

Bihar State Road Development ... vs Shiv Shankar Prasad on 1 October, 2026

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.924 of 2024

In

Civil Writ Jurisdiction Case No.16226 of 2019

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1. Bihar State Road Development Corporation Through its General Manager at

RCD, Mech. Workshop Campus, Sheikhpura, Patna-800014.

2. Managing Director, Bihar State Road Development Corporation at RCD,

Mech. Workshop Campus, Sheikhpura, Patna-800014.

3. Deputy General Manager (Technical), Bihar State Road Development

Corporation, Project Implementation Unit, Rajgir-8036116 (Nalanda)

... ... Appellant/s

Versus

1. Shiv Shankar Prasad Son of Late Chandradeep Narayan Singh, R/o - Village

Dakhingaon, P.O. and P.S. - Wazirganj, District- Gaya - 805131 (Bihar).

2. Madhu Sinha D/o Late Chandradeep Narayan, R/o Village Dakhingaon, P.O.

and P.S. - Wazirganj, District- Gaya - 805131 (Bihar).

3. Kunti Devi Wife of Late Chandradeep Narayan Singh, R/o Village

Dakhingaon, P.O. and P.S. - Wazirganj, District- Gaya - 805131 (Bihar).

4. Chandra Mohan Kumar S/o Late Hriday Narayan Singh, R/o Village

Dakhingaon, P.O. and P.S. - Wazirganj, District- Gaya - 805131 (Bihar).

5. Savitri Singh W/o Late Chandra Sen Singh, (Late Hriday Narayan Singh),

R/o - 7C, Raja Bagan Street, Beadon Street, P.O. - Beadon Street and P.S. -

Burtola, District- Kolkata - 700006 (West Bengal).

6. National Highways Authority of India (NHAI), Through its Chairman at G5

and 6, Sector -10, Dwarka, New Delhi - 110075.

7. Chairman, National Highway Authority of India (NHAI) at G5 and 6, Sector

- 10, Dwarka, New Delhi - 110075.

8. General Manager, National Highway Authority of India (NHAI) at G5 and 6,

Sector -10, Dwarka, New Delhi - 110075.

9. Additional Collector, Gaya, Collectorate of Gaya.

Patna High Court L.P.A No.924 of 2024 dt.01-10-2026

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10. District Land Acquisition Officer Gaya, Collectorate of Gaya.

11. Deputy General Manager (Technical) National Highway -82, National

Highway Authority of India (NHAI), Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K. Shahi, Sr. Advocate

Mr. Manish Dhari Singh, Advocate

For the Resp. No. 4 : Mr. Ajay Kumar Singh, Advocate

Mr. Vijay Kumar, Advocate

For the Resp. Nos. 1, 2, 3 & 5 : Mr. Jitendra Singh, Sr. Advocate

Mr. Yash Singh, Advocate

Ms. Snehil Pratik, Advocate

Mr. Tej Pratap Singh, Advocate

Mr. Saurabh Kumar, Advocate

For the NHAI (Resp No. 6 to 8) : Dr. Maurya Vijay Chandra, Advocate

Mr. Gaurav Govinda, Advocate

Ms. Preety Ranjan, Advocate

Mr. Rajesh Kumar Shandilya, Advocate

Mr. Sanjeev Kumar, Advocate

For the State : Mr. Shiv Pratap, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Patna High Court L.P.A No.924 of 2024 dt.01-10-2026

3/77

Date: 01-10-2026

1. In the instant appeal, the judgement and order

passed in C.W.J.C. No. 16226 of 2019, dated 16th of January,

2024, is under challenge, whereby and whereunder, the learned

Single Judge of this Court quashed a letter, bearing No. 962,

dated 21st of December, 2018, issued by the Deputy General

Manager (Technical), Bihar State Road Development

Corporation Limited. It was also held that the notification, dated

21st of June, 2018, shall not have any effect on the arbitration

proceeding of the petitioners. The respondents were

subsequently directed to give effect to the arbitral award, dated

04.08.2018

, passed by the Additional Collector, Gaya in R. A. 103 of 2016-17 along with interest at the rate of 12 per cent per annum for the period of delay in making the payment, i.e., from the date of passing of the Award till the actual payment of the awarded amount.

2. For the purpose of the instant appeal, the following facts are required to be noted, which is hereunder: -

(i) The writ petitioners are joint owners of the land in question bearing Plot Nos. 3243-3245, recorded in Khata No. 502, Mauja-Dakhingaon, District-Wazirganj. The Central Government decided to acquire certain portions of the land and it was published in the extraordinary gazette in exercise of its Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 4/77 power under [Section 3A\(1\)](#) of the National Highways Authority of India Act, 1956, for the purpose of widening / four-laning of NH-82 to be carried out by the National Highways Authority of India in the districts of Gaya and Nawada, vide notification, dated 4th of March, 2014. The petitioners came to know about the said notification upon a paper publication and pursuant thereto they also received a notice from the Land Acquisition Officer-cum-Collector, Gaya, informing them that they are required to be present before the concerned Officer to substantiate their claim with supporting documents to enable them to receive compensation for the aforesaid lands, measuring about 2.8676 acres. The said land was described as agricultural land and the Land Acquisition Department determined the valuation of the land mentioned in the notice at Rs.

3,75,75,241/- and Rs. 30,00,673/-. The petitioners agreed to accept the amount of compensation under protest, as compensation determined by the competent authority was not on the basis of the true nature of the land, so acquired and it had completely ignored the present nature of the land in question, which the petitioners claimed, as commercial / residential land and it is also contended by the petitioners that by a notification, dated 10th of October, 2017, bearing S.O. 3277(E), published in Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 5/77 official gazette of India, the Central Government appointed the Additional Collector of the district of Gaya and Nawada as Arbitrator for any arbitration arising out of acquisition of land for building (widening / four laning), maintenance, management and operation of NH-82. In furtherance of the said notification, the Bihar State Road Development Corporation Limited, Respondent No. 5 in the writ petition issued a letter, dated 3rd of November, 2017, addressed to the District Magistrate, informing him thereby appointment of Additional Collector, Gaya as Arbitrator for determination of any dispute arising out of acquisition of land for building in connection with maintaining, widening, four-laning etc. of NH-82 under the provisions of 3G(5) of the [National Highways Act](#). The petitioners filed an application before the concerned Arbitrator, disputing the quantum of compensation. The arbitration proceeding was duly carried out by the Additional Collector. By a letter, dated 28th of March, 2018, the Deputy General Manager (Technical), Bihar State Road Development Corporation Limited informed the Court that site inspection was carried out in connection with the said arbitration proceeding. That on 4th of August, 2018, the Additional Collector-cum-Arbitrator passed an Award on the basis of the claim of the petitioners and site inspection report Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 6/77 submitted by the Bihar State Road Development Corporation Limited, holding, inter alia, that though there is no structure over the land in question, being Khesra No.

3243, but on account of the fact that bricks and pillars are situated over the said land and residential and commercial structures are already in existence near NH-82, the acquired plots in question ought to be held as developing (Vikassheel) land and the market value for the said Khesra No. 3243 ought to be determined as per the developing land. It was also held that the compensation amount in respect of Plot No. 3245 was rightly calculated taking into account the nature of land as Dhanhar (agricultural land).

(ii) During the pendency of the said arbitration proceeding, on 21.06.2018, the Central Government issued another notification in extraordinary gazette of India holding, inter alia, to appoint the Divisional Commissioner, Gaya as Arbitrator to exercise powers conferred and perform the duties imposed within the local limits of their respective jurisdiction under the [National Highways Act, 1956](#). The said notification was annexed with the writ petition as Annexure-5.

(iii) It is contended on behalf of the writ petitioners that the said notification, dated 21st of June, 2018 is a general notification unlike the notification, dated 10th of October, 2017 Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 7/77 with regard to several revenue districts and as such it is a general notification with general exercise of powers and duties imposed under [National Highways Act](#). The subsequent notification, empowering Divisional Commissioners to act as Arbitrator does not rescind or override the notification, dated 10th of October, 2017. The subsequent notification, dated 21 st of June, 2018 did not take away the power of the previous notification, whereby and whereunder, the Additional Collectors were empowered to act as an Arbitrator in respect of any dispute with regard to compensation of acquisition of land. It is also contended on behalf of the petitioners that if the respondents want to set aside the arbitral award passed by the Additional Collector, Gaya, the only recourse available to the respondents is by filing an application under [Section 34](#) of the Arbitration and Conciliation Act, 1996.

(iv) The respondents have filed counter affidavits. It is contended by the Bihar State Road Development Corporation Limited that in view of the notification, dated 21 st of June, 2018, the dispute regarding amount of compensation can only be considered by the Divisional Commissioner as the said notification, dated 21.06.2018 has overriding effect over all previous notifications, issued under [Section 3G\(5\)](#) of the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 8/77 [National Highways Act, 1956](#) and the Divisional Commissioner should have proceeded with the arbitration in the case of the petitioners as the same was pending on 21.06.2018.

(v) The learned Single Judge passed the following order, reproduced hereinbelow: -

"19. In these circumstances, I am of the view that arbitration proceedings which were already pending before the Additional Collector pursuant to the original notification/past notification cannot be affected due to the coming of the new notification and more so, in the case of the petitioners, when the petitioners were already heard and the arbitration award was to be pronounced by the Arbitrator, who is the Additional Collector.

20. In view of the above, this writ petition is allowed. Accordingly, the letter bearing no.962 dated 21.12.2018 issued by the Deputy General Manager (Technical), Bihar State Road Development Corporation Limited is quashed and it is held that the notification dated 21.06.2018 shall not have any effect on the arbitration proceeding of the petitioners. The respondents are directed to give the effect Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 9/77 of the arbitral award dated 04.08.2018 passed by the Additional Collector, Gaya,

in RA 103/2016-17 along with interest at the rate of 12% per annum for the period of delay in making the payment i.e. from the date of passing of the award till the actual payment of awarded amount."

(vi) Being aggrieved against the said order, the appellants, namely, Bihar State Road Development Corporation Limited and its Officers have filed the instant appeal under Clause 10 of the Letter Patent Appeal.

3. Mr. P. K. Shahi, learned Sr. Counsel first addressed our attention to [Section 3G](#) of the National Highways Act, 1956.

[Section 3G](#) runs thus: -

"3G. Determination of amount payable as compensation.--(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 10/77 such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or subsection (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-

section (2) of [section 3C](#), before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the [Arbitration and Conciliation Act, 1996](#) (26 of 1996) Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 11/77 shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration-

(a) the market value of the land on the date of publication of the notification under [section 3A](#);

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change."

4. Explaining the said statutory provision, it is contended by Mr. Shahi, learned Sr. Advocate that sub-section Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 12/77 (1) of [Section 3G](#) empowers the competent authority to determine the amount of compensation to be paid to the land losers. Sub-section (3) of [Section 3 G](#) states that for the purpose of determination of the amount of compensation under sub-section (1) or sub-section (2), it is the duty of the competent authority to issue public notice published in two local newspapers, one of which will be in a vernacular language inviting claims for all persons interested in the land to be acquired. Sub-section (4) speaks about the essential requirements to be stated in the notice. Sub-section (5) of [Section 3G](#) is important. It says: - "If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government."

5. Mr. Shahi first refers to the notification, dated 10th of October, 2017, appointing Additional Collector, Gaya to be the Arbitrator for the purpose of arbitration arising out of acquisition of land and building (widening / four laning etc.), maintenance, management and operation of National Highway No. 82.

6. He next refers to the second notification, dated 21 st Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 13/77 of June, 2018, appointing Divisional Commissioner, Gaya as Arbitrator. The notification runs with the following words: -

"S.O. 3019 (E) - In pursuance of Sub-section (5) of [Section 3G](#) of the National Highways Act, 1956 (48 of 1956), the Central Government hereby appoints the Officers mentioned in the Column (2) of the Table below, to be Arbitrator for the purpose of the said sub-

section who shall exercise the powers conferred and perform duties imposed. on Arbitrators by or under the said Act within the local limits of their respective jurisdiction as specified in Column (3) and (4) of the said table. Sub-section (6) and (7) of [Section 3 G](#) of the Act shall be taken into consideration while passing Awards by the Arbitrator".

7. Learned Sr. Advocate on behalf of the appellants next submits that another co-sharer in respect of the land in question namely, Chandradev Narayan Singh filed C.W.J.C. No. 22707 of 2018 and the learned Single Judge disposed of the said writ petition vide order, dated 5 th of April, 2021. In the said writ petition also, the petitioner raised his grievance to the correctness of an order, dated 04.08.2018, passed by the Additional Collector-cum-Arbitrator, Gaya whereby he was Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 14/77 refused to interfere with the compensation amount fixed by the District Land Acquisition Officer, Gaya in Arbitration Case No. R.A. 25/2016-17. In the said writ petition also, the

respondents took a plea that before issuance of the said order, dated 4th of August, 2018, the Central Government in the Ministry of Road Transport and Highways issued the notification, dated 21.06.2018. The writ petitioner challenged the said order on the ground of lack of jurisdiction of the Additional Collector in view of the fact that the Additional Collector was empowered to act as Arbitrator.

8. In view of such circumstances, the learned Single Judge set aside the impugned order with a direction that an Arbitrator within the meaning of the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013](#), be appointed to pass an order afresh on the application which has already been filed by the petitioner. Thus, it was held by the learned Single Judge in C.W.J.C. No. 22707 of 2018 that in view of the subsequent notification, dated 21st of June, 2018, the Additional Collector does not have the power to act as an Arbitrator in any pending proceeding.

9. Thus, it is contended by the learned Sr. Advocate on Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 15/77 behalf of the appellants that in the instant case, the Award was passed by the Additional Collector on 04.08.2018, i.e., after issuance of the notification, dated 21.06.2018. So the order passed by the Additional Collector being without jurisdiction and de hors of notification empowering him to act as an Arbitrator on the date of passing the order. The learned Trial Judge cannot uphold the order passed by the Additional Collector and moreover, the learned Single Judge cannot impose interest on the amount of compensation, taking into account the nature of land as developing land.

10. Mr. Jitendra Singh, learned Sr. Advocate for the Private Respondents / Writ Petitioners, on the other hand, refers to Annexure-10, being the impugned, order dated 21st of December, 2018, passed by the Deputy General Manager (Technical).

11. On perusal of Annexure-10, we find that it is a letter, written by the Deputy General Manager (Technical) to the Arbitrator-cum-Additional Collector, Gaya in relation to Head Office Letter No. 3733, dated 23rd of November, 2018. The content of the letter runs thus: -

"प्रसंग : मु. खयालय का पत्रांक-

3733 (अनु 0) पटना, ददनांक-23.11.2018 | महाशय, Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 16/77 उपरोक्त दवषय प्रसंग ददधन पत्र के सं बंध मे कहना है दक आपके ददरा दवषयां दकत मौजो का Arbitral award की प्रदत मु. खयालय को समदपरत दकया गया था। परन्तु मु. खयालय ददरा यह दनदे दशत दकया गया है दक भवदीय ददरा दनगरत Arbitral award, भारत सरकार का गजट ददनांक 21.06.2018 के का.आ.3019 (अ) के बाद ददया गया है जबकी उक्त आदे श के अनु सार 21.06. 2018 के बाद [NH Act, 1956](#) के Sec.-3G (5) के अनतगरत Divisional Commissioner को प्रादधकृत दकया गया है।

तद्आलोक ददनांक 21.06.2018 के बाद सभी Arbitration का कायर आयु कत ददरा ही दनषपाददत दकये जाये गे। उक्त के आलोक मे प्रसताव वापस करते हुए अग्रतर काररवाई सु दनदशशत करने की कृपा की जाय।

सधनयवाद्।"

12. Thus, it is submitted by the learned Sr. Advocate on behalf of the private respondents that after delivery of the arbitral award, it was cancelled by the Deputy Director (Technical) of Bihar State Road Development Corporation Limited. According to Mr. Singh, the said order is absolutely wrong because the Deputy Director (Technical), BSRDC, is not empowered to pass any order, setting aside the arbitral award under Section 34 (1 and 2) of the [Arbitration and Conciliation Act, 1996](#).

13. In support of his contention, he refers to the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 17/77 decision of the Hon'ble Supreme Court in the case of [P.K. Palanisamy v. N. Arumugham & Anr.](#), reported in (2009) 9 SCC 173. He specifically refers to paragraph 25 of the aforesaid decision, wherein, it is observed by the Hon'ble Supreme Court that an order passed by a Court having jurisdiction shall remain valid unless it is set aside. The Hon'ble Supreme Court quoted paragraph 26 of page 31 of Halsbury's Laws of England, 4 th Edition (Reissue), Vol. 1(1), which reads as under:-

"If an act or decision, or an order or other instrument is invalid, it should, in principle be null and void for all purposes; and it has been said that there are no degrees of nullity. Even though such an act is wrong and lacking in jurisdiction, however, it subsists and remains fully effective unless and until it is set aside by a court of competent jurisdiction. Until its validity is challenged, its legality is preserved."

14. The Hon'ble Apex Court also recorded the observation in the Judicial Review of Administrative Action, de Smith, Woolf and Jowell, 1995 Edition, at pp 359-60, as hereunder:

"The erosion of the distinction between jurisdictional errors and non- jurisdictional errors has, as we have seen, Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 18/77 correspondingly eroded the distinction between void and voidable decisions. The courts have become increasingly impatient with the distinction, to the extent that the situation today can be summarised as follows:

(1) All official decisions are presumed to be valid until set aside or otherwise held to be invalid by a court of competent jurisdiction."

15. The Hon'ble Apex Court also recorded the observation of Wade and Forsyth in Administrative Law, 7 th Edition, 1994 at pp. 341-342, as hereunder :-

'... every unlawful administrative act, however invalid, is merely voidable. But this is no more than the truism that in most situations the only way to resist unlawful action is by recourse to the law. In a well-known passage Lord Radcliffe said:

"An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity upon its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 19/77 purpose as the most impeccable of orders."

16. The Hon'ble Supreme Court on due consideration of the above authorities held that it is equally true even where the brand of invalidity is plainly visible; for there also the order can effectively be resisted in law only by obtaining the decision of the Court. The necessity of recourse to the Court has been pointed out repeatedly in the House of Lords and Privy Council without distinction between patent and latent defects. While making this observation, the Court took into account the earlier decision of Hon'ble Supreme Court in Baljinder Singh v.

Rattan Singh, reported in (2008) 16 SCC 785.

17. Coming to the instant case, taking aid of the above-mentioned observation by the Hon'ble Supreme Court, it is argued by Mr. Singh, learned Sr. Advocate on behalf of the private respondents, that when the arbitration order passed by the Additional Collector, reached its finality, the same cannot be set aside by a subsequent administrative order, stating that the Arbitrator did not have any authority to determine the compensation.

18. Mr. Singh next refers to the case of [J. Mohapatra and Co. & Anr. v. State of Orissa and Anr.](#), reported in (1984) 4 SCC 103, especially paragraph 9 of the said judgement. Mr. Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 20/77 Singh relies on the principle, "Nemo Judex in Causa Sua", i.e., no man shall be a judge in his own cause. Referring to this principle, it is submitted by him that how did an Administrative Officer of Bihar State Road Development Corporation Limited pass an order taking away the power of the Arbitrator appointed by the Central Government by a gazette notification. Moreover, the impugned order was passed after completion of the arbitral proceeding declaring the arbitral award. For the reasons, stated above, taking away authority of the Additional Collector or arbitration by annexing Annexure-10 of the writ petition was invalid, inoperative and the Trial Court was right in upholding the order passed by the Additional Collector.

19. Mr. Singh next refers to the case of [Commercial Tax Officer, Rajasthan v. Binani Cements Limited & Anr.](#), reported in (2014) 8 SCC 319 and submits that if the appellants at all wanted to set aside the arbitral award passed by the Additional Collector, they would have filed an application under Section 34 (1 and 2) of the Arbitration and Conciliation Act, 1996.

20. It is specifically stated in the [National Highways Act](#) that in respect of any dispute arising with regard to arbitration, the [Arbitration and Conciliation Act, 1996](#) shall Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 21/77 apply.

21. In order to buttress his argument, he relies on [Binani Cements Limited](#) (supra), where it is held that the rule of statutory construction that the "specific governs the general" is not an absolute rule but is merely a strong indication of statutory meaning that can be overcome by textual indications that point in the other direction. This rule is particularly applicable where the legislature has enacted comprehensive scheme and has deliberately targeted specific problems with specific solutions.

However, a subject-specific provision relating to a specific, defined and describable subject is regarded as an exception to and would prevail over a general provision relating to a broad subject.

22. In the instant case, when it is clearly recorded that in case of any dispute in arbitration, the law of arbitration and conciliation shall prevail, the arbitral award passed by the Additional Collector, Gaya cannot be set aside in the manner adopted by the appellants.

23. [Referring to Neena Aneja & Anr. v. Jai Prakash Associates Limited](#), reported in (2022) 2 SCC 161, it is contended by Mr. Singh that subsequent empowering of the power of arbitration cannot be taken away the original Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 22/77 notification directing the Additional Collectors to act as Arbitrator and on the basis of old notification, the Arbitrator lawfully conducted the arbitral proceeding and fixed award in order to take away the valuable right of the respondents, de novo arbitration by an administrative order is not permissible.

24. In [Neena Aneja](#) (supra), enhancement of pecuniary jurisdiction of consumers forums by repealing 1986 Act:- by virtue of enactment of 2019 Act, held to be no effect on the pending proceeding. The same analogy is applicable in the instant case.

25. So far as the applicability of [Article 226](#) of the Constitution of India is concerned, Mr. Singh refers to the case of State of U.P. & Ors. v. M/s Indian Hume Pipe Co. Ltd., reported in (1977) 2 SCC 724. In [the said decision](#), the issue was determination of a question as to what is the true connotation of words "sanitary fittings" and whether the hume pipes manufactured and sold by the respondent were sanitary fitting withing the meaning of that expression was a question of law and since the entire material on the basis of which this question could be determined was placed before the Sales Tax Officer and it pointed in one and only one direction, namely, that the hume pipes were not sanitary fittings and there was Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 23/77 nothing to show otherwise, the High Court was justified in entertaining the writ petition.. It was pointed out that this disputed question of fact cannot be decided under writ jurisdiction of the High Court. The Hon'ble Supreme Court held as hereunder:-

"Moreover, there is no rule of law that the High Court should not entertain a writ petition where an alternative remedy is available to a party. It is always a matter of discretion with the Court and if the discretion has been exercised by the High Court not unreasonably or perversely, it is the settled practice of this Court not to interfere with the exercise of discretion by the High Court. The High Court in the present case entertained the writ petition and decided the question of law arising in it and in our opinion rightly. In these circumstances, therefore, we would not be justified in the interest of justice in interfering in our jurisdiction under [Article 136](#) of the Constitution to quash the order of the High Court merely on this ground after having found that the order is legally correct. We are, therefore, unable to accept this contention."

26. Mr. Singh next refers to the case of Godavari Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 24/77 [Sugar Mills Limited v. State of Maharashtra & Ors.](#), reported in (2011) 2 SCC 439. In [the said decision](#), it is held that in connection with a writ petition for refund of money illegally collected by a State, the writ is maintainable where lis has a public law character, but it should be sparingly used depending on facts and circumstances of each case Writ for refund of money for consequential relief or for striking down an illegal / unjust order of refund is maintainable But writ seeking mere refund of money is not maintainable That may be enforced by a money suit.

27. On the question as to whether, the Writ Court can grant interest over the arbitral amount, the learned Sr. Advocate for the respondents refers to the following decisions -

(i) [Poornima Advani v. State \(NCT of Delhi\) & Another](#), (2025) 7 SCC 269

(ii) [S.K. Dua v. State of Haryana & Anr.](#), (2008) 3 SCC 44

(iii) [Vijay L. Mehrotra v. State of U.P. & Ors.](#), (2001) 9 SCC 687

(iv) [Om Prakash Agarwal & Ors. v. Vishan Dayal Rajpoot](#), (2019) 14 SCC 526

28. It is relevant for our purpose to reproduce paragraphs 4, 5, 8, 12, 14, 15, 18, 20, 22 and 23 of the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 25/77 judgement passed by the Hon'ble Apex Court in

the case of [Poornima Advani](#) (supra), which are as hereunder:-

"4. The learned Single Judge adjudicated the writ petition and ultimately thought fit to partly allow the same. The learned Single Judge issued a writ of mandamus to the respondents herein to refund a sum of Rs 28,10,000 within a period of two weeks from the date of pronouncement of the judgment.

5. It appears that the petition was partly allowed as only the principal amount was ordered to be refunded whereas the interest on the same was declined. We take notice of few relevant observations made by the learned Single Judge [[Poornima Advani v. State \(NCT of Delhi\)](#), 2018 SCC OnLine Del 10698] while ordering refund of the principal amount referred to above: ([Poornima Advani](#) case [[Poornima Advani v. State \(NCT of Delhi\)](#), 2018 SCC OnLine Del 10698] , SCC OnLine Del paras 19-26) "19. Therefore, the question before me is: should the Court, in such circumstances, fold its hands and deny a person, who has lost the stamp paper, relief only because the draftsman has omitted the use of such expression Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 26/77 explicitly in the statute. As noticed above, it is not unknown to law that when courts have encountered such creases in the statute they have proceeded to iron them out without destroying the fabric which forms the core of the statute. The expression "obliterate" appearing in [Section 49\(a\)](#) of the Act should, in my opinion, include cases where the stamp paper is lost by an applicant seeking refund of stamp duty. This would be a "reasonable" and "practical"

interpretation of [Section 49\(a\)](#) of the Act, as any other interpretation could lead to a situation where it may fall foul of [Article 14](#) of the Constitution.

20. There is another way of looking at the matter, which is, the scheme of [Chapter V of the Act](#). If the scheme, as discussed above, is kept in mind, the respondents ought to refund stamp duty even in cases where an applicant claims refund of stamp duty on account of loss of e-stamp paper; subject to an enquiry establishing factum of loss and adequate safeguards being put in. To my mind, if the contrary view was sustained, it would result in the State retaining money without the authority of law, as admittedly, the taxing event had Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 27/77 not occurred in the facts and circumstances of this case.

21. In the instant case, the petitioners have provided a photocopy of e-stamp paper dated 6-7-2016, which at the moment, is the best secondary evidence available with it, which, shows that the e-stamp paper was not engrossed.

21.1. Given the foregoing discussion, clearly, the amount retained by the respondents cannot be in the nature of tax as the taxing event has not occurred in the instant case. It cannot be also in the nature of fee as there was no quid pro quo.

21.2. In any event, the stand of the respondents is that the stamp duty is in the nature of tax. If that be the position, could the respondents retain money in anticipation of the taxing event occurring? [Article 265](#) of the Constitution provides that no tax shall be levied or collected except by authority of law. Therefore, emphasis is not only on no tax being levied without the authority of law, but is also on collection of tax without authority of law.

22. Therefore, in my view, the continued retention of amount paid Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 28/77 towards anticipated stamp duty in the hands of the respondents is illegal. The apprehension expressed by the respondents that there was a possibility of the lost e-stamp paper being misutilised seems to be tenuous for the following reasons:

(i) First, the particulars of the transaction, parties and the consideration have already been incorporated in the lost e-stamp paper.

(ii) Second, with the technological innovation in place, the said information would be available and anyone trying to use the lost e-stamp paper can easily be found out. In any event, the fact the lost e-stamp paper dated 6-7-2016 adverts to the same property qua which sale transaction stands effected via the new stamp paper dated 6-8-2016, the possibility of misuse of the old e-stamp paper dated 6-7-2016, to my mind, does not arise.

(iii) The lost e-stamp paper dated 6-7-2016 having been locked and cancelled, there is, to my mind, given the technology in place, no possibility of the lost e-stamp paper being misutilised. The Collector of Stamps invariably checks the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 29/77 website of Stock Holding Corporation Ltd. to ascertain whether or not the stamp paper is genuine. The order dated 11-3-

2015, passed by the Divisional Commissioner, clearly casts such an obligation on the Collector of Stamps.

(iv) Lastly, in any case, the petitioners have furnished an indemnity bond, and therefore, loss or damages, if any, suffered by the respondents can always be recovered.

23. Before I proceed further, I need to touch upon the argument raised by Mr Ramesh Singh that the view held by a Single Judge of this Court in Piyush Aggarwal case [[Piyush Aggarwal v. State \(NCT of Delhi\)](#), 2005 SCC OnLine Del 242] requires reconsideration. This was a case where the petitioners had sought refund of stamp duty on account of the fact that before the instrument on which the stamp duty was leviable, was executed, by virtue of a notification issued by the State, the stamp duty and transfer duty on conveyance had been substantially reduced. Since, the petitioners had paid excess stamp duty and transfer duty, they sought refund of the same.

Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 30/77 23.1. The facts, as gleaned from the judgment, would show that the conveyance i.e. the instrument, [in that case](#), was executed on 30-6-2003, whereas the notification, reducing the stamp duty and transfer duty, was issued on 19-5-2003.

23.2. The Court was, thus, called upon to adjudicate two aspects:

First, as to when, did the chargeable event occur? Second, whether in the given circumstances, the petitioners claim for refund of excess stamp duty and transfer duty was sustainable?

23.3. Insofar as the first aspect was concerned, the Court ruled that the chargeable event, for levy of stamp duty, would occur on the date of execution of the instrument and not on the date of adjudication or the date of presentation, which, [in that case](#) were events which

occurred prior to the date of the notification, whereby the stamp duty and transfer duty charges were reduced by the State.

23.4. Insofar as the second issue was concerned, the Court held that Section 52 which allows, inter alia, for refund of stamp duty in cases where a Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 31/77 person, inadvertently, uses on an instrument chargeable with duty, a stamp of a description other than that prescribed for such an instrument -- was available to the petitioners for refund of stamp duty. According to the Court, if the date of execution of the instrument is taken as the date which would determine as to what would be the admissible stamp duty that had to be levied on the instrument (i.e. the conveyance) then, the petitioner's case would fall within the ambit of the provisions of [Section 52](#) of the Act, as excess duty had been, inadvertently, paid by the petitioners since the notification reducing the rate of stamp duty and transfer duty stood published prior to the execution of the instrument [in that case](#).

23.5. This apart, the Court observed that even if it is assumed that [Section 52](#) of the Act was not applicable, the petitioners would be entitled to refund of stamp duty as the State could not retain the stamp duty in view of the provision of [Article 265](#) of the Constitution. The relevant observations made by the Court are as follows: ([Piyush Aggarwal](#) case [[Piyush Aggarwal v. State \(NCT of Delhi\)](#), 2005 SCC OnLine Del 242] , SCC Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 32/77 OnLine Del para 11) '11. Even as regards applicability of [Section 52](#) of the Act, the matter can be looked at in another perspective. The "chargeable event"

being the date of execution of the document and if on that date higher than the admissible stamp duty is levied or collected, it would fall within the ambit of excess payment being "inadvertently"

collected on the said date from the petitioner. Thus, it could even be urged that [Section 52](#) of the Act was applicable. Further as noticed earlier de hors the applicability of [Section 52](#) of the Act, stamp duty collected without authority of law cannot be retained in terms of [Article 265](#) of the Constitution of India in the absence of any statutory provision requiring refund application to be submitted within a specified period or prohibiting the refund unless made within the specified period. In the instant case, it may be noted, that application for refund had been made within the stipulated period of six months under [Section 52](#) of the Act.' 23.6. Having regard to the facts which obtained in [Piyush Aggarwal](#) case Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 33/77 [[Piyush Aggarwal v. State \(NCT of Delhi\)](#), 2005 SCC OnLine Del 242] and enunciation of law by the Court, I am not persuaded to hold that the judgment requires reconsideration, as was contended by Mr Ramesh Singh. To my mind, the ambit and scope of [Article 265](#) of the Constitution is not restricted only to cases where the Court finds that the levy imposed by the State is illegal or unconstitutional. As adverted to above, [Article 265](#) of the Constitution, not only imposes a bar on imposition of tax without the authority of law, it also imposes a prohibition on collection of tax without the authority of law.

23.7. In my opinion, the other contention of Mr Ramesh Singh that the Court in [Piyush Aggarwal](#) case [[Piyush Aggarwal v. State \(NCT of Delhi\)](#), 2005 SCC OnLine Del 242] failed to notice the legal regime of the Act, is also not correct in view of the fact that the Court did notice the relevant provisions, which were necessary for adjudication of the matter at hand.

23.8. The other submission of Mr Ramesh Singh, that the Act is a complete code by itself and that refund Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 34/77 could only be ordered in respect of instances provided in the Act, has been answered by me hereinabove. The rationale employed by me is that the scheme of [Chapter V of Act](#) which adverts to allowances and refunds is required to be interpreted in a manner that the statute does not fall foul of the Constitution.

23.9. Therefore, in that sense, the other argument of Mr Ramesh Singh that the Collector of Stamps is a creature of the statute and can, therefore, only operate within its periphery, has to be answered, in my opinion, in the same vein. While one cannot quibble with the proposition that the statutory authority has to necessarily act within the ambit of the statute which forms the basis of its nativity, the extent and amplitude of its power will, however, be governed by the provision of the Constitution. There being no prohibition in the Act for grant of refund for lost stamp paper, surely the Collector of Stamps cannot collect or retain what lawfully does not belong to the State.

24. Interestingly, our neighbouring country i.e. Pakistan, which has a somewhat similar statute, dealing Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 35/77 with the levy collection and refund of stamp duty, is beset with difficulties which are akin to those faced by applicant(s), in our country, seeking refund of stamp duty on account of loss of stamp paper. This aspect, I came across upon a judgment dated 23-2-2016, delivered by the Lahore High Court, in Aziz Ullah Khan v. State of Punjab [Aziz Ullah Khan v. State of Punjab Writ Petition No. 27935 of 2012, order dated 23-2-2016 (Lahore High Court)] , being brought to my notice.

24.1. The Court in that case was faced with a question as to whether refund of stamp duty ought to be ordered in a case where the petitioners had misplaced i.e. lost the stamp papers.

24.2. The Additional Advocate General resisted the writ petition, broadly, on the ground that there was no provision for grant of refund of stamp paper, in cases where it was lost and that if such a relief was granted, it would result in loss to the national exchequer.

24.3. I must confess that, though, in that case, the Court noticed the existence of Rule 5 of the Punjab Non Judicial Stamp Refund, Renewal and Disposal Rules, 1954 which provided for Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 36/77 refund of stamp duty in case of its loss, albeit, in specified circumstances i.e. where stamp paper was stolen or lost in transit by government officials. The Court, after noting that there was a discrimination, inasmuch as, Rule 5 permitted write off where stamp papers were lost by public functionaries, whereas, a similar facility was not given to private person, went on to deal with the other arguments, that is, whether it could order refund in exercise of its constitutional powers in the absence of specific provision for refund, the possibility of loss to the national exchequer, as also misuse of stamp paper, in the following manner:

'... It is very strange to note that the public functionaries, in the event of loss of stamp papers in transit, have been bestowed with a remedy to seek write off whereas the private persons have not been provided with such facility. This fact alone renders it crystal clear that a discriminatory treatment is being given by the public functionaries to their own brethren in the event of loss of stamp papers whereas the request of a member of society is not being entertained merely for the reason that the original are not Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 37/77 available. Such approach, being in conflict with the clear cut

mandate given under [Article 25](#) of the Constitution of Islamic Republic of Pakistan, 1973, cannot be encouraged rather deserves to be discouraged.

10. The learned Additional Advocate General has adopted the plea that when the statute has not allowed any refund in case of loss of stamp papers the same cannot be permitted by this Court in exercise of constitutional jurisdiction vested under [Article 199](#) of the Constitution of Islamic Republic of Pakistan, 1973. In this respect I am of the view that according to the golden principle of interpretation of a statute, a beneficial approach should be followed.

As far as the case in hand is concerned, when a via media has been provided in the event of loss of stamp papers during transit by the public functionaries, how the petitioner can be deprived of such facility. It is not the case of the respondents that the case of the petitioner is not covered under Rule 32 of the 1954 Rules. The Supreme Court of the country, in HRC No. 40927-S of 2012 Application by Abdul Rehman Farooq Pirzada (Pensionary Benefits of the Judges of Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 38/77 Superior Courts, In re [Pensionary Benefits of the Judges of Superior Courts, In re, PLD 2013 SC 829]) while highlighting the principles of interpretation of statutes by the superior Courts has inter alia held as under:

"The interpretation cannot be narrow and pedantic but the Courts' efforts should be to construe the same broadly, so that it may be able to meet the requirements of an ever changing society. The general words cannot be construed in isolation but the same are to be construed in the context in which they are employed. In other words, their colour and contents are derived from the context."

Further, a Full Bench of this Court in Rub Nawaz Dhadwana v. Rana Muhammad Akram [Rub Nawaz Dhadwana v. Rana Muhammad Akram, 2014 SCC OnLine Lah 1] while dealing with the powers of the superior Courts to abridge the distance between the legislator and the public at large has inter alia observed as under:

"The judge must reflect these fundamental values in the interpretation of legislation. The judge should not narrow interpretation to the exclusive Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 39/77 search for subjective legislative intent. He must also consider the "intention" of the legal system, for the statute is always wiser than the legislature. By doing so the judge gives the statute a dynamic meaning and thus bridges the gap between law and society."

If refusal on the part of the respondents to issue refund in favour of the petitioner is adjudged on the touchstone of aforequoted cases, I am of the humble opinion that the same is not tenable for the reason that when the legislator has framed rules for refund of spoiled/unused/lost stamp papers, how the respondents can interpret said rules according to their own whims just to damage the case of the claimants.

In this scenario, the objection raised by the learned Additional Advocate General that the refund is not permissible without production of original stamp papers is of no worth at all. The bona fide of the petitioner is apparent from the fact that after loss of original misplaced stamp papers he not only reported matter to the police with promptitude but also got published proclamation in daily "Smaj" and having

done so he, with a Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 40/77 view to avoid further delay towards execution of sale deed, got issued fresh stamp papers to complete the sale transaction. A copy of the sale deed provided by the abovenamed deed writer shows that the misplaced stamp papers were used for the said purpose but due to their loss during journey sale deed could not be registered. The logic behind issuance of refund against the spoiled, destroyed or unused stamp papers is to accommodate a person who has not used those stamp papers for the purpose for which the same were issued. In the case in hand after admission by the respondents that neither the Misplaced stamp papers were used for any other purpose nor anybody else has claimed refund in that regard, the request of the petitioner cannot be turned down merely on the ground that he could not produce the original Misplaced stamp papers before the competent authority. If the original stamp papers were available with the petitioner there was no necessity for him to incur another sum of more than one million rupees for the same purpose.

12. The learned Additional Advocate General has forcefully argued that worth of the stamp papers is equal to Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 41/77 those of currency notes and no refund against the currency notes is permissible in case where the original are not produced. To the extent of worth of stamp papers equal to currency notes, I agree with the learned law officer, however, to the extent of criteria explained by him regarding refund of currency notes I have contrary view for the reason that in case of currency notes its custodian is always considered its lawful owner and it cannot be proved as to which specific currency note was in possession of a particular person whereas in the case of stamp papers entitlement of a person can be certified firstly from the National Exchequer where price of the stamp papers has been deposited, secondly from the register of Stamp Vendor and thirdly from the authorities before whom the same was presented. Insofar as the case in hand is concerned, all the authorities have admitted that the Misplaced stamp papers were issued to the petitioner after payment of consideration and those were never utilised for any other purpose. In this view of the matter, the objection posed by the learned Law Officer is hereby spurned.

13. Now taking up plea of the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 42/77 learned Additional Advocate General that in case refund is allowed in absence of original stamp papers not only scrupulous persons would be able to use them for any other purpose but they would also succeed to get refund while causing colossal loss to the National Exchequer. In this regard, I am of the view that strict criteria can be laid to avoid such apprehension but in no way same can be made a ground to deprive a person from refund of the amount whose claim has been admitted by the relevant forums. In case the respondents have the apprehension that the Misplaced stamp papers were or would be used for any other purpose they can proceed against the culprit under the relevant law in addition to getting registered a criminal case against the petitioner.

14. Admittedly, the misplaced stamp papers were used for preparation of sale deed as is evident from the recitals of copy of sale deed (Annexure C of this petition), thus, the possibility of using the misplaced stamp papers for any other purpose is totally ruled out. Moreover, execution of sale deed by the petitioner on subsequently purchased stamp papers also eliminates said apprehension as the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 43/77 land once sold cannot be resold on the strength of stamp papers got issued in that regard.

16. The learned Additional Advocate General has mainly opposed the prayer of the petitioner on the premise that there is no provision either in the 1899 Act or in the 1954 Rules, regarding a private person, in case of loss of original stamp papers. In this regard, I am of the view that in view of principle ubi jus ibi remedium (where there is a right there is a remedy) nobody can be left remediless. The said principle has also been elucidated by the Supreme Court of the country in Sarfraz Saleem v. Federation of Pakistan [Sarfraz Saleem v. Federation of Pakistan, PLD 2014 SC 232 : 2014 PLC CS 884] in the following words:

'In these circumstances, lack of exercise of jurisdiction by the High Court in the present case seems to be contrary to the well accepted principle ubi jus ibi remedium (where there is a right there is a remedy) and the spirit of [Articles 4](#) and 10-A of the Constitution, meant to safeguard the rights of every Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 44/77 individual/person to be dealt with in accordance with law.' The aforequoted portion of the judgment of Supreme Court of the country renders it more than clear that nobody can be left remediless. Moreover, while dealing with the matters of masses they cannot be penalised due to stagnant attitude of the legislator about new issues. Insofar as case in hand is concerned, request of the petitioner deserves sympathetic consideration for the reason that after completion of codal formalities his request has been turned down mainly on the ground that original stamp papers have not been produced. At the cost of repetition it is observed that when the legislator itself has held that Collector can refer matter of refund against unused stamp papers even without producing the original one the stubbornness on the part of competent authority in this regard is not understandable. Public functionaries are supposed to eliminate difficulties of public at large but when they themselves try to impede their way to have their legitimate right the entire threadbare of our society would be devastated. Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 45/77

17. Now taking up the plea of the learned Additional Advocate General that if refund is allowed even in cases where the original stamp papers are not produced the National Exchequer would suffer badly, I am of the view that the respondents are not going to pay anything either from their own pockets or from the National Exchequer either they have to repay the amount twice deposited by the petitioner. Had the petitioner claimed anything in addition to that he deposited at the time of issuance of stamp papers then the said contention would have some substance. Considering from another angle in the cases where spoiled or unused stamp papers are returned by the persons concerned they are issued refund without taking into consideration that the said amount is being repaid from the National Exchequer. This fact alone amounts to discrimination on the part of competent authority....' ***

25. As would be noticed, Aziz Ullah Khan case [Aziz Ullah Khan v.

State of Punjab Writ Petition No. 27935 of 2012, order dated 23-2-2016 (Lahore High Court)] , on facts, was pari materia Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 46/77 with the facts obtaining in the instant case. In that case, the stamp paper was lost, which was required for consummation of the sale transaction concerning the subject immovable property. The petitioner, as in the instant case, had bought a new stamp paper and had gone on to consummate the sale transaction qua the very same property.

26. I may also indicate that insofar as other cases cited by Mr Ramesh Singh are concerned, they are, in fact, not applicable to the facts and circumstances arising in the instant case. One cannot but state that the

proposition of law as enunciated in [Mafatlal Industries Ltd. v. Union of India](#) [[Mafatlal Industries Ltd. v. Union of India](#), (1997) 5 SCC 536 : (1998) 111 STC 467] ; State of Maharashtra v.

[Swanstone Multiplex Cinema \(P\) Ltd.](#) [[State of Maharashtra v. Swanstone Multiplex Cinema \(P\) Ltd.](#), (2009) 8 SCC 235 : (2009) 3 SCC (Civ) 333 : (2009) 24 VST 552] and Cooch Behar Contractors Assn. v. State of W.B. [[Cooch Behar Contractors Assn. v. State of W.B.](#), (1996) 10 SCC 380 : (1996) 103 STC 477] still hold the field.

Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 47/77 26.1. However, dealing with the last case first i.e. Cooch Behar Contractors Assn. case [[Cooch Behar Contractors Assn. v. State of W.B.](#), (1996) 10 SCC 380 : (1996) 103 STC 477] , that was a case where the appellants before the Supreme Court sought exclusion of certain components, which had been included in the expression "contractual transfer price", which in turn, determined the tax that an assessee had to pay under works contract. In this context, the Court was called upon to interpret, inter alia, the provisions of Section 6-D of the Bengal Finance (Sales Tax) Act, 1941 as amended by West Bengal Act 4 of 1984.

The Court ruled that nothing could be excluded from contractual transfer price over and above that was indicated in clauses (a) to (e) of sub-section (2) of Section 6-D of the aforementioned Act. It is in this context that the Court observed that Section 6-D was a self-contained provision. In my view, there is nothing in the judgment, which would help the cause of the respondents.

26.2. Likewise, the judgment of the Supreme Court rendered in [Swanstone Multiplex Cinema](#) case [[State of Maharashtra v. Swanstone Multiplex Patna High](#) Court L.P.A No.924 of 2024 dt.01-10-2026 48/77 Cinema (P) Ltd., (2009) 8 SCC 235 :

(2009) 3 SCC (Civ) 333 : (2009) 24 VST 552] , does not support the respondent's case. This was a case where the respondent company, which was the owner of multiplex cinema theatre had collected entertainment tax @ 45% during the period when it was either not liable to pay such tax or was required to pay tax at a concessional rate i.e. 25%.

The State attempted to reclaim the benefit, which had accrued to the respondent company as they had recovered excess entertainment tax from the cinema goers. Consequently, demand notices were issued by the State in that behalf. The demand notices issued were challenged. The High Court allowed the writ petition. The Supreme Court reversed the decision [[Swanston Multiplex Cinemas P. Ltd. v. State of Maharashtra](#), 2008 SCC OnLine Bom 1035] of the High Court.

26.3. While doing so, the Supreme Court made an interesting distinction between the doctrine of unjust enrichment as opposed to doctrine of retention. While drawing a distinction between the two concepts, the Supreme Court noticed several judgments, Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 49/77 including the judgment rendered by the Court in [Mafatlal Industries](#) case [[Mafatlal Industries Ltd. v. Union of India](#), (1997) 5 SCC 536 : (1998) 111 STC 467] . Pertinently, the Court, while allowing the appeal of the State, directed the State to remit undue benefit obtained by the respondent company to a voluntary or charitable organisation, since, the State during that period, could not have levied or collected the tax from the respondent company. This aspect of the matter is reflected in paras 32, 33, 36 &

37. For the sake of convenience, the same are extracted hereafter: ([Swanstone Multiplex Cinema](#) case [[State of Maharashtra v. Swanstone Multiplex Cinema \(P\) Ltd.](#), (2009) 8 SCC 235 :

(2009) 3 SCC (Civ) 333 : (2009) 24 VST 552] , SCC pp. 250-52, paras 32-33 & 36-37) '32. In a given case, this Court in exercise of its jurisdiction under [Article 142](#) of the Constitution of India may also issue other directions, as has been done in [Indian Banks' Assn. v. Devkala Consultancy Service](#) [[Indian Banks' Assn. v. Devkala Consultancy Service](#), (2004) 11 SCC 1 : (2004) 267 ITR 179 : (2004) 120 Comp Cas 612] in a similar situation Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 50/77 where it was difficult for the Court to direct refund of a huge amount to a large number of depositors from whom the bank had illegally collected, this Court directed that the amount be spent for the benefit of the disabled in terms of the provisions of the Persons with [Disabilities \(Equal Opportunities, Protection of Rights and Full Participation\) Act, 1995](#). This Court may take recourse to such a procedure as the State also having granted exemption was not entitled to collect the duty. In other words, it having granted an exemption, was not legally entitled thereto. We think that it would be a better course, as *stricto sensu*, [Article 296](#) of the Constitution is not applicable.

33. We are passing this order keeping in view the peculiar situation as in either event it was cinema-goers who had lost a huge amount. It would be travesty of justice if the owners of the cinema theatre become eligible to appropriate such a huge amount for their own benefit. To the aforementioned extent, doctrine of unjust enrichment may be held to be applicable. A person who unjustly enriches himself cannot be permitted to retain the same for its benefit Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 51/77 except enrichment. Where it becomes entitled thereto the doctrine of unjust enrichment can be invoked irrespective of any statutory provisions.

36. It may be true that hereat we are not concerned with refund of tax but then for enforcement of legal principles, this Court may direct a party to divest itself of the money or benefits, which in justice, equity and good conscience belongs to someone else. It must be directed to restitute that part of the benefit to which it was not entitled to.

37. We, therefore, direct that the State shall realise the amount to the extent the respondent had unjustly enriched itself and pay the same to a voluntary or a charitable organisation, which according to it is a reputed civil society organisation and had been rendering good services to any section of the disadvantaged people and in particular women and children. We would request the Hon'ble the Chief Minister of the State to take up the responsibility in this behalf so that full, proper and effective utilisation of the amount in question is ensured.' Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 52/77 26.4. Insofar as [Mafatlal Industries](#) case [[Mafatlal Industries Ltd. v. Union of India](#), (1997) 5 SCC 536 :

(1998) 111 STC 467] is concerned, the Supreme Court was considering the scope, ambit and extent to which doctrine of unjust enrichment would apply, the Court laid down various propositions of law, which I need not advert to as none of them, in my opinion, would help the cause of the respondent.

26.5. I may, however, indicate that the Court, *inter alia*, ruled that where the provisions of a statute provided for refund, the refund, if any, would be granted in accordance with the statute.

The Court was, amongst others, considering the provisions of [Section 11- B](#) of the Central Excises Act and [Section 27](#) of the Customs Act.

26.6. Likewise, Maganti
Suryanarayana case [Maganti

[Suryanarayana v. State of A.P.](#), 1975 SCC OnLine AP 106] cited for the proposition, that there is no inherent jurisdiction vested in the Collector of Stamps to grant refund as he is a creature of the statute or the judgment rendered in [State of A.P. v. P. Laxmi Devi](#) [[State of A.P. v. P. Laxmi](#) Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 53/77 Devi, (2008) 4 SCC 720], cited for the proposition that there is no equity in tax are propositions, which have held the field for so long that they appear to be cast in stone. Having said so, the foregoing discussion would show that these propositions would not impede the cause of the petitioners, given the situation obtaining in the instant case."

8. The appellants herein being dissatisfied with non-grant of interest on the sum of Rs 28,10,000 preferred letters patent appeal. The appeal court dismissed the letters patent appeal holding as under:

"7. As no arguments were canvassed by the appellant (original petitioner) before the learned Single Judge for payment of interest, the said issue has not been decided. For the first time, this issue of payment of interest upon Rs 28,10,000 has been raised. Hence, we see no reason to entertain this letters patent appeal. The principal amount has already been ordered to be refunded. Petitioner can file a review application if he has argued and the point is not decided about interest upon the principal amount before the learned Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 54/77 Single Judge.

8. The counsel for the respondent has pointed out that the issue of interest was never raised by the appellant (original petitioner) when the writ petition was argued by the original petitioner."

12. The short point that falls for our consideration is whether in the facts and circumstances of the case, the appellants herein are entitled to claim interest on the refunded amount of Rs 28,10,000 [referred to above](#).

14. The concept of awarding interest on delayed payment has been explained by this Court in [Karnataka Bank v. RMS Granites \(P\) Ltd.](#)

[[Karnataka Bank v. RMS Granites \(P\) Ltd.](#), 2024 SCC OnLine SC 4695], we quote the following observations: (SCC OnLine SC para 16) "16. It may be mentioned that there is misconception about interest. Interest is not a penalty or punishment at all, but it is the normal accretion on capital. For example if A had to pay B a certain amount, say ten years ago, but he offers that amount to him today, then he has pocketed the interest on the principal Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 55/77 amount. Had A paid that amount to B ten years ago, B would have invested that amount somewhere and earned interest thereon, but instead of that A has kept that amount with himself and earned interest on it for this period. Hence equity demands that A should not only pay back the principal amount but also the interest thereon to B. [See: Alok Shanker Pandey v. Union of India [Alok Shanker Pandey v. Union of India, (2007) 3 SCC 545 :

(2007) 136 Comp Cas 258] .]"

15. Thus, when a person is deprived of the use of his money to which he is legitimately entitled, he has a right to be compensated for the deprivation which may be called interest or compensation. Interest is paid for the deprivation of the use of money in general terms which has returned or compensation for the use or retention by a person of a sum of money belonging to other.

18. In Irrigation Deptt., State of Orissa v. G.C. Roy [Irrigation Deptt., [State of Orissa v. G.C. Roy](#), (1992) 1 SCC 508] , a Constitution Bench of this Court opined that a person deprived of use of money to which he is legitimately entitled Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 56/77 has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages. This is also the principle of Section 34 of the Civil Procedure Code.

20. In [CIT v. Sham Lal Narula](#) [[CIT v. Sham Lal Narula](#), (1963) 50 ITR 513 : 1962 SCC OnLine Punj 35 : AIR 1963 P&H 411] , a Division Bench of the High Court of Punjab articulated the concept of interest as under: (SCC OnLine Punj) "The words "interest" and "compensation" are sometimes used interchangeably and on other occasions they have distinct connotation. "Interest"

in general terms is the return or compensation for the use or retention by one person of a sum of money belonging to or owed to another. In its narrow sense, "interest" is understood to mean the amount which one has contracted to pay for use of borrowed money. ... In whatever category "interest" in a particular case may be put, it is a consideration paid either for the use of money or for forbearance in demanding it, after it has fallen due, and thus, it is a charge for the use or forbearance of Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 57/77 money. In this sense, it is a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money belonging to another, or for the delay in paying money after it has become payable."

(emphasis supplied)

22. In Hello Minerals Water (P) Ltd. v. Union of India [Hello Minerals Water (P) Ltd. v. Union of India, 2004 SCC OnLine All 2187 : (2004) 174 ELT 422] , ELT paras 15 & 16, a Division Bench of the Allahabad High Court explained the concept of interest as under: (SCC OnLine All paras 31-33) "31. We may mention that we are passing the direction for interest since interest is the normal accretion on capital.

32. Often there is misconception about interest. Interest is not a penalty or punishment at all. For instance, if A had to pay a certain sum of money to B at a particular time, but he pays it after a delay of several years, the result will be that the money remained with A and he would have earned interest thereon by investing it somewhere. Had he paid that amount at the time when it Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 58/77 was payable then B would have invested it somewhere, and earned interest thereon. Hence, if a person has illegally retained some amount of money then he should ordinarily be directed to pay not only the principal amount but also the interest earned thereon.

33. Money doubles every six years (because of compound interest). Rupees hundred in the year 1990 would become rupees two hundred in the year 1996 and it will become Rs 400 in the year 2002. Hence, if

A had to pay B a sum of Rs 100 in the year 1990 and he pays that amount only in the year 2002, the result will be that A has pocketed Rs 300 with himself. This clearly cannot be justified because had he paid that amount to B in the year 1990, B would be having Rs 400 in the year 2002 instead of having only Rs 100. Hence, ordinarily interest should always be awarded whenever any amount is detained or realised by someone, otherwise the person receiving the amount after considerable delay would be losing the entire interest thereon which will be pocketed by the person who managed the delay, it is for this reason that we have ordered for payment of interest along with the amount realised as Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 59/77 export pass fee."

23. If on facts of a case, the doctrine of restitution is attracted, interest should follow. Restitution in its etymological sense means restoring to a party on the modification, variation or reversal of a decree or order what has been lost to him in execution of decree or order of the court or in direct consequence of a decree or order. The term "restitution" is used in three senses, firstly, return or restoration of some specific thing to its rightful owner or status, secondly, the compensation for benefits derived from wrong done to another and, thirdly, compensation or reparation for the loss caused to another."

29. Thus, it is contended by Mr. Singh, learned Sr. Advocate on behalf of the private respondents / writ petitioners that the interest is the accretion of money over the principal amount, which is lying with the statutory amount and does not come to the hand of the writ petitioners due to the procedural conflict and procrastination of the arbitral proceeding before the Court.

30. Dr. Maurya Vijay Chandra, learned Additional Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 60/77 Advocate General on behalf of the National Highway Authority of India adopts the argument made by the learned senior counsel on behalf of the appellants. It is submitted by him that the [National Highways Act, 1956](#) is a complete Code which determines the process of acquisition of land for construction, extension, and other related purposes of the national highways throughout the country. [The Act](#) itself provides under [Section 3G](#) for determination of compensation to be paid to the landowners for acquisition of land and appointment of arbitrator to solve any dispute regarding compensation. [The Act](#) provides that the Central Government has the absolute authority to appoint Arbitrator. Initially, the Central Government vide notification, dated 10.10.2017, published in the extraordinary gazette of India appointed Additional Collector, Gaya as Arbitrator to settle the dispute as regards compensation.

Subsequently, by another notification, dated 21.06.2018, the Divisional Commissioner, Gaya was appointed as Arbitrator.

This appointment cannot be questioned by a land user because of the fact that under the statute, it is the exclusive prerogative of the Central Government to appoint and even change the arbitrator. [Arbitration and Conciliation Act, 1996](#) has no manner of application in the instant case. The learned Additional Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 61/77 advocate General submits that the impugned order passed by the learned single judge is bad in law in view of the fact that no Court can pass an order of payment of interest more than the statutory interest. The order is bad in the said respect. In support of his contention, he refers to a decision of the Kerala High Court in the Ernakulam Bench passed in WP(C) No. 31060/2013, [Pomsy Food Products Pvt. Ltd. v. Union of India & Ors.](#) [The](#) fact of the aforesaid report is that the payment of tax was deferred by the assessee/appellants. The appellants were not exempted from paying the tax. Thus, the appellants collected the tax from the customers but were not paying to the government.

The concession of deferral did not mean that the payment had not become due. Payment became due with the filing of the returns. The deferral was granted as payment had become due.

The appellants knew that it was due, but due to the concession granted under the scheme, they were not paying the same.

31. Under such backdrop, the Court in the exercise of jurisdiction of [Article 226](#) of the Constitution of India cannot waive the payment of interest, which is statutory. Such relief, if at all it can be granted, will be a relief in equity. It is well settled that equity cannot operate against statutory law. The Kerala High Court relied on the decision of the Hon'ble Supreme Court Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 62/77 in [Madamanchi Ramappa v. Muthalur Bojjappa](#), reported in AIR 1963 SC 1633, the relevant paragraph of which is quoted below:-

"12. It appears that the decision of this Court in Deity Pattabhiramaswamy [AIR 1959 SC 1204] was in fact cited before the learned Single Judge, but he was inclined to take the view that some aspects of the provisions contained in Section 100 of the Code had not been duly considered by this Court and so, he thought that it was open to him to interfere with the conclusions of the courts below in the present appeal. According to the learned Judge, it is open to the second appellate court to interfere with the conclusions of fact recorded by the District Judge not only where the said conclusions are based on no evidence, but also where the said conclusions are based on evidence which the High Court considers insufficient to support them. In other word, the learned Judge seems to think that the adequacy or sufficiency of evidence to sustain a conclusion of fact is a matter of law which can be effectively raised in a second appeal. In our opinion, this is clearly a misconception of the true legal position. The admissibility of Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 63/77 evidence is no doubt a point of law, but once it is shown that the evidence on which courts of fact have acted was admissible and relevant, it is not open to a party feeling aggrieved by the findings recorded by the courts of fact to contend before the High Court in second appeal that the said evidence is not sufficient to justify the findings of fact in question. It has been always recognised that the sufficiency or adequacy of evidence to support a finding of fact is a matter for decision of the court of facts and cannot be agitated in a second appeal. Sometimes, this position is expressed by saying that like all questions of fact, sufficiency or adequacy of evidence in support of a case is also left to the jury for its verdict. This position has always been accepted without dissent and it can be stated without any doubt that it enunciates what can be properly characterised as an elementary proposition. Therefore, whenever this Court is satisfied that in dealing with a second appeal, the High Court has, either unwittingly and in a casual manner, or deliberately as in this case, contravened the limits prescribed by Section 100, it becomes the duty of this Court to Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 64/77 intervene and give effect to the said provisions. It may be that in some cases, the High Court dealing with the second appeal is inclined to take the view that what it regards to be justice or equity of the case has not been served by the findings of fact recorded by courts of fact; but on such occasions it is necessary to remember that what is administered in courts is justice according to law and considerations of fair play and equity however important they may be, must yield to clear and express provisions of the law. If in reaching its decisions in second appeals, the High Court

contravenes the express provisions of Section 100, it would inevitably introduce in such decisions an element of disconcerting unpredictability which is usually associated with gambling; and that is a reproach which judicial process must constantly and scrupulously endeavour to avoid."

32. What is administered in course is justice according to law and considerations of fair play and equity, however important they may be, must yield to clear and express the provisions of the law.

33. On the same point that equity cannot override Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 65/77 written and settled law, the learned AAG refers to P.M. Latha v.

State of Kerala, reported in 2003 (3) SCC 541, the relevant paragraph of which is reproduced below:-

"13. Equity and law are twin brothers and law should be applied and interpreted equitably but equity cannot override written or settled law. The Division Bench forgot that in extending relief on equity to BEd candidates who were unqualified and yet allowed to compete and seek appointments contrary to the terms of the advertisement, it is not redressing the injustice caused to the appellants who were TTC candidates and would have secured a better position in the rank list to get appointment against the available vacancies, had BEd candidates been excluded from the selections. The impugned judgment of the Division Bench is both illegal, inequitable and patently unjust. The TTC candidates before us as appellants have been wrongly deprived of due chance of selection and appointment. The impugned judgment of the Division Bench, therefore, deserves to be set aside and of the learned Single Judge restored."

34. Having heard the learned counsels for the parties Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 66/77 and on careful perusal of entire materials on record as well as the impugned order, the primary question that requires to be adjudicated is as to whether the order passed by the Additional Collector ceases to operate in view of subsequent notification, dated 21.06.2018 by the Central Government, authorizing the Divisional Commissioner to act as the Arbitrator in respect of a dispute under [Section 3G\(5\)](#).

35. Let us now quote the relevant portion of the notification published by the Ministry of Road Transport and Highways, New Delhi, dated 21.06.2018, which is as hereunder:

"S.O. 3019 (E) - In pursuance of Sub-section (5) of [Section 3G](#) of the National Highways Act, 1956 (48 of 1956), the Central Government hereby appoints the Officers mentioned in the Column (2) of the Table below, to be Arbitrator for the purpose of the said sub-

section who shall exercise the powers conferred and perform duties imposed. on Arbitrators by or under the said Act within the local limits of their respective jurisdiction as specified in Column (3) and (4) of the said table. Sub-section (6) and (7) of [Section 3 G](#) of the Act shall be taken into consideration while passing Awards by the Arbitrator".

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36. On careful consideration of the language of the notification, it appears that the aforesaid notification was not published in supersession of the notification, dated 10.10.2017.

It is needless to say that an administrative notification operates prospectively. There is no retrospective operation of the notification, dated 21.06.2018. Therefore, the pending proceedings before the Additional Collector is required to be adjudicated/settled by him only. The Divisional Commissioner is empowered from the date of the issuance of notification on and from 21.06.2018. Therefore, the order, dated 04.08.2018, passed by the Arbitrator/Additional Collector, Gaya, holding the land in Khesra No. 3243 as developing land cannot be held to be illegal, invalid, and inoperative in the teeth of subsequent notification dated 21.06.2018.

37. In the writ petition, the petitioners prayed for quashing of letter no. 962, dated 21.12.2018 (Annexure-10) issued by the Deputy General Manager (Technical) BSRDCL, directing the Arbitrator-cum-Additional Collector to recall the Award passed by the Additional Collector and to transmit the record to the Divisional Commissioner, Gaya. The said letter was quashed by the learned Single Judge. So far as this part of order is concerned, we do not find any reason to interfere in the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 68/77 instant appeal.

38. The learned AAG, as a last resort, argues before the Court that the Additional Collector, Gaya did not determine the amount of compensation under sub-section (1) or (5) of [Section 3G](#), as the case may be, and while holding the land in question as developing land, he did not take into consideration the essential requirements of sub-section (7) of [Section 3G](#). The Arbitrator required to consider the following:

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-

section (5), as the case may be, shall take into consideration-

(a) the market value of the land on the date of publication of the notification under [section 3A](#);

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

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(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change."

39. Therefore, the order of Arbitrator, dated 04.08.2018 is bad.

40. NHAI can only agitate this ground in a proceeding under [Section 34](#) of the Arbitration and Conciliation Act, 1996 before the competent Civil Court. The writ court cannot consider, legality, validity and propriety of the order passed by the Arbitrator.

41. At this stage, the question that requires to be adjudicated is as to whether, while exercising jurisdiction under Article 226/227 of the Constitution of India, the High Court could independently determine the rate of interest payable on compensation in an acquisition proceeding under the [National Highways Act](#),

[1956](#) or is there any statutory provision, governing the field which ought to be taken into consideration by the learned Single Judge.

42. In [Union of India v. Tarsem Singh](#), reported in 2025 SCCOnLine SC 235, the NHAI through its Project Director sought for a declaration as to whether, the judgement, Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 70/77 dated 19.09.2019, passed in Civil Appeal No. 7064 of 2019, titled [Union of India & Anr. v. Tarsem Singh & Ors.](#), is to be applied prospectively, thereby reopening of cases where land acquisition proceedings have already been completed and the determination of compensation had also attained finality.

Along with [Tarsem Singh](#) (supra), the Hon'ble Supreme Court took up similar other cases together for decision, where similar question was raised. The issue before the Hon'ble Supreme Court was as to whether the land owners were entitled to solatium and interest, but their claim for the grant of additional market value was declined. Hon'ble Supreme Court had dealt with the legislative background and it was decided by the Hon'ble Chief Justice of India with Hon'ble Mr. Justice Ujjal Bhuyan on 4th of February, 2025 as hereunder: -

"E. CONCLUSION - 25. In view of the foregoing analysis, we find no merit in the contentions raised by the Applicant, NHAI. We reaffirm the principles established in [Tarsem Singh](#) (supra) regarding the beneficial nature of granting 'solatium' and 'interest' while emphasising the need to avoid creating unjust classifications lacking intelligible differentia. Consequently, we deem it Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 71/77 appropriate to dismiss the present Miscellaneous Application.

26. Leave is granted in the other connected matters, and all the appeals are disposed of with a direction to the Competent Authority to calculate the amount of 'solatium' and 'interest' in accordance with the directions issued in [Tarsem Singh](#) (supra). In this context, the appeal arising out of SLP (C) Diary No. 52538/2023 is dismissed, as the challenge therein pertains to the High Court's refusal to award Additional Market Value as another component of the compensation, while 'solatium' and 'interest' have already been granted."

43. Thus, by this judgement, the order passed in [Union of India v. Tarsem Singh](#), reported in (2019) 9 SCC 304, was upheld.

44. The aforesaid decision again came up for consideration in [Manav Bhanot v. National Highway Authority of India](#), reported in 2026 INSC 973 before the Hon'ble Supreme Court. In [Manav Bhanot](#) (supra), the only dispute was whether the claim of solatium, interest and interest on solatium, in so far as the acquisition made under [National Highways Act, 1956](#), is to be computed under the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 72/77 [Land Acquisition Act, 1894](#) or the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013](#). In reply to the above question, the Hon'ble Supreme Court first noticed [Section 105](#) of the Act of 2013, which is extracted hereunder:-

"105. (1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule. (2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of

the enactments specified in the Fourth Schedule. (3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 73/77 this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament."

45. By Ordinance 9 of 2014, there was an amendment made to sub-section (3) of Section 105, which is extracted hereinbelow:

"(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 74/77 resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015."

46. The above amendments were made applicable from 19.09.2015. Therefore, it was contended on behalf of the NHA that the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013](#) was made applicable only w.e.f. 1st of January, 2015 and in respect of acquisition prior to 1st of January, 2015, in computing the benefit of solatium, interest and interest on solatium, it must be based on the [Land Acquisition Act](#) of 1894. The Hon'ble Supreme Court on due consideration of the relevant provision of the Statute held as hereunder:-

"27. We, hence, allow the appeal only to the extent of directing that the compensation as determined by the Arbitration Award, shall be conferred with solatium, interest and interest on solatium as provided under the Act of 1894, for which the matter is remanded to the Competent Authority for the purpose of computation and disbursal by the Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 75/77 Government to the appellant herein."

47. In the instant case, the land in Khesra No. 3243 was acquired vide notification, dated 4th of March, 2014, i.e., prior to 1st of January, 2015. Relying on the decision of [Manav Bhanot](#) (supra), the private respondents / writ petitioners are entitled to solatium, interest and interest on solatium as provided under the [Land Acquisition Act, 1894](#).

48. This is not the end of our adjudication.

49. On perusal of the order of the Arbitrator, dated 4th of August, 2018, we find that the Arbitrator / Additional Collector, Gaya did not consider the market value of the land on the date of publication of notice. Secondly, the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land. Thirdly, the damage, if any, sustained by the person interested at the time of taking possession of land, by reason of the acquisition, injuriously affecting his other immovable property in any manner or his earnings and lastly, if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

50. The above are the essential requirements to Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 76/77 settle the compensation under NHAI Act. The order of the Arbitrator does not contain any adjudication on the above-

mentioned points contemplated in [Section 3G\(7\)](#) of the said Act. The order dated 4th of August, 2018 only states that as there are some pucca pillars and constructions in the vicinity of the acquired land, the land in question is developing land.

The arbitral award did not speak about the amount of compensation, differing from the compensation fixed by the competent authority.

51. The provision of the [Land Acquisition Act, 1894](#) in respect of payment of solatium, interest on solatium and interest, was not, at all, considered by the Arbitrator.

Therefore, the order of the Arbitrator and the appellate order passed by the Mines Tribunal are bad in law, inoperative and capricious. Therefore, we have no other alternative, but to set aside those orders.

52. We have already come to this finding that Annexure-10 being a letter, issued by the Deputy General Manager (Technical), Bihar State Road Development Corporation Limited to the Arbitrator-cum-Additional Collector, Gaya, cannot be acted upon, because Gazette Notification, dated 21st of June, 2018 shall have prospective Patna High Court L.P.A No.924 of 2024 dt.01-10-2026 77/77 effect and the same is not applicable in pending cases.

53. In view of the above discussions, while maintaining and affirming the order, passed by the learned Single Judge, for setting aside the letter, dated 21st of December, 2018 (Annexure-10), we set aside the remaining part of the order, passed in C.W.J.C. No. 16226 of 2019, dated 16th of January, 2024.

54. Accordingly, we direct the competent authority to reassess the amount of compensation of acquisition of land in Khesra No. 3243 along with solatium, interest and interest on solatium on compensation as per the [Land Acquisition Act](#) of 1894, within a period of three months from the date of communication of this order.

54. With the aforesaid observations/directions, the instant appeal stands disposed of.

(Bibek Chaudhuri, J) Rana Vikram Singh, J: I agree.

(Rana Vikram Singh, J) skm/-

AFR/NAFR	AFR
CAV DATE	23.09.2026
Uploading Date	01.10.2026
Transmission Date	N/A