

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

RFA No. 158 of 2014

Reserved on: 18.09.2026

Date of decision: 23.09.2026

**Date of uploading on website:
23.09.2026**

Uday Singh	Versus	Appellant.
Land Acquisition Collector & others		Respondents.

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellant:	Mr. Parmod Thakur, Advocate.
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For respondents No. 1 & 2:	Ms. Archana Negi, Deputy Advocate General.
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For respondents No. 3 & 4:	Mr. Shashi Shirshoo, Advocate.
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Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellant, who was petitioner/claimant before the learned Reference Court (hereinafter referred to as “the petitioner/claimant”) under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against impugned award dated 31.10.2013, passed by learned District Judge (Forests), Shimla (hereinafter referred to as “the learned Reference Court”), in Reference Petition No. 33-S/4 of 2013/05,

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

whereby the claim petition preferred by the petitioner/claimant under Section 18 of the Act was partly allowed, with a prayer to set-aside the impugned award to the extent it disallowed the relief claimed by the petitioner/claimant.

2. The facts giving rise to the instant appeal are that the petitioner/claimant was owner-in-possession of land and property comprised in khewat/khatauni No. 1/1, min khasra No. 1800/4 (Old) and khewat/khatauni No. 2/6, min khasra No. 1809 (Old) and new khasra No. 323/1, measuring 0-02-81 hectares and 322/1, measuring 0-02-40 hectares kita 2 and total land measuring 0-05-21 hectares, situated at mauza Nerwa, Sub Tehsil Nerwa, District Shimla, H.P.. The aforesaid land was acquired by the respondents for construction of Nerwa-Kiri-Ruslah-Sampark-Marg and notification under Section 4 of the Act was issued on 24.10.1997. Subsequently, notification under Sections 6, 7 and 9 was issued and ultimately the Land Acquisition Collector passed Award No. 14/91, dated 03.04.2001.

2(a). The petitioner/claimant, being dissatisfied preferred a petition under Section 18 of the Act, against the award passed by the Land Acquisition Collector.

3. The Reference Court, after hearing the learned counsel for the parties and after examining the entire record, allowed the reference petition, and the petitioner/claimant was entitled to enhanced compensation of the acquired land @ Rs.13,200/- per biswa alongwith all the statutory benefits.

4. Feeling still aggrieved, the petitioner/claimant preferred the instant appeal against the impugned award with a prayer to enhance the award amount to Rs.7,60,000/- alongwith solatium interest and other charges, which were payable under the law from the date of taking of the possession of the land in the year 1995 till the actual realization of the said amount.

5. Learned counsel for the appellant-petitioner/claimant contended that the learned Reference Court had committed an error of law and facts while deciding the reference petition preferred by the petitioner and the award is based on surmises and conjectures, as the learned Reference court did not appreciate the law properly. He further contended that no amount for the damage caused to other adjoining land of the petitioner had been awarded by the learned Reference Court, therefore, submitted that the impugned award be set-aside and the petitioner be granted

enhanced compensation @ Rs.7,60,000/- alongwith statutory benefits.

6. Conversely, the learned Deputy Advocate General for respondents No. 1 and 2/State supported the impugned award and contended that the impugned award is the result of proper appreciation of both law and facts, thus the same does not need any interference. The appeal, being devoid of merits, be dismissed.

7. I have heard the learned counsel for the appellant, learned Deputy Advocate General for respondents No. 1 and 2/State and learned counsel for proforma respondents No. 3 and 4 and carefully examined the entire records.

8. As per the settled principle of law, compensation for the land acquired has to be determined at market value. Market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. The determination of market value is the prediction of an

economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality.

9. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs & LRs & others v. State of Gujarat (1989) 4 SCC 250***, the Hon'ble Supreme Court held that the market value of a property for the purpose of Section 23 of the Act is the price at which the property changes hands from a willing seller to a willing purchaser, but not too anxious a buyer, dealing at arms length. The relevant portion of the aforesaid judgment reads as under:

“4. The market value of a piece of property for purpose of Section 23 of the Land Acquisition Act is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value.”

10. In ***Atma Singh (Dead) through LRs & others vs. State of Haryana & another, (2008) 2 Supreme Court Cases 568***, the Hon'ble Supreme Court held that the market value is the price that a willing purchaser would pay to a

willing seller for the property having due regard to its existing conditions with all its existing advantages and its potential possibilities when led out in most advantages manner, excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value, disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The question whether a land has potential value or not, is primarily one of the facts depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like, water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration. The relevant portion of the aforesaid judgment reads as under:

“4. The expression “market value” has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his

land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm's length nor façade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value.....

5. *For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration.....”*

11. For ascertaining market value of the acquired land, the Court can no doubt rely upon such sale transactions, which would offer a reasonable basis to fix the price, for which purpose, a sale transaction relating to a smaller parcel of land can be considered for the purpose of assessing the market value in respect of a large tract of land, after making appropriate deductions such as for development of land, for providing space for roads, sewers, drains, expenses involved in formation of a layout, lump- sum

payments, as well as for the waiting period required for selling the sites that would be formed and other expenses involved therein, but before doing so, the evidentiary value of such a sale deed is required to be carefully scrutinized. As held in the case of ***Land Acquisition Officer vs. Nookala Rajamallu reported as (2003) 12 SCC 334***, in order to adopt the price reflected in the sale deed, the following conditions are required to be met:

"9. It can be broadly stated that the element of speculation is reduced to a minimum if the underlying principles of fixation of market value with reference to comparable sales are made:

- (i) when sale is within a reasonable time of the date of notification under Section 4(1);**
- (ii) it should be a bona fide transaction;**
- (iii) it should be of the land acquired or of the land adjacent to the land acquired; and**
- (iv) it should possess similar advantages**

10. It is only when these factors are present, it can merit a consideration as a comparable case (see *Special Land Acquisition Officer v. T. Adinarayan Setty AIR 1959 SC 429*)."

12. In ***Union of India vs. Pramod Gupta (dead) by LRs & others, 2005 (12) SCC 1***, the Hon'ble Supreme Court held that the best method, as is well-known, would be the amount which a willing purchaser would pay to the owner of the land. In the absence of any direct evidence, the Court, however, may take recourse to various other known methods. Evidence admissible therefor inter alia would be

the sale deeds, judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment/award in the absence of any other evidence like deed of sale, report of the expert and other relevant evidence would have only evidentiary value. The relevant portion of the aforesaid judgment reads as under:

“24. While determining the amount of compensation payable in respect of the lands acquired by the State, the market value therefor indisputably has to be ascertained. There exist different modes therefor.

25. The best method, as is well known, would be the amount which a willing purchaser would pay to the owner of the land. In absence of any direct evidence, the court, however, may take recourse to various other known methods. Evidences admissible therefor inter alia would be judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment and award, in the absence of any other evidence like the deed of sale, report of the expert and other relevant evidence would have only evidentiary value.”

13. In the instant case, the petitioners/claimants as well as the respondents have produced on record various sale deeds, details whereof are as under:

Sr. No.	Sale deed	Dated	Khewat/Khasra No.	Area in bigha	Price	Price per biswa
1.	Ex.PB	28/09/1994	Khasra No.1978/1	04 biswas	Rs.50,000/-	Rs.12,500/-
2.	Ex.PC	20/10/1995	Khewat No. 32, 3/70 share	0-03 biswas	Rs.35,500/-	Rs11,833.33
3.	Ex.PD	10.04.1996	Khasra No. 1983/1849	0-1 bigha	Rs.817,500/-	Rs.17,500/-
4.	Ex.RW-2/A	19.03.1997	Khasra No. 1810/2	0-04 biswas	Rs.22,500/-	Rs.5,625/-

5.	Ex.RW-2/B	27.05.1997	Khewat khatauni 2/6	No.	0-04 biswas	Rs.22,500/-	Rs.5,625/-
6.	Ex.RW-2/C	22.10.1997	Khasra 1810/2	No.	0-03 biswas	Rs.3000/-	Rs.1000/-

14. It was contended by the learned Counsel for the appellant that the learned Reference court had committed an error in taking into consideration sale deed, Ex.PC, as sale deed, Ex.PD is the highest of the exemplars and for determining the market value, it should have been taken into consideration by the learned Reference Court.

15. It is a settled law that where there are various sale deeds, then highest of the sale exemplars has to be taken into consideration. In **Anjani Molu Dessai vs. State of Goa & another, (2010) 13 SCC 710**, the Hon'ble Supreme Court has held as under:

"20. The legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a bona fide transaction, will be considered. Where however there are several sales of similar lands whose prices range in a narrow bandwidth, the average thereof can be taken, as representing the market price. But where the values disclosed in respect of two sales are markedly different, it can only lead to an inference that they are with reference to dissimilar lands or that the lower value sale is on account of under-valuation or other price depressing reasons. Consequently averaging cannot be resorted to. We may refer to two decisions of this Court in this behalf.

21. *In M. Vijayalakshamma Rao Bahadur v. Collector, (1969) 1 MLJ 45 (SC), a three-Judge Bench of this Court observed that the proper method for evaluation of market value is by taking the highest of the exemplars and not by averaging of different types of sale transactions. This Court held:*

“It seems to us that there is substance in the first contention of Mr. Ram Reddy. After all, when the land is being compulsorily taken away from a person, he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. It is not disputed that the transaction represented by Exhibit R-19 was a few months prior to the notification under section 4, that it was a bona fide transaction and that it was entered into between a willing purchaser and a willing seller. The land comprised in the sale deed is 11 grounds and was sold at Rs.1,961 per ground. The land covered by Exhibit-27 was also sold before the notification, but after the land comprised in Exhibit R-19 was sold. It is true that this land was sold at Rs.1,096/- per ground. This, however, is apparently because of two circumstances. One is that betterment levy at Rs.500 per ground had to be paid by the vendee and the other that the land comprised in it is very much more extensive, that is about 93 grounds or so. Whatever that may be, it seems to us to be only fair that where sale deed, pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. In any case we see no reason why an average of two sale deeds should have been taken in this case.”

22. *In State of Punjab v. Hans Raj, (1994) 5 SCC 734, this Court held:*

“4. Having given our anxious consideration to the respective contentions, we are of the considered view that the learned single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method. It is well settled that genuine and bonafide sale transactions in respect of the land under acquisition or in its

absence the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighborhood of the acquired lands possessing similar value or utility taken place between a willing vendee and the willing vendor which could be expected to reflect the true value, as agreed between reasonable prudent persons acting in the normal market conditions are the real basis to determine the market value."

23. *Therefore, we are of the view that the averaging of the prices under the two Sale Deeds was not justified. The Sale Deed dated 31.1.1990 ought to have been excluded for the reasons stated above. That means compensation for the acquired lands had to be fixed only with reference to the Sale Deed dated 30.8.1989 relied upon by the Land Acquisition Collector which will be Rs.57.50 per sq.m. As the said market value has been fixed with reference to comparable bharad land with fruit trees, the question of again separately awarding any compensation for the trees situated in the acquired land does not arise."*

16. In the case on hand, the perusal of the record reveals that both the sale deeds, Ex. PC, as well as Ex. PD, are in Pargna Chandlog, Sub-Tehsil Nerwa, Tehsil Chopal, District Shimla, H.P.. As observed earlier, sale deed, Ex. PD, was executed on 10.04.1996 for Rs.17,500/- per biswa and the land situated therein is comprised in Khasra No. 1983/1849, measuring 0-01 bigha. Since sale deed, Ex. PD, is the highest of the exemplars, therefore, in view of the aforesaid judgment, sale deed, Ex. PD, has to be taken into consideration for determining the market value of the land under acquisition, situated in Nerwa Pargna Chandlog, Sub-Tehsil Nerwa, Tehsil Chopal, District Shimla, H.P..

17. Admittedly, the land has been acquired for the

purpose of construction of Nerwa-Kiri-Ruslah-Sampark-Marg, therefore, classification loses its significance. Hence the appellant is entitled for enhanced compensation at the market value of the acquired land @ Rs.17,500/- per biswa irrespective of its classification.

18. The learned Deputy Advocate General for respondents No. 1 & 2/State contended that the learned Reference Court had erred in not deducting any amount while assessing the market value of the land in question. However, this contention is devoid of any force as it is a settled law that no deduction will be permissible where the land is acquired for the purpose of construction of the road and for laying railway line etc.. In a case titled as ***Land Acquisition Collector vs. Bangalu @ Daulat Ram, 2025 (1) Shimla Law Cases 146***, this Court has held as under:

“11. The contention of the learned Deputy Advocate General that standard deduction was required to be made from the flat rate of Rs.8,50,000/- per bigha, is devoid of any merits. This Court in number of judgments has consistently taken a view that the deduction will not be permissible where the purpose of acquisition of land is for the construction of road, rail track or any other purpose relatable to the public at large, without any component of profit or loss.

12. Reference can be made to 2014 (3) SLC 1356 titled as ***G.M. Northern Railway vs. Gulzar Singh & others*** as under:

“10. Even previously in judgments reported, in 1997 (2) SLC 229 and 1998(2) All India Land Acquisition Act LACC (1) SC, it has been mandated that when the purpose of acquisition is common, the award of compensation at a uniform rate for different classification/categories of land, is, tenable. Hence, it can be forthrightly concluded, that, the award of a

uniform rate of compensation by the learned Additional District Judge Una for different lands bearing different classifications/categories, is, not legally infirm, especially when on acquisition they acquire a uniform potentiality.

11. *The learned counsel appearing for the appellant has concerted, to also espouse before this Court, that even though, reliance upon Ex. PW1/C by the learned Court below, is not misplaced, in as much, as it fulfilled the relevant enshrined legal parameter for its invocation/applicability, in as much, as (i) it being proximate to the land subjected to acquisition, as also (ii) its execution being contemporaneous to the issuance of the notification under Section 4 of the Land Acquisition Act. Nonetheless, he has canvassed that (i) given the largeness or expanse and immensity/immenseness of size of the land subjected to acquisition vis-à-vis the area of the land sold/ comprised in Ex.PW 1/C, the market value of the land comprised in Ex.PW1/C could not have been, as a whole applied to the entire land subjected to the acquisition, unless, deductions for developmental costs as warranted and mandated by the decisions relied upon by him had been made/accorded. Since, the learned Additional District Judge, Una omitted to give/make deductions from the total compensation arrived at/worked out on the basis of the value of the land sold/comprised in Ex.PW1/C, whereas, he was enjoined to do so, he has committed a grave legal error necessitating interference by this Court.*
12. *While proceeding to gauge the sinew of the above contention canvassed before this Court, it is necessary to bear in mind that the judgments cited in support of the above view espoused by the learned counsel for the appellant, are distinguishable, vis-à-vis, the facts at hand, hence, in the humble view of this Court, not reliable as (a) all the judgments relied upon by the learned counsel for the appellant, concert to marshal the view, of, deductions from the lump sum compensation assessed qua a large tract of land on the score of market value of a small/minimal piece of land being made. In other words, the emphasis in the aforesaid citations, is that, for the market value of small a tract of land to be comprising an admissible parameter, for, on its strength working out the compensation for a large tract of land, it is, imperative that deductions towards development costs is made. However, distinguishably in the citations aforesaid, the acquisition was made for the development of sites for allotment for housing purpose or for construction of a housing colony or the purpose of acquisition had an inherent profiteering motive. Therefore, given the purpose for which the land was acquired, in, the cases relied upon by the learned counsel for the appellant, deductions were enjoined to be imperative or necessary, as, the entity for whom the land was brought under acquisition,*

would be entailed/obliged, to, make the land fit for the purpose for which it was acquired, in as much, as, such an entity concomitantly being driven to incur exorbitant expenses, towards its development for rendering it fit for use. As such, given the magnified increase in the scale of economies or given the ultimate manifold increase, in, the scale of economies or such incurring of exorbitant expenses on development, hence, acquiring the capacity to proportionately reduce their profit, as such, rendering the project for which the land was acquired financially viable, or, to obviate the losses accruing from the steep rates of compensation as may be awarded that deductions were permitted. In other words, deduction from compensation mandated to not render the venture and the purpose for which the land was acquired, in the aforesaid citations relied upon by the learned counsel for the appellant, to be financially un-whole some, as well as, unviable. More so, when the land is acquired for State holdings, building/housing agency(ies) or the agencies carrying out and engaged in profiteering work. However, in contra distinction, to the facts of the judgments, as relied upon by the learned counsel for the appellant, in the instant case, the land has been subjected to acquisition, for the purpose of construction of a railway track. In the appellant engaging itself in the construction of a railway track, it has assumed the role of doing so, as, a welfare measure and not as a profiteering measure. The railway track would continue to be owned by the appellant, in distinction to the facts of the judgments relied upon by the learned counsel for the appellant, where the agency for whom the land was subjected to acquisition, would on developing the land, sell it further or gain profit. (b) The appellant has omitted to adduce cogent evidence on record displaying the fact that each of the land holder, whose land was subjected to acquisition was holding a vast expanse of land. Omission to adduce into evidence such proof demonstrative of each of the land holders, whose land was subjected to acquisition, owing a wide expanse or a large sized holding, vis-à-vis, the sale transaction comprised in Ex. PW1/C, a firm conclusion can be formed, that, the size of the holding or the size of the land of the each of the land holders, whose land was subjected to acquisition was more or less equal to or not disproportionately larger in size to the area of the land comprised in Ex.PW1/C. Hence, there was no jurisdictional error, on the part of the learned Additional District Judge, Una, in not affording deduction, given the smallness in size of the land comprised, in, Ex.PW1/C, vis-à-vis, the lands of each of the individual land owners, whose land was subjected to acquisition. Besides, it has also not been cogently proved by the appellant that any part of the land owned by each of the land owners and subjected to acquisition did not bear potentiality nor would have commanded a market value, lesser than the value earned by the expanse of land comprised

in Ex.PW1/C. It appears, that, given the proximity of the acquired land, as deposed by PW-4 Gulzar Singh and PW3 Gurbachan Singh, to educational institution, temple and abadi of the villagers it enjoyed or commanded immense market value. Therefore, when each parcel of the land subjected to acquisition bore a market value, equivalent to the land subjected to acquisition, hence, there was, no, legal error committed by the learned Additional District Judge in relying upon for the market value depicted, in, Ex.PW1/C and applying it to the entire tracts of the land subjected to acquisition even, when it was smaller in size vis-à-vis the land subjected to the acquisition."

13. *Similar, reiteration can be found in Jaswant Singh & others vs. State of H.P.& others, 2018 (3) Shimla Law Cases 1493. The relevant para of the aforesaid judgment is as under:*

"4. Consequently, bearing in mind, the afore expostulation of law, occurring in paragraph No. 10 to 14 of the verdict of this Court, rendered in Gulzar Singh's case (supra), reiteratedly this Court further concludes (a) qua when the purpose, of, acquisition, is, for construction a road, and, when hence the meteing of deductions, vis-a-viz, compensation assessed by the learned Reference Court, on anvil, of, the apposite sale exemplar, is rather validly meteable, (b) only for covering the apt exorbitant costs, accruable for developing the acquired lands, for theirs ultimately rearing hence handsome profits, vis-à-vis, the authority, wherefrom whom, the acquisition is made, (c) thereupon the principle of meteing of deductions, when rather is squarely attracted and applicable, vis-à-vis, construction(s), of, road, (d) thereupon hence, the meteing of deduction by the learned reference court, vis-à-vis, compensation amount, as assessed in respect, of, the lands of the landowners/appellants herein, on anvil, of, the sale exemplar borne in Ex.PB, rather, is, rendered legally frail."

14. *In Nelson Fernandes & others vs. Special Land Acquisition Officer, South Goa & others, (2007) 9 Supreme Court Cases 447, while dealing with the case where the land was acquired for laying a railway line, the Hon'ble Apex Court held that no deduction by way of development charges was permissible, as there was no question of any development thereof. The relevant portion of the judgment (supra) is as under:*

"30. ... that where lands are acquired for specific purposes, deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise."

19. In the instant case, also the land was acquired for the purpose of construction of Nerwa-Kiri-Ruslah-Sampark-

Marg. Therefore, the contention of the learned Deputy Advocate General cannot be upheld for the reasons firstly, that no deduction will be permissible keeping in view the purpose of acquisition involved in the instant appeal, secondly, every inch of acquired land was put to the same use for which it was acquired.

20. The learned counsel for the petitioner (appellant) next contended that no amount for the damage caused to the other adjoining land of the petitioner had been awarded by the learned Reference Court. However, this contention of the learned counsel for the appellant is without any merits, as no evidence has been led by the appellant to prove that the adjoining land was damaged due to the construction of Nerwa-Kiri-Ruslah-Sampark-Marg.

21. Hence, the impugned award is modified and the petitioner is held entitled to compensation @ Rs.17,500/- per biswa for the acquired land. However, the rest of the terms of the impugned award, including the interest part, shall remain the same.

22. No other point was urged.

23. In view of what has been discussed hereinabove, the impugned award is accordingly modified and the instant

appeal is allowed.

Pending application(s), if any, shall also stand(s)
disposed of.

(Sushil Kukreja)
Judge

23rd September, 2026
(virender)