



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/269/2018</u> Nain Singh --Petitioner Versus Union of India Through Ministry of Road Transport And Highway --Respondent <u>Hon'ble Manoj Kumar Tiwari, J.</u> No representation for the petitioner. Mr. S.K. Nailwal, Standing Counsel for the State. Mr. Manoj Kumar, Standing Counsel for Union of India. 2. According to the petitioner, his land was acquired under the provisions of National Highways Act, 1956. By means of this writ petition, petitioner has sought the following reliefs: “I. issue a order or direction for setting aside the impugned order dated 21-08-2015 and notice dated 2/01/2016 so far as it relates to the land and buildings of the petitioner. II. issue a writ, order or direction in the nature of mandamus directing the respondents to follow the provisions of The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for acquisition of land for the purpose of National Highway no. 125, in district- U.S. Nagar. III. issue a writ, order or direction in the nature of mandamus directing the respondents to give the compensation along with interest as per the provisions of The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.” 3. Learned State Counsel has drawn attention of this Court to para 9 of the counter affidavit filed on behalf of respondent No. 2, by Mr. N.S. Nabiyal, Special Land Acquisition Officer/Competent Authority Land Acquisition, District Udham Singh



		Nagar, which is reproduced below: “9. That the contents of para 11 of the writ petition are wrong and denied. It is stated here that the notices under Section 3E and 3H of the N.H. Act, 1956 were issued to the petitioner. The land in dispute of the Khasra No. 1152 situated Village Pahetniya Tehsil Khatima was acquired and the land measuring 0.1580 hectare and 0.1154 hectare of the petitioner being a co-sharer in the said property was acquired. Petitioner has also applied for the compensation of the said land acquired the compensation of the land acquired has been granted to the petitioner transferring the compensation amount through RTGS on 06.04.2016 in the bank account no. 521002010054930 and on 20.03.2018 the account no. 6802122000755 of the petitioner. It is submitted here that the compensation has been awarded in accordance with the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The amount of the compensation awarded has already been transferred on 15.01.2018 and 04.04.2018 in the aforementioned bank accounts of the petitioner.” 4. Another counter affidavit filed on behalf of respondent No. 4 is filed by Col. Sandeep Karki, Project Director, National Highways Authority of India. Para 9, 10, 11, 12, 13, 14, 15 and 16 of the said counter affidavit are reproduced below: “9. That Section 24 of Provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (in short RFCTLARR Act 2013) is not applicable to the acquisition under the National Highway Act 1956. 10. That as per section 24 RFCTLARR Act 2013, makes it abundantly clear that the provisions is applicable only to the acquisitions that have been undertaken under the Land Acquisition Act 1894. 11. That Section 105(1) of the RFCTLARR Act specifically excludes the application of any section of Act 2013 to the act mentioned in the Forth Schedule. The only exception to the section 105(1) is section 105 (3), which makes only the first second and third schedule applicable to the forth schedule of the Act. 12. That the nature of land has to be taken as recorded in the revenue record on the day of publication of notification under section 3 A of NH Act, further it is not out of place to
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		mention here that if the interested person raised a factory building or a commercial building upon the agriculture land under acquisition without obtaining prior permission from the competent authority/ revenue authority, in all such cases the interested persons are not entitled to get benefit of treatment of such land from agriculture to industrial or commercial. 13. That the revenue authority or the competent authority are under obligation of law verified the nature and status of land as well as apprised the Hon'ble Court, it is not within the domain or say beyond the power of answering respondents to verified the nature and the status of land under acquisition. It is not out of place to mentioned here that CALA & revenue authority strictly adhere the relating law regarding the land under acquisition, further in some of the matters relating to NH 74, a wrong verification of land and wrong determination of compensation, the State Government formed SIT for wrong verification of land etc... 14. That the Arbitrator under the NH Act also under obligation of law to adhere the multiplying factor (1 (one) / 2 (two)) and also should have referred / clarified or in other words be clearly mention the location of survey no. either located in urban area or rural area. Further it is also not out of place to mention here that the additional market value has to be worked out from the date of publication of notification u/s 3A of National Highway Act 1956, till the date of award u/s 3 G of NH Act. 15. That it is also clear if the amount of compensation against the acquisition of land as awarded by the Competent Authority for Land acquisition (herein after referred as CALA) and the same has been deposited by the NHAI, thereafter the CALA should proceed under the law by deducting the amount, while doing calculation of interest under the applicable law. 16. That the Section 80 of the RFCTLARR Act 2013 is only meant for payment of interest in such cases where the compensation not paid or deposited on or before taking possession of land, but in some cases the Arbitrator has awarded interest in addition to above 9% for first year and 15% for second year and determine the same as per Section 80 of the RFCTLARR Act 2013, the said view is totally against the law as well as against the procedure for determination of compensation prescribed the guidelines issued by the Ministry of concerning department.” 5. Since the amount payable as compensation has been determined by the Competent Authority Land Acquisition and reportedly the said amount
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has also been credited to the bank account of the petitioner and road construction work was completed long back, therefore, there is hardly any scope for interference with the matter.

6. The writ petition is, accordingly, dismissed.

(Manoj Kumar Tiwari, J.)

05.08.2026

Mahinder