IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

First Appeal No. 46 of 2025

Kumari Priyanka --Appellant

Versus

Rail Vikas Nigam Limited and another

--Respondents

Present:-
Mr. Ravi Bisht, learned counsel for the appellant.
Mr. V. K. Kaparuwan, learned counsel for respondent no.1.
Mr. Ghanshyam Joshi, learned Addl. C.S.C. along with Mr. Subhr Rastogi, learned Brief Holder for the State.

With

First Appeal No. 217 of 2024

Rail Vikas Nigam Limited --Appellant

Versus

Kumari Priyanka and another

--Respondents

Present:-
Mr. V. K. Kaparuwan, learned counsel for the appellant.
Mr. Ravi Bisht, learned counsel for respondent no.1.
Mr. Ghanshyam Joshi, learned Addl. C.S.C. along with Mr. Subhr Rastogi, learned Brief Holder for the State.

Hon'ble Siddhartha Sah, J. (Oral)

Both the aforesaid appeals are directed against the award dated 21.09.2024 passed by the Court of the District Judge/Land Acquisition, Rehabilitation and Resettlement Authority, District Pauri Garhwal, in LARR Case No. 01 of 2023, *Kumari Priyanka vs. Collector Garhwal and Another*.

2. In First Appeal No. 217 of 2024, *Railway Vikas Nigam Limited vs. Kumari Priyanka & Another*, the relief sought is to set aside the impugned award dated 21.09.2024 passed by the Land Acquisition, Rehabilitation and Resettlement Authority (hereinafter referred to as the "LARRA"). Whereas, in First Appeal No. 46 of 2025, Kumari Priyanka vs. Rail Vikas Nigam Limited, the relief sought is to direct the respondents to calculate the appropriate interest at the rate of 7% from the date of acquisition of the land, along with the appropriate compensation, in terms of the impugned award dated 21.09.2024.

3. Since both the appeals arise out of the same award dated 21.09.2024, they are being taken up and adjudicated together.

4. For the sake of convenience the facts are being narrated from First Appeal No. 271 of 2024 as follows:

> i. The appellant is an undertaking of the Government of India and is a working agency of the Government of India for the construction of the Rishikesh-Karnaprayag Rail Project. On 27th April, 2016, a notification under Section 4 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "2013 Act") was issued. Thereafter, a notification under Section 11 was issued on 23rd November, 2016, and a notification under Section 19 was published on 9th November, 2017. A part of the property is

situated in Village Sweeth, Chalansyun, Tehsil Srinagar, District Pauri Garhwal. At the time of acquisition of the land, the same was recorded in the name of the father of private respondent.

ii. On 5th February, 2018, a notice was issued to the father of the private respondent, along with other interested persons, informing them about the acquisition of the property, including its area. They were directed to submit their objections, if any, and also to provide details of the benefits accrued to them during the three years preceding the notification. However, as per the information available with the appellant, no such person submitted any objection at that time.

iii. An award under Section 31 of the 2013 Act was passed by the learned Collector, Pauri Garhwal, who subsequently issued an amended award on 31st May, 2019. Thereafter, on 20th September, 2019, the father of the private respondent made an application before the learned Collector, Pauri Garhwal, requesting that payment be made to his daughter, i.e., the private respondent herein, Kumari Priyanka, in accordance with the provisions of Section 31 of the 2013 Act.

iv. Under the provisions of Section 65 of the 2013 Act, the Collector submitted a reference before the Authority on 4th February, 2020. Thereafter, the LARRA registered the reference

and issued notices to Rail Vikas Nigam Limited. In response, Rail Vikas Nigam Limited, as well as the Collector, Pauri Garhwal, submitted their objections/written statements, denying the claim of the private respondent.

v. Thereafter, the matter was finally heard by the LARRA, and vide the impugned award dated 21st September, 2024, the LARRA allowed the reference filed by Kumari Priyanka and directed the Collector, Pauri Garhwal, to pay one-time compensation of Rs.5,00,000/- within a period of 30 days from the date of the order. It was further directed that, in the event of non-payment within the stipulated period of 30 days, simple interest at the rate of 7% would be payable. Litigation costs of Rs.10,000 were also awarded against the Collector.

First Appeal No. 217 of 2024

5. Assailing the impugned award/judgment dated 21.09.2024, the learned counsel for the appellant, Rail Vikas Nigam Limited, would submit that the LARRA erred in misinterpreting the provisions of Section 3(c) read with Section 3(m) of the 2013 Act. He would submit that, as per the provisions of Section 3(c)(ii) and 3(c)(iv) of the 2013 Act, only those tenants, agricultural labourers, share croppers or artisan and families whose primary source of livelihood is dependent on the land forests or water bodies affected by acquisition of land would be entitled to compensation.

6. Learned counsel for the appellant would further submit that Clause 4 of the Second Schedule of the 2013 Act provides for the choice of annuity or employment viz. either one of the three options of - job created in the project; a one-time payment of Rs.5 lakhs per affected family or annuity policy. The learned Authority miserably failed to consider that, in the entire pleadings of respondent No. 1, there is no such fact mentioned to indicate that she had exercised her choice in favour of only one out of the three options. The provision makes it clear that only one benefit shall accrue out of the options provided. Whereas, in the instant matter, there is no such pleading by the private respondent regarding the same. However, this aspect has not been considered by the LARRA.

7. It is also argued on behalf of the appellant is that the name of respondent No. 1 did not figure in the revenue record.

8. On this premise, he would pray that the appeal be allowed and the impugned award dated 21st September, 2024, passed by the LARRA, be set aside.

9. Per contra, learned counsel for respondent No. 1, Mr. Ravi Bisht, would submit that, as per the provisions of Sections 3(c)(i) and 3(m) of the 2013 Act, respondent No. 1, Kumari Priyanka, being covered within the definition of "affected family" in view of the provisions of Sections 3(c)(i) and 3(m) including the Explanation to Section 3(m), would be entitled to one time payment of compensation as provided under Entry 4(b) of the II Schedule. He would thus submit that the LARRA has not

committed any error in holding respondent No. 1 entitled to compensation of Rs.5 lakhs as a one-time payment per affected family.

10. Having heard learned counsel for the parties and after going through the record, the only point which falls for determination before this Court is- Whether respondent No. 1 is entitled to a one-time payment of Rs.5 lakhs per affected family in view of the provisions of Sections 3(c)(i) and 3(m) of the 2013 Act, read with Entry 4 of the Second Schedule of the 2013 Act?

11. To appreciate the rival contentions of learned counsel for the parties, the definition of "affected family" as contemplated under Section 3(c) and the definition of "family" as provided under Section 3(m) of the 2013 Act need to be interpreted. The said definitions [Section 3(c) (affected family) and Section 3(m) (family)] are reproduced hereunder for ready reference:

> ***Section 3(c) – "affected family" includes—***
>
> *(i) a family whose land or other immovable property has been acquired;*
>
> *(ii) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land;*
>
> *(iii) the Scheduled Tribes and other traditional forest dwellers who have lost any of their forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) due to acquisition of land;*
>
> *(iv) family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest*

> *produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land;*
>
> *(v) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition;*
>
> *(vi) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;*
>
> ***Section 3(m) – "family" includes** a person, his or her spouse, minor children, minor brothers and minor sisters dependent on him:*
>
> ***Provided that** widows, divorcees and women deserted by families shall be considered separate families.*
>
> ***Explanation.—** An adult of either gender with or without spouse or children or dependents shall be considered as a separate family for the purposes of this Act.*

12. On one hand, learned counsel for the appellant, Mr. V.K. Kaparuwan, while placing reliance upon Sections 3(c)(ii) and 3(c)(iv), would submit that the livelihood of respondent No. 1 was not dependent on the acquired land and that Kumari Priyanka was neither an agricultural labourer nor a tenant of the acquired land. He would thus submit that, in view of the aforesaid facts, respondent No. 1 was not entitled to any compensation.

13. Another ground agitated on behalf of the appellant is that the name of respondent No. 1 did not figure in the revenue record. Lastly, respondent No. 1 was not entitled to one-time compensation of Rs.5 lakhs in the absence of her having opted for one of the options provided under Clause 4 of the Second Schedule of the 2013 Act.

14. On the other hand, learned counsel for respondent No. 1 would submit that respondent No. 1 would be included within the definition of "affected family" in view of the provisions of Sections 3(c)(i) and 3(m) of the 2013 Act. He would further submit that, in the letter dated 20th September, 2019, which was treated as a reference, respondent No. 1 had made a categorical choice for the package of Rs.5 lakhs.

15. After considering the submissions of learned counsel for the parties, a bare perusal of Clauses (ii) and (iv) of Section 3(c) would reveal that the said clauses pertain to a family which does not own any land or pertain to those families whose primary source of livelihood, for three years prior to the acquisition of the land, was dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisherfolk and boatmen, whose livelihood is affected due to the acquisition of land.

16. The submission made on behalf of the appellant by learned counsel, Mr. V.K. Kaparuwan, that respondent No. 1 would not be entitled to compensation on account of Clauses (ii) and (iv) of Section 3(c), since she was not dependent on the land for her primary source of livelihood and was neither an agricultural labourer nor a tenant or a person holding any form of tenancy or usufructuary rights, sharecropper or artisan, is thoroughly misconceived, inasmuch as the provisions of Section 3(c)(i) would include an “affected family” whose land or other immovable property has been acquired, and the Explanation to Section 3(m) would mean that "an

adult of either gender" is included within the definition of "family". Section 3(c) is couched in wider terms and 2013 Act being a beneficial legislation has included even persons affected by acquisition of land in addition to the family whose land has been acquired. Therefore, the finding of the LARRA that respondent No. 1, Kumari Priyanka, would be included within the definition of "family" as per the provisions of Section 3(m) is in consonance with the provisions of the Act and does not warrant any interference. Accordingly, it is held that Kumari Priyanka/respondent No. 1 herein would be included within the definition of "family" under Section 3(m) of the 2013 Act.

17. So far as the next ground agitated by learned counsel for the appellant, that the name of Kumari Priyanka did not figure in the revenue records or award, is concerned, the said submission is also highly misconceived, inasmuch as it is not necessary for a person to have their name recorded in the revenue records to be eligible for any benefit under the 2013 Act. The definition of "family" under Section 3(m) is of wide import. It does not, in any manner, contemplate that a person must be recorded in the revenue records to be eligible for benefits under the 2013 Act. In view of the aforesaid, this argument advanced by learned counsel for the appellant also does not find favour with the Court.

18. The last submission of learned counsel for the appellant was that no clear choice had been made out of the three options provided under Entry 4 of the Second Schedule of the 2013 Act. Since it is borne out from the

record that the letter seeking compensation clearly states that compensation of Rs.5 lakhs be awarded to respondent No. 1, Kumari Priyanka, hence it is evident that a clear option was exercised for a one-time payment of Rs.5 lakhs per affected family, as provided under Entry 4 of the Second Schedule, which deals with the choice of annuity or employment. Therefore, this argument also does not hold any water.

19. In view of the aforesaid, this point for determination is answered to the effect that respondent No. 1, Kumari Priyanka, falls within the definition of "affected family" in view of the provisions of Section 3(c)(i) read with Section 3(m) of the 2013 Act.

20. Therefore, no error is found in the impugned judgment and order dated 21st September, 2024. Accordingly, the First Appeal No.217 of 2024, being devoid of merit, deserves to be dismissed and is hereby dismissed.

First Appeal No.46 of 2025

21. Since, while deciding First Appeal No. 217 of 2024, it has already been held that Kumari Priyanka, the appellant herein, falls within the definition of an affected family under Section 3(c)(i) read with Section 3(m) of the 2013 Act, the only question that remains to be considered in the present appeal is the date from which the appellant, Kumari Priyanka, would be entitled to interest on the amount of one-time compensation of Rs. 5 lakh.

22. On one hand, learned counsel for the appellant, Mr. Ravi Bisht, with reference to Section 80 of the 2013 Act, would submit that if the compensation is not deposited or paid before taking possession of the land, the Collector shall pay the amount awarded along with interest at the rate of 9% per annum from the date of taking possession until the amount is paid or deposited.

23. To buttress his submission, learned counsel for the appellant has placed reliance upon a judgment rendered by a Division Bench of this Court in Special Appeal No. 308 of 2024, *Jagdamba Prasad vs. Competent Authority Land Acquisition CALA & Others*, and has drawn the attention of the Court to paragraph 6 thereof, which is extracted hereunder for ready reference:-

> *"6. Thus, a person who is deprived of his land under the Act becomes entitled to interest from the date of possession is taken until it is paid or deposited."*

24. In view of the submissions made by learned counsel for the appellant, reference also needs to be made to Section 80 of the 2013 Act, which is extracted hereunder for ready reference:-

> *"**80. Payment of interest.**- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent. per annum from the time of so taking possession until it shall have been so paid or deposited:*
>
> *Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry."*

25. Learned counsel for the appellant would, thus, submit that the appellant is entitled to interest at the rate of 7% and that the LARRA erred in not granting interest from the date of taking possession of the land in question.

26. Learned counsel for the appellant has also drawn the attention of the Court to the impugned award dated 21.09.2024 wherein there is mention of the award of the Collector dated 25th February, 2019, and would thus submit that the appellant is entitled to interest at the rate of 7% from 25th February, 2019.

27. On the other hand, learned counsel for the respondent/Rail Vikas Nigam Limited, Mr. V.K. Kaparuwan, would submit that the instant case is not a case of compensation, but a case of rehabilitation and resettlement award for affected families by the Collector. He would thus submit that since it is not a case of compensation, there is no question of payment of compensation.

28. After hearing learned counsel for the parties, going through the record, and considering the provisions of Section 80 of the 2013 Act, it is amply clear that in the case of an affected family, if the compensation is not paid or deposited before taking possession, the Collector is liable to pay the amount awarded along with interest thereon.

29. It has also been held in the judgment of the Division Bench of this Court in Special Appeal No. 308 of 2024, *Jagdamba Prasad vs. Competent Authority Land*

Acquisition CALA & Others, that "a person who is deprived of his land under the Act becomes entitled to interest from the date possession is taken until it is paid or deposited." In the instant case, the award itself is dated 25th February, 2019. Therefore, the appellant would be entitled to interest at the rate of 7% from 25th February, 2019.

30. The submission of learned counsel for Rail Vikas Nigam Limited that the amount of Rs. 5 lakh would be a rehabilitation and resettlement award and would not carry interest does not find favour with the Court in view of the provisions of Section 80 and the judgment of the Division Bench in the case of *Jagdamba Prasad* (supra). Thus, the present appeal deserves to be allowed.

31. First Appeal No. 46 of 2025 is allowed to the extent that the one-time payment of Rs. 5 lakh to be made to the appellant shall carry interest at the rate of 7% from 25th February, 2019, till the date of deposit of the amount.

32. The appeals are decided in the aforesaid terms. The original record be transmitted to the court concerned.

(Siddhartha Sah, J.)
19.11.2026

BS