

FAO No. 264 of 2019 & connected cases [2]

(5) FAO No. 1339 of 2019

NHAI and another

Appellants

Versus

Mange Ram and others

Respondents

(6) FAO No. 1340 of 2019

National Highway Authority of India and another

Appellants

Versus

Badri Parshad Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sumit Gupta, Advocate for the appellants.
None for the respondents despite service.

AVNEESH JHINGAN, J (Oral):

1. The above mentioned six appeals filed by National Highway Authority of India (for short, 'NHAI') are being disposed of by a single order as the facts and issues involved are similar.

2. The brief facts are that land in village Mahra, Tehsil Gohana, District Sonipat was acquired for construction and development of NH-71-A under the National Highways Act, 1956 (for short, 'the NH Act'). Notifications under Section 3A and 3D of the NH Act were notified on 25.11.2009 and 5.5.2010 respectively. The arbitration initiated at the instance of the land owners culminated in award dated 31.7.2014. The compensation determined by the competent authority of Rs.17,00,000/- per acre was enhanced to Rs.40,00,000/- per acre. In the objections filed under

Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the 1996 Act'), the land owners were held entitled to statutory benefits under Sections 23(1A), 23(2) and 28 of the Land Acquisition Act, 1894 (for short, 'the `1894 Act'). The arbitrator was directed to pass a supplementary award.

3. Learned counsel for the appellants submits that the entire awarded amount except the amount due under Section 23(1A) of the 1894 Act has been paid. The contention is that the decision of the Supreme Court in *Union of India v. Tarsem Singh and others, 2019(9) SCC 304* was clarified in *National Highway Authority of India and another v. Tehal Singh and others-* Civil Appeal No. 7086 of 2019, decided on 30.7.2021 wherein the expression “(1A) and” was deleted from paragraph 41 of *Tarsem Singh's case (supra)*.

4. Relevant paragraphs of *Tarsem Singh's case (supra)* and *Tehal Singh's case (supra)* are reproduced below:

“41. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in

cases that arise between 1997 and 2015, in the interest of justice we decline to interfere with such orders, given our discretionary jurisdiction under [Article 136](#) of the Constitution of India. We therefore declare that the provisions of the [Land Acquisition Act](#) relating to solatium and interest contained in [Section 23\(1A\)](#) and (2) and interest payable in terms of [section 28](#) proviso will apply to acquisitions made under the [National Highways Act](#). Consequently, the provision of [Section 3J](#) is, to this extent, violative of [Article 14](#) of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, Appeal @ SLP (C) No. 9599/2019 is dismissed.

3. *Since this plea is correct, we delete the expression “(1A)” and “occurring in Paragraph 41 (Page 76 of the paperback) for the reason given above.”*

5. None has put in appearance on behalf of the land owners despite service.
6. The appeals are allowed to the extent that the land owners shall be entitled to statutory benefits as per decision of the Supreme Court in ***Tarsem Singh's case (supra)*** as clarified in ***Tehal Singh's case (supra)***.
7. Photocopy of the order be placed on the file of connected case.

[AVNEESH JHINGAN]
JUDGE

10th May, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |