

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Appeal No.457 of 2026

Date of decision:09.09.2026

National Highway Authority of India ...Appellant.

Versus

Jai Dev & others ...Respondents.

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the appellant : Ms. Shreya Chauhan, Advocate.

For the respondents : Mr. Gaurav Chaudhary &
Mr. Ruchirangad Singh, Advocates, for
respondents No.1 and 3 to 6.

Mr. Manish Thakur, Deputy Advocate
General, for respondent No.7.

Romesh Verma, Judge (oral):

The instant appeal arises out of the impugned order as passed by the learned District Judge, Mandi, dated 02.12.2024, whereby the application filed by the NHAI under Section 34 of the Arbitration and Conciliation Act has been dismissed as having been abated.

2. The facts, as emerge in the present case, are that the land belonging to the present respondents was utilised by the National Highways Authority of India for the construction of the Bilaspur-

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

Nerchowk section of NH-21. Acquisition proceedings were initiated in respect of the land falling in the revenue estate Majhethal, Tehsil Sundernagar, District Mandi, from KM 126.500 to KM 188.917 of the Bilaspur-Nerchowk section. A gazette notification was issued by the Government of India in the Official Gazette and thereafter, interested persons filed their objections to the same. The competent authority passed the award bearing No.11/2013-2014, dated 06.07.2013, after taking into consideration all relevant factors.

3. Feeling dissatisfied, the claimants/respondents filed a claim under Section 3G(5) of the Act before the learned Divisional Commissioner, Mandi.

4. The learned Arbitrator, vide award No.74/2021 dated 07.08.2023, while considering the claim of the claimants, enhanced the compensation in respect of land of the respondents to the tune of Rs.27,55,000 per bigha.

5. Against the award passed by the learned Arbitrator, the present appellant preferred an application under Section 34 of the Arbitration and Conciliation Act in the court of the learned District Judge, Mandi, seeking setting aside of the award. During the proceedings, respondent No.2, Shri Krishan Chand, son of Shri Bhikham, resident of village Dhalot (Bhangrotu), Post Office Bhangrotu, Tehsil Balh, District Mandi, H.P., expired.

6. The impugned order reveals that the legal representatives of the deceased respondent were neither brought on record, nor any application was filed before the learned District Judge for bringing the legal representatives on record. The learned District Judge, vide impugned order dated 02.12.2024, dismissed the application as having been abated in its entirety.

7. Feeling aggrieved, the National Highways Authority of India has approached this Court by filing the instant appeal.

8. It is contended by Ms. Shreya Chauhan, learned counsel for the appellant, that the impugned order is not sustainable in the eyes of law and has been passed against the spirit of the law, especially the judgment rendered by the Hon'ble Apex Court in the case of ***Kishori Lal(D) through LRs & Ors. v. Gopal & others, Civil Appeal No. 172 of 2026 (SLP (C) No. 36787 of 2017)***, wherein the Hon'ble Apex Court has held as under:

“40. The decision in [Dwarka Prasad](#) (supra), relied by the learned counsel for respondents, in our view, is not of much help to the respondents because [in that case](#) the vendor's interest was not represented at all. Whereas in the present case, three out of four legal heirs of Kishorilal (i.e., the vendor) were already on record. In our view, there is a clear distinction between non-substitution of the legal representatives/ legal heirs of a deceased party and non-substitution of one of the heirs of a deceased party. In the latter, if the interest of the deceased party is sufficiently represented by other heirs/ legal representatives on record, there will be no abatement as was held in [Mahabir Prasad](#) (supra) and [Bhurey Khan](#) (supra). Therefore, in our

view, Dwarka Prasad's decision is distinguishable on facts. High Court's final decision is hit by principle of res judicata."

9. Learned counsel for the appellant further relied upon the judgment of Hon'ble Apex Court in ***Sardar Amarjit Singh Kalra (dead) by LRs and others vs. Pramod Gupta (Smt) (dead) by LRs and others, (2003)3 SCC 272***, wherein it has been held as under:

"34. In the light of the above discussion, we hold:-

(1) Wherever the plaintiffs or appellants or petitioners are found to have distinct, separate and independent rights of their own and for purpose of convenience or otherwise, joined together in a *S.Amarjit Singh Kalra (Dead) By ... vs Pramod Gupta (Dead) By L.Rs. & Ors* on 17 December, 2002 single litigation to vindicate their rights, the decree passed by the Court thereon is to be viewed in substance as the combination of several decrees in favour of one or the other parties and not as a joint and inseverable decree. The same would be the position in the case of defendants or respondents having similar rights contesting the claims against them. (2) Whenever different and distinct claims of more than one are sought to be vindicated in one single proceedings, as the one now before us, under the Land Acquisition Act or in similar nature of proceedings and/or claims in assertion of individual rights of parties are clubbed, consolidated and dealt with together by the Courts concerned and a single judgment or decree has been passed, it should be treated as a mere combination of several decrees in favour of or against one or more of the parties and not as joint and inseparable decrees. (3) The mere fact that the claims or rights asserted or sought to be vindicated by more than one are similar or identical in nature or by joining together of more than one of such claimants of a particular nature,

by itself would not be sufficient in law to treat them as joint claims, so as to render the judgment or decree passed thereon a joint and inseverable one. (4) The question as to whether in a given case the decree is joint and inseverable or joint and severable or separable has to be decided, for the purposes of abatement or dismissal of the entire appeal as not being properly and duly constituted or rendered incompetent for being further proceeded with, requires to be determined only with reference to the fact as to whether the judgment/decrees passed in the proceedings vis--vis the remaining parties would suffer the vice of contradictory or inconsistent decrees. For that reason, a decree can be said to be contradictory or inconsistent with another decree only when the two decrees are incapable of enforcement or would be mutually self-destructive and that the enforcement of one would negate or render impossible the enforcement of the other.”

10. She submitted that after accepting the present appeal, the matter ought to be relegated to the court of the learned District Judge to decide the application filed by the NHAI under Section 34 of the Arbitration and Conciliation Act.

11. On the other hand, Mr. Gaurav Chaudhary, learned counsel for private respondents, has defended the impugned order as passed by the learned District Judge and submitted the same does not suffer from any infirmity. Rather, the learned District Judge has rightly passed the impugned order in accordance with the legal principles of law.

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

13. Before touching the merits of the case, this Court is of the considered opinion that before approaching this Court against the impugned order, whereby the application under Section 34 of the Arbitration and Conciliation Act was ordered to be dismissed as having been abated, the appellant ought to have filed an appropriate application for bringing on record the legal representatives of the deceased respondent, along with an application for setting aside the abatement.

14. It is fairly conceded by the learned counsel for the appellant that the appellant may be permitted to approach the learned District Judge to file an appropriate application, including an application for setting aside the abatement, with liberty reserved to the National Highways Authority of India to approach this Court in case any adverse order is passed by the learned District Judge.

15. The submission made by Ms. Shreya Chauhan, learned counsel for the appellant, has not been opposed by the learned counsel for the respondents, who submitted that if the appellant is permitted to withdraw the instant appeal with liberty to avail the appropriate remedy, the respondents shall also be afforded an opportunity to contest those proceedings before the learned District Judge in accordance with law.

16. Consequently, the present appeal is disposed of by permitting the appellant to withdraw the instant appeal with liberty to file an appropriate application for bringing the legal representatives on record and for setting aside the abatement, if any. In case the said application is filed by the appellant before the learned District Judge, the same shall be considered and decided by taking into consideration the dictum as laid down by the Hon'ble Apex Court in aforesaid judgments.

17. Needless to say, the appellant shall be entitled to the benefit of Section 14 of the Limitation Act and the learned District Judge is directed to proceed with the matter strictly in accordance with the law.

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

(Romesh Verma)
Judge

9th September, 2026
(vt)