whether the order is speaking: Yes
Whether the order is reportable: No