IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No. 121 of 2017
Reserved on: 10.09.2026
Date of decision:17.09.2026

Mangat Ram ...Appellant

Versus

State of H.P. & another ...Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.
Whether approved for reporting?[1] *Yes*

For the appellant : Mr. B.M. Chauhan, Senior Advocate with Ms.Kamakshi Tarlokta and Mr.Amit Himalvi, Advocates.

For the respondent : Mr. Manish Thakur, Deputy Advocate General.

Romesh Verma, Judge:

The award passed by the learned District Judge (Forests), Shimla, H.P., dated 21.03.2017, whereby the amount of compensation was enhanced at the rate of Rs.15,000/- per biswa for all categories of acquired land, has been assailed by the claimant/appellant.

2. The facts as emerge in the present case are that the land of the appellant bearing Khasra Nos. 589, 591, 593, 595, 604 and 605, measuring 00-52-93 hectares, was utilised for the construction of Khargoli-Nallah-Mundu Road.

3. The Land Acquisition Collector, Winter Field, Shimla, vide Award No. 20/2009 dated 27.08.2009, passed the award by assessing

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

the amount of compensation as per the classification of the land in the following manner:

Sr. No.	Classification of Land	Rate per Biswa	Rate per Centiare
1.	Bakhal Awal	Rs.15,000.00	Rs.398.62
2.	Bakhal Doyam	Rs.12,321.43	Rs.327.44
3.	Banjar har Kism	Rs.2,142.86	Rs.56.94
4.	Ghasni	Rs.1,071.43	Rs.28.47

4. Feeling dissatisfied with the award passed by the learned Land Acquisition Collector, the claimant/appellant preferred a reference petition under Section 18 of the Land Acquisition Act, 1894, before the learned District Judge (Forests), Shimla, H.P., on 15.12.2011.

5. The learned Reference Court, vide its impugned award, accepted the petition as filed by the appellant and passed the award for the payment of enhanced market value of the land at the rate of Rs.15,000/- per biswa for all categories of the acquired land. The appellant was also held entitled to Rs.25,000/- as compensation for the uprooted trees. In addition to the said market value of land, the appellant was held entitled to an amount calculated at the rate of 12% per annum on the enhanced market value for the period commencing from the date of publication of the notification under Section 4 of the Act (17.05.2007) till the date of the Collector's award dated 27.08.2009 under Section 23(1-A) of the Act. The appellant was also held entitled

to a sum equivalent to 30% of the aforesaid market value of the land in consideration of the compulsory nature of acquisition under Section 23(2) of the Act. In addition, the appellant was held entitled to interest on the sum awarded by the learned Reference Court as compensation in excess of the sum awarded by the Collector as compensation at the rate of 9% per annum for the first year, i.e., w.e.f. 27.08.2009, that is, the date of the award and at the rate of 15% per annum for the remaining period, with effect from 27.08.2010 till the date of deposit of the enhanced compensation in the court.

6. Feeling dissatisfied with the award passed by the learned Reference Court, the claimant/appellant has approached this Court by preferring the instant appeal for the enhancement of the amount of compensation on various grounds.

7. It is contended by Mr.B.M. Chauhan, learned Senior Counsel, assisted by Ms. Kamakshi Tarlokta and Mr.Amit Himalvi, learned counsel for the appellant, that the appellant was divested of the possession of the suit land way back in the year 1990, whereas the notification under Section 4 of the Land Acquisition Act was issued on 17.05.2007 and the award was passed on 27.08.2009. Therefore, the appellant is also entitled to the grant of damages/use and occupation charges from 1990 till 17.05.2007, when the notification under Section 4 of the Land Acquisition Act was issued by the State Government.

8. Further, learned senior counsel has stated that learned Reference Court has erred in granting interest at the rate of 9% per annum for the first year, with effect from 27.08.2009, that is, the date of the award and at the rate of 15% per annum for the remaining period till the date of deposit, which is contrary to the law laid down by this Court. He contends that the learned Reference Court ought to have granted interest at the rate of 9% per annum from the date of issuance of the notification under Section 4 of the Act for one year and thereafter at the rate of 15% per annum till the payment/deposit of the compensation amount. He has submitted that the learned Reference Court has erred in not granting the aforesaid reliefs and the appellant is only aggrieved by the said part of the award and is not assailing the remaining part of the findings passed by the learned District Judge (Forests), Shimla, H.P.

9. On the other hand, the award passed by the learned Reference Court has been defended by the learned Deputy Advocate General. It is contended by the learned Deputy Advocate General that the award passed by the learned Reference Court is legal, valid and sustainable, and does not suffer from any infirmity, therefore, the present appeal, being devoid of any merit, deserves to be dismissed.

10. I have heard the learned counsel for the parties and gone through the material available on record carefully.

11. In the present case, the land of the appellant was utilised by the State for the construction of the Kargoli-Nallah-Mundu Road. The notification under Section 4 of the Land Acquisition Act was issued on 17.05.2007 to acquire land bearing Khasra Nos. 589, 591, 593, 595, 604 and 605 owned by the present appellant.

12. The particulars of the land of the appellant which was acquired are as under:

Khasra No.	**Area (in Hectares)**	**Classification of Land**
591/1	0-00-45	Banjar Kadeem
593/1	0-02-67	Banjar Kadeem
593/2	0-01-69	Banjar Kadeem
595/1	0-01-25	Ghasni
595/2	0-00-66	Ghasni
604/1	0-07-19	Ghasni
605/1	0-03-22	Ghasni
Kita-7	0-17-13	Uncultivated

13. After the issuance of notification under Section 4 of the Land Acquisition Act, declaration under Sections 6 and 7 of the Act was issued by the Government of Himachal Pradesh through the Public Works Department on 28.05.2008, declaring the acquisition of the land owned and possessed by the appellant.

14. Thereafter, notice under Section 9(1) of the Act inviting claims from persons interested was issued by the Collector. Vide award dated 27.08.2009, the Land Acquisition Collector assessed the amount of compensation as per the classification of the land. For Bakhal Awal, an amount of Rs. 15,000/- per biswa was assessed; for Bakhal Doyam, Rs.12,321.43 per biswa was assessed; for Banjar Har Kism, a sum of Rs.2,142.86 per biswa was assessed; and for Ghasni, a sum of Rs.1,071.43 per biswa was determined by the Land Acquisition Collector.

15. The appellant was not satisfied with the award passed by the Collector and approached the learned Reference Court by instituting the reference petition on 15.12.2011, as a result of which the learned Reference Court assessed the market value of the land at the rate of Rs.15,000/- per biswa irrespective of the classification of the land.

16. It is contended by the learned Senior Counsel appearing for the appellant that the factual matrix of the case demonstrates that the possession of the land owned and possessed by the appellant was taken over by the State of Himachal Pradesh way back in the year 1990, whereas the notification was issued on 17.05.2007 after elapse of more than 17 years. Therefore, his client is entitled to the grant of damages/use and occupation charges in view of the dictum of law as laid down by the Hon'ble Apex Court. He submitted that the learned

Reference Court has failed to award damages despite a case having been made out in the pleadings and the evidence.

17. The record shows that despite the utilisation of the land owned by the appellant, no steps were taken by the State for acquiring the land or for the payment of compensation. Consequently, the appellant was constrained to approach this Court by filing CWP No.13 of 2006. A copy of the order passed by the Hon'ble Division Bench of this Court is Ext. PW-5/B.

18. On 04.12.2006, the writ petition was disposed of with direction to respondent No.1 to issue notification under Section 4 of the Land Acquisition Act, 1894 within two months from said date and shall complete the entire acquisition proceedings within 2 years.

19. The appellant has placed on record a copy of the writ petition, Ext. PW-5/C, wherein in paragraph 3 of the petition, the following relevant facts were pleaded.

> "*3. That the petitioner is the owner in possession of the land bearing Khata No. 54, and Khatoni no. 104, Khasra nos. 589, 591, 593, 595, 604 and 605 total measuring 00-52-93 hect., kita 6, situated at Mauja Kargoli, Pargana Stoat, Tehsil Theog, Distt. Shimla (HP). Jamabandi for the year 2003-2004 is enclosed herewith as* ***Annexure P-1*** *to the writ petition. The construction work of link road namely Kargoli Nala to Chambel Palehel and Bagri was started on or about in the year 1990. Some part of the land as mentioned above belonging to the petitioner was utilized by the respondents 1 and 2 for the construction of the aforesaid link road."*

20. The respondent-State, while responding to paragraph 3 of the petition, admitted in the preliminary submissions that up till 1988, the road was constructed from km 0/0 to 2/0, which includes the suit land. In paragraph 1 of the reply, it was stated by the State that the petitioner, at the relevant time during the years 1986 to 1988, allowed the construction of the road through his land so that he might get the benefit of connectivity for transportation of his agricultural produce. In paragraph 2 of the reply, it was stated that the road, namely Kargoli Nallah to Palehal, was constructed upon the administrative approval of the respondent-State between the period from 1986 to 1988 on the persistent demand of the people of the area who were living without any means of communication and transportation, so as to enable them to take their agricultural and horticultural produce directly to the market. The averment as made by the appellant in the writ petition was thus admitted by the State to the effect that the construction of the road, namely Kargoli Nallah to Cambel-Palehal, commenced between the period from 1986 to 1988.

21. The learned Senior Counsel has taken the Court to the statement made by the witnesses of the claimant, namely PW-3 Shri Sahi Ram. In his deposition, he stated that the road was constructed in the year 1990 and that after 1990, the claimant/appellant could not cultivate the suit land on account of the construction of the road. He stated that after 1990, vehicles started plying over the same.

22. The present appellant, Shri Mangat Ram, appeared in the witness box as PW-5 and in his deposition, he stated that the construction of the road commenced in the year 1988 and was completed in the year 1990. He stated that in the year 1990, the possession of the land was taken over by the State.

23. In cross-examination, he denied the suggestion that after 1990, he continued to cultivate the suit land by raising crops.

24. In order to rebut the case of the claimant/appellant, the respondent-State examined RW-1 Shri Dalbir Singh, who stated in his deposition that the work of the Kargoli-Mundu road commenced in the year 1988. He admitted that when the road was constructed, possession of the land was taken over by the H.P. Public Works Department.

25. The learned Senior Counsel has drawn the attention of this Court to the reference petition filed by the appellant under Section 18 of the Land Acquisition Act, 1894. In paragraph 2 of the petition, it was categorically stated that the construction work of the link road commenced in the year 1990. The land of the petitioner was utilised by the State in the year 1990 for the construction of the aforesaid link road and that he has been deprived of utilising his land since 1990, when possession of the same was taken over by the State of Himachal Pradesh. In paragraph 6 of the petition, the appellant specifically stated that possession of the land of the claimant/appellant for the

construction of the link road was taken over in the year 1990 and since then he has been deprived of his land as well as the usufruct thereof. As per the appellant, he has not been able to utilise the land and orchard since 1990, when possession was taken by the State and is, therefore, entitled to claim damages amounting to Rs.1,00,000/- per annum from 1990 to May 2007, when the notification under Section 4 of the Act was issued. The appellant claimed Rs.16,00,000/- as damages for being deprived of the use of the land since 1990, when possession was taken over for the construction of the link road.

26. While responding to the reference petition, the respondent State did not categorically deny the averments made in the petition, wherein it has been stated that possession of the land was taken over by the State in the year 1990. In the absence of any specific denial, the averments made in paragraphs 2 and 6 of the reference petition are deemed to be admitted.

27. The entire material placed on record by the appellant, read in conjunction with the reply to the writ petition, the reference petition and the statement of RW-1, the official witness of the respondent, clearly demonstrates that the appellant has established that the construction of the road commenced during 1986–1988 and was completed in the year 1990. The appellant in his deposition established that possession of the land was taken over by the Public

Works Department in the year 1990, whereafter vehicles started plying over the said road.

28. The appellant has approached this Court on various grounds. However, the learned Senior Counsel confined his submissions only to two points and this Court shall accordingly render findings solely on those points, as the learned Senior Counsel having fairly conceded that he does not press the other grounds raised in the appeal.

29. It is contended by the learned Senior Counsel that since the appellant has established that possession of the land was taken over in the year 1990 whereas the notification under Section 4 of the Act was issued on 17.05.2007, the appellant is entitled to the grant of damages/use and occupation charges for the said period. It is further contended that the appellant is entitled to the grant of interest at the rate of 9% per annum from the date of the issuance of the notification under Section 4 of the Act for the first year and thereafter at the rate of 15% per annum till payment/deposit of the compensation amount.

30. The issue regarding the payment of damages and use and occupation charges has been settled by the dictum of law laid down by the Hon'ble Apex Court in various decisions. The Hon'ble Supreme Court in ***Madishetti Bala Ramul (D) By Lrs. vs. The Land Acquisition Officer, (2007) 9 SCC 650***, has held that the appellants would be entitled to compensation for remaining out of possession

since 1979. The appeal was disposed of with a direction that additional interest at the rate of 15% per annum on the amount awarded in terms of the award be granted in favour of the claimant. The Hon'ble Apex Court held as under:

> *"15. The Land Acquisition Officer took possession of the land on the basis of a notification which did not survive. Respondent could not have continued to hold possession of land despite abatement of the proceeding under the 1984 Act. It was directed to be decided by the High Court upon a reference made by the Collector in terms of Section 30 of the Act. The State, therefore, itself realized that its stand in regard to the ownership of 3 acres and 5 guntas of land was not correct. It, therefore, had to issue another notification having regard to the provisions contained in the Land Acquisition (Amendment) Act, 1984. Whereas the High Court may be correct in interpreting the question of law in view of the decision of this Court, but the same would not mean that Appellants would not get anything for being remaining out of possession from 1979 to 1991.*
>
> *16 to 19 xx xx xx*
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> *20. In the peculiar facts and circumstances of the case, although the proper course for us would have to remand the matter back to the Collector to determine the amount of compensation to which the Appellants would be entitled for being remained out of possession since 1979, we are of the opinion that the interest of justice would be met if this appeal is disposed of with a direction that additional interest @ 15% per annum on the amount awarded in terms of award dated 02.01.1999 for the period 16.03.1979 till 22.12.1991, should be granted, which, in our opinion, would meet the ends of justice."*

31 Similarly, the Hon'ble Supreme Court in ***Tahera Khotoon and others vs. Revenue Divisional Officer/Land Acquisition Officer and others***, ***(2014) 13 SCC 613***, directed the State Government to pay rent/damages at the rate of 15% per annum on the compensation awarded from the date the landowners were dispossessed till the date of issuance of the notification. The Hon'ble Apex Court held as under:

> *"12. In the latter decision, this Court instead of remanding the matter to the LAO, thought it fit to award 15% interest to the landloser(s) from the date they were dispossessed till the date of preliminary notification.*
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> *13. xx xx xx*
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> *14. In the instant case, it is not in dispute nor can it be disputed by either side that the property in dispute was in possession of the Warangal Municipal Committee. In fact the said Municipal Committee had developed the aforesaid land into a park. Since there was a dispute among the owners of the land with the Municipal Committee, the Municipal Committee had sought the assistance of the State Government to acquire the property and to hand over the same to the Municipal Committee for its use and development.*
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> *15. It is also not in dispute that the Municipal Committee was in possession of the aforesaid property right from 1-1-1938 till the Notification was issued by the State Government on 10-1-1996. Keeping in view the observations made by this Court in Madishetti Bala Ramul[3], we direct the State Government to pay rents/damages at the rate of 15% on the compensation awarded from the date the landowners were dispossessed, namely, from 1-1-1938 till the date of issuance of the preliminary Notification i.e. 10-1-1996. The calculations shall be made by the State*

> *Government as expeditiously as possible and disburse the aforesaid amount to the appellants as early as possible, at any rate, within three months from the date of receipt of copy of this order."*

32. To the same effect, the Hon'ble Supreme Court in ***Balwan Singh and others vs. Land Acquisition Collector and others (2016) 13 SCC 412***, directed the payment of additional interest at the rate of 15% per annum on the amount awarded by the Land Acquisition Collector for the period between the date of dispossession and the date of notification under Section 4(1) of the Act. The Hon'ble Apex Court held as under:

> *"2. Noticing the above position, this Court in the case of Madishetti Bala Ramul (dead) by Lrs. Vs. Land Acquisition Officer reported in (2007) 9 SCC 650, took the view that it may not be proper to remand the matter to the Collector to determine the amount of compensation to which the appellants therein would be entitled for the period during which they remained out of possession and hence, in the interest of justice, this Court directed that additional interest at the rate of 15% per annum on the amount awarded by the Land Acquisition Collector, shall be paid for the period between the date of dis-possession and the date of Notification under Section 4(1) of the Act.*
>
> *3. xxx xxx xxx*
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> *4. Following the above view taken by this Court, these appeals are disposed of directing the respondents to award additional interest by way of damages, at the rate of 15% per annum for the period between 1.7.1984, the date when the appellants were dis-possessed till 2.9.1993, the date of Notification under Section 4(1) of the Act. Needless to say*

> *that this compensation will be on the basis of land value fixed by the Reference Court. The amount C.A. Nos. 1867-1872/2009 as above, shall be calculated and deposited before the Reference Court within a period of three months from today."*

33. A Coordinate Bench of this Court, after relying upon the aforesaid judgment of the Hon'ble Apex Court in ***State of Himachal Pradesh vs. Lekh Ram (died) through LRs and others, 2018 (1) Shim. LC 304***, has also awarded additional interest by way of damages at the rate of 15% per annum from the date of taking actual possession till the date of the notification under Section 4 of the Act. This court held as under:

> *"25. Plea of the respondents/cross-objectors regarding taking possession of their land for construction of road in the year 1988 categorically averred in reference petition, has neither been specifically denied nor replied in response to the reference petition. Respondents/cross-objectors have also substantiated their plea by leading oral evidence with respect to the said fact, whereas appellants/State has chosen not to lead any oral or documentary evidence in this regard. It is contended on behalf of respondents/cross-objectors that the acquisition of land was initiated in pursuance to the directions of this Court in CWP No. 735 of 2004 wherein stand of State, as per their reply, was specific and categorical that the land in question was utilized for construction of road in the year 1988 on public demand. To prove this fact though respondents/cross-objectors have also placed on record reply filed by the State as Mark 'X' during the pendency of present appeal/cross objections to substantiate their plea by referring admission/stand of*

appellant-State in the said reply, but, for not proving the said document/reply on record in accordance with law, the same cannot be considered for want of admissibility thereof in evidence. However, specific plea of land owners, taken in reference petition supported by their oral evidence has not been rebutted by appellant-State either in reply or by leading oral or documentary evidence. It is settled law that denial simplicitor of a fact is not sufficient to rebut the plea of either party. Denial must be specific and supported by evidence. In present case, as discussed above, neither averment made in reference petition has been rebutted in reply thereto nor oral evidence of respondents/cross-objectors has been repelled by leading any cogent evidence on behalf of the State. Therefore, plea of respondents/cross-objectors taking of possession of land in question for construction of Namhol-Bahadurpur road in the year 1988 is duly proved.

26. Admittedly, notification under Section 4 of the Act was published in official gazette on 8.4.2006 and Land Acquisition Collector or learned District Judge has not awarded any rent or damages for utilization of land of respondents/crossobjectors since 1988 till 8.4.2006. The said rent/damage was required to be determined by the Land Acquisition Collector at the time of annoucing award for compensation.

27. Learned counsel for respondents/cross-objectors have also placed reliance upon the pronoucement of the Apex Court in case Balwan Singh and others vs. Land Acquisition Collector and another reported in (2016)13 SCC 412 wherein after considering and relying upon judgment passed in cases R.L.Jain(D) by LRs vs. DDA reported in (2004)4 SCC 79, Madishetti Bala Ramul vs. Land Acquisition Officer reported in (2007)9 SCC 650 and Tahera Khotoon vs. Land Acquisition Officer (2014) 13 SCC 613, land owners in the similar circumstances were awarded an additional interest by way of damages at the rate of 15% per

> *annum from taking the actual possession till the date of notification under Section 4 of the Act.*
> *28. In present case, there is no specific date on record with respect to taking of possession by the State in the year 1988. Therefore, respondents/cross-objectors are awarded additional interest @ 15% per annum on the market value of land fixed by reference Court, since 1.1.1989 till the date of notification under Section 4 of the Act i.e. 8.4.2006 as damages for utilization of land for road."*

34. A Coordinate Bench of this Court in ***Principal Secretary (PWD) and others vs. Jai Gopal and others, RFA No. 307 of 2012***, after relying upon the aforesaid judgment passed by the Hon'ble Apex Court, came to the conclusion that the claimants are entitled to 15% additional interest from the date of dispossession till the date of issuance of the notification under Section 4 of the Act:

> *"18. In view of the law expounded in the aforesaid judgment, the claimants are also held entitled to additional interest by way of damages @ 15% per annum on the amount of Rs.20,000/ per biswa from 01.01.1963 till 10.02.1996 the date of section 4 notification. The amount, as above, shall be calculated and deposited before the Reference Court within a period of three months from today."*

35. Lastly, a Coordinate Bench of this Court in ***Tribhuwan & Others vs. State of Himachal Pradesh & others, RFA No. 283 of 2013, decided on 06.01.2026***, granted additional interest by way of damages at the rate of 15% per annum for the period between the

date when the claimant was dispossessed till the issuance of the notification under Section 4 of the Act. It was held as under:

> *"15. In the case on hand, as observed earlier, the possession of the land in question was taken way-back in the year 1983, whereas the notification qua the acquisition under Section 4 of the Act was issued on 03.11.2003. Hence, in view of the aforesaid authoritative pronouncements of the law laid down by the Hon'ble Supreme Court on the subject, this Court is of the view that since the possession of the land in question was taken way-back in the year 1983, whereas the notification qua the acquisition under Section 4 of the Act was issued on 03.11.2003, therefore, the appellants (claimants) are entitled to additional interest, as damages, @ 15% per annum for the period between the year 1983 (the date when the claimants were actually dispossessed from the land in question) till 03.11.2003 (the date of issuance of notification of acquisition of the land in question, under Section 4 of the Act)."*

36. In view of the exposition of law laid down by the Hon'ble Apex Court, as followed by this Court in various decisions, the appellant has made out a case for the acceptance of his appeal. Consequently, the impugned award stands modified. The appellant is held entitled to additional interest by way of damages at the rate of 15% per annum for the period from 1990, when the appellant was actually dispossessed from the land in question, till 17.05.2007, that is, the date of issuance of the notification under Section 4 of the Act.

37. It is further contended by the learned Senior Counsel for the appellant that the learned Reference Court erred in granting interest at the rate of 9% per annum from the date of the award, that is 27.08.2009, for one year, and thereafter at the rate of 15% per annum till the date of payment/deposit of the compensation amount, whereas interest ought to have been granted from the date of issuance of the notification.

38. In view of the settled principles of law and the judgment passed by this Court in *RFA No. 283 of 2013 (supra)*, wherein it was held as under:

> *"17. In view of the settled position of law, this contention of the learned Senior Counsel for the appellants is not devoid of any force. The perusal of the impugned award reveals that the learned Reference Court had awarded interest @ 9% per annum from the date of award (23.02.2005) for one year, i.e., 22.02.2006 and thereafter at the rate of 15% per annum till payment/deposit of the compensation amount. However, as per the settled law, the interest should have been granted from the date of issuance of notification and not from the date of the award. Hence, the findings of the learned Reference Court to this extent are modified and the appellants (claimants) shall be entitled to interest @ 9% per annum from the date of issuance of notification for one year and thereafter @ 15% per annum till the actual payment or deposit of the amount in question."*

the appellant is held entitled to interest at the rate of 9% per annum from the date of issuance of the notification under Section 4 of the Act,

that is 17.05.2007, for one year, and thereafter at the rate of 15% per annum till the actual payment or deposit of the amount in question.

39. The appeal is accordingly accepted and the award under challenge is modified to the extent that the appellant is held entitled to additional interest by way of damages at the rate of 15% per annum for the period from 1990, the date when the claimant was actually dispossessed from the land in question, till 17.05.2007, the date of issuance of the notification under Section 4 of the Act. Further, the appellant is also held entitled to interest at the rate of 9% per annum from the date of issuance of the notification, i.e., 17.05.2007, for one year, and thereafter at the rate of 15% per annum till the actual payment or deposit of the compensation amount. The remaining part of the award shall remain intact.

40. In view of the observations made hereinabove, the present appeal is allowed. The compensation awarded shall be calculated and deposited before the learned Reference Court by the respondents within a period of three months from today.

41. The appeal stands disposed of in the aforesaid terms, leaving the parties to bear their own costs. Pending application(s), if any, also stand disposed of.

(Romesh Verma)
Judge

17th September, 2026
(vt)