

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 11859/2020

URN: CW / 22010U / 2020

- 1 State of Rajasthan through the Principal Secretary, to the Government, Department of Water Resources Government Of Rajasthan, Secretariat, Jaipur.
- 2 The Chief Engineer, Department of Water Resources, Government of Rajasthan, Secretariat, Jaipur (Raj)
- 3 The Executive Engineer, Department of Water Resources, Jaipur Division-I, Railway Station, Jaipur (Raj)

-----Petitioners

Versus

- 1 Smt Bholi, W/o Late Shri Bhonri Lal
- 2 Madho Ram, Son of Late Shri Bhonri Lal
- 3 Babu Lal, Son of Late Shri Bhonri Lal
- 4 Smt. Narayani D/o Late Shri Bhonri Lal Wife of Shri Asha Ram, R/o Sriram Ki Nangal, Tehsil Sanganer, District Jaipur
- 5 Prabhu Son of Late Shri Sitaram Meena, Resident of Beed Papad, Tehsil And District Jaipur
- 6 Sonya @ Sohan Lal Son of Late Shri Sitaram Meena, (Deceased During Pendency Of The Writ Petition)
- 6.1 Smt. Chandi Devi W/o Late Shri Sonya @ Sohan Lal, Resident of Beed Papad, Tehsil And District Jaipur (Rajasthan).
- 6.2 Ramphool S/o Late Shri Sonya @ Sohan Lal, Resident of Beed Papad, Tehsil And District Jaipur (Rajasthan).
- 6.3 Kailash S/o Late Shri Sonya @ Sohan Lal, Resident of Beed Papad, Tehsil And District Jaipur (Rajasthan).
- 6.4 Ku. Nangi D/o Late Shri Sonya @ Sohan Lal, Resident of Beed Papad, Tehsil And District Jaipur (Rajasthan).
- 7 Smt. Phooli Wife of Late Shri Lalaram Meena, Resident of Beed Papad, Tehsil And District Jaipur
- 8 Kalu Son of Late Shri Lalaram Meena, Resident of Beed Papad, Tehsil And District Jaipur
- 9 Narayan Son of Late Shri Lalaram Meena, Resident of Beed Papad, Tehsil And District Jaipur

- 10 Smt. Dugli Wife of Shri Chotya, Resident of Beed Papad, Tehsil And District Jaipur
- 11 Raju Son of Shri Chotya, Resident of Beed Papad, Tehsil And District Jaipur
- 12 Kaushalya D/o Shri Chotya, Resident of Beed Papad, Tehsil And District Jaipur
- 13 Smt. Gyarsi Devi W/o Late Shri Chauthya Meena, Resident of Beed Papad, Tehsil And District Jaipur
- 14 Girraj Meena Son of Late Shri Chauthya Meena, (Deceased During Pendency Of The Writ Petition)
- 14.1 Smt. Kalli Dvi W/o Late Shri Girraj Meena, R/o Beed Papad, Tehsil And District Jaipur (Rajasthan).
- 15 Kaluram Meena Son of Late Shri Chauthya Meena, Resident Of Beed Papad, Tehsil And District Jaipur
- 16 Smt. Panchi Wife of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 17 Mithalal Son of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 18 Lalaram Son of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 19 Banwari Son of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 20 Rakesh Son of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 21 Ramesh Son of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 22 Raju Son of Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 23 Kumari Nangi D/o Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 24 Kumari Komal D/o Late Shri Gaimda, Resident of Beed Papad, Tehsil And District Jaipur
- 25 Rewad Son of Late Shri Mangle, Resident of Beed Papad, Tehsil And District Jaipur

----Respondents

For Petitioner(s) : Mr. B.S. Chhaba, AAG
Ms. Mahi Choudhary
Mr. Hardik Singh

For Respondent(s) : Mr. M.M. Ranjan, Sr. Adv. assisted by
Mr. Lokesh Tiwari,
Mr. Nikhil Simlote

HON'BLE MR. JUSTICE SUDESH BANSAL

Judgment

1.	Date of conclusion of Arguments	14.07.2026
2.	Date on which the judgment was reserved	14.07.2026
3.	Whether the full judgment or only operative part is pronounced	Full
4.	Date of Pronouncement	21.07.2026

1. This Civil Writ Petition, by and on behalf of petitioner–State of Rajasthan, has been directed against two orders, the order dated 14.10.2019, denying to review/recall the order dated 13.07.2017, so also against order dated 13.07.2017, both orders passed by learned Senior Civil Judge & Chief Judicial Magistrate, Jaipur Metro, in Execution Application No.56/2012 titled as '*Smt. Bholi & Ors. Versus Additional Chief Engineer, Irrigation Department & Ors.*' Challenge to the impugned orders has been made by petitioners, invoking jurisdiction of High Court under Article 227 of the Constitution of India and thereby petitioner-State seeks to question the quantum of compensation and interest thereupon, payable to respondents-Khatedars in lieu of acquisition of their land pursuant to award dated 12.08.1983 as amended vide order dated 07.04.2011 passed by the Land Acquisition Officer (for short 'LAO') under the Rajasthan Land Acquisition Act, 1953, now repealed since provisions of the Land Acquisition Act,

1894 have come in effect and operation in Rajasthan w.e.f. 24.09.1984.

2. According to the petitioners, compensation as per calculation of the original award dated 12.08.1983 has already been paid to the respondents and in terms of the amended award dated 07.04.2011, due compensation payable to respondents, comes to the tune of Rs.85,74,725/- with interest as on 28.07.2017 whereas in the order impugned dated 13.07.2017, learned Senior Civil Judge assessed the due compensation, to the tune of Rs.3,14,47,142/- along with interest as on 08.08.2017. Thereafter, petitioners filed application dated 08.08.2017 seeking to recall/review the order of assessment dated 13.07.2017, but same has been dismissed by the Senior Civil Judge, Jaipur Metro vide order dated 14.10.2019 and after calculating the interest of one month (08.12.2013 to 07.01.2014), which was inadvertently left un-calculated and interest of future period upto 02.11.2019, the payable amount to respondents-khatedars was calculated Rs.3,46,13,863/-. In the present Writ Petition, both the orders have been put to challenge by petitioners.

3. When the present writ petition came up on board on 05.10.2021, following order was passed:-

"1. Admit. Issue notice.

2. Ms. Sheetal, learned counsel for the petitioner-State undertakes that a sum of Rs.85,74,725/- and interest thereupon, which according to the State is payable to the respondents shall be paid within two weeks.

3. In view of the aforesaid, the order dated 06.09.2021 passed by this Court is modified and stay application is disposed of with a direction that

in case, the petitioners deposit the aforesaid amount by 31.10.2021, the executing Court shall not take any coercive measure for enforcement of the amount, pursuant to orders dated 13.07.2017 and 14.10.2019.

4. In case, the petitioners fail to deposit the above referred admitted amount by 31.10.2021, the executing Court shall be free to proceed, in accordance with law.

5. Stay petition stands disposed of.

6. Needless to observe that the contention of the rival parties, in relation to the remaining amount pursuant to impugned order shall be subject to final outcome and/or any further order to be passed in the present writ petition. And in case, any further/additional amount is found payable, it shall carry interest @ 6% p.a. from 31.10.2021 until the same is paid."

4. According to the counsel for petitioners, in the light of the order dated 05.10.2021, due compensation amount of Rs.85,74,725/- along with accrued interest thereupon (Rs.85,74,725/- principal amount + Rs.28,20,569/- interest amount = Rs.1,13,95,294/- total amount) from 31.10.2021 has already been deposited by petitioners on 08.11.2021, by way of bankers cheque dated 03.11.2021 and delay of eight days occurred in deposition of compensation has also been condoned by the High Court vide order dated 12.01.2022, therefore, the stay order, against enforcement of payment of remaining amount of compensation in terms of order dated 13.07.2017 and 14.10.2019 had come in effect and same is in force until decision of the present writ petition.

Note:- Admittedly, Execution Petition No.56/2012 for recovery of remaining amount of compensation as per amended award dated 07.04.2011 is sub judice and pending before the learned Senior Civil Judge.

5. During course of Writ Petition, Application (IA No.2/2021) dated 01.03.2021 was filed by petitioners to take certain documents on record, which was allowed vide order dated 06.09.2021 and documents have been taken on record. Then, respondents filed an another application No.1/2023 dated 12.04.2023 to take documents R/6/1 to R/6/3 on record, which has also been allowed vide order dated 26.04.2023. Then, from the side of petitioners, entire compilation of documents for the sake of brevity was placed on record on 13.03.2026, which has also been taken on record on the same day.

6. Backdrop of facts, as culled out from record, whereunder calculation of due compensation under the orders impugned dated 13.07.2017 and 14.10.2019 came to be made, can be recapitulated, succinctly, as under:-

6.1 Petitioner-State issued notification dated 04.02.1982 under Section 4(1) of the Act of 1953, initiating proceedings to acquire land ad-measuring 1887 bighas 10 biswas located in Tehsil and District Jaipur for the public purpose of construction of Mazaar Dam on Amanishah Ka Nala, Jaipur. The notification dated 04.02.1982 was followed by declaration dated 16.02.1982 under Section 6 read with Section 17(1) of the Act of 1953 and an award dated 12.08.1983 was passed by the Land Acquisition Officer, computing the compensation to be awarded for the acquired lands. The possession of acquired lands was taken by the petitioner-State from Khatedars on 28.08.1982.

6.2 In such acquisition proceedings, land ad-measuring 268 bighas and 15 biswas bearing Khasra Nos.46/53, 46/54, 46/55, 46/56, 46/57, 46/58, 46/59, 46/1, belonging to the respondents-Khatedars located at Village Beed Papad, Tehsil and District Jaipur and land ad measuring 68 bighas and 9 biswas, belonging to one another Khatedar – Ghasi Ram Gurjar located in Village Kishanbag, Tehsil and District Jaipur were also acquired and in the one and same award dated 12.08.1983, the compensation of acquired lands of these khatedars, barani in nature, was determined by the Land Acquisition Officer at the rate of Rs.12,000/- per bigha with solatium at the rate of 10% and interest at the rate of 4% per annum. The award dated 12.08.1983 was common.

6.3 Another Khatedar – Mr. Ghasi Ram, being dissatisfied with the quantum of compensation as determined under the award dated 12.08.1983, requested to make a reference, under Section 18 of the Act of 1953 for re-determination of compensation by the competent authority. His request was acceded and under Reference Land Acquisition Case No.47/1984, competent authority, vide order dated 27.03.1992 revised and re-determined the compensation of barani lands at the rate of Rs.24,000/- per bigha instead of Rs.12,000/- per bigha with solatium at the rate of 30% and further interest at the rate of 12% per annum to be paid from the date of notification under Section 4 dated 04.02.1982 till the date of taking possession, with further interest at the rate of 9% per annum for the first year commencing from the date of taking possession i.e. 28.08.1982 and thereafter, at the rate of

15% per annum till the actual payment of revised compensation is made. For ready reference, the reasoning and operative portion of order dated 27.03.1992 is being reproduced hereunder:-

"14— प्रार्थी की ओर से 1988 आर एल आर 640 कमलादेवी बनाम बीएसएफ जोधपुर एआईआर, 1992 सुप्रीम कोर्ट 150 गोकूल बनाम हरियाना राज्य, ए आई आर 1980 सुप्रीम कोर्ट, 1870 ए. गोपाल बनाम स्पेशल डिप्टी सेक्रेटरी, ए आई आर 1984 सुप्रीम कोर्ट 774 एलएओ देवनगिरी बनाम, पी. वीरभद्रप्पा, 1984 सुप्रीम कोर्ट 892 श्रीमती कौशल्या देवी बनाम एलएओ विनिर्णय पेश हुए हैं। इन सारे विनिर्णयों में यह निर्णित किया गया है कि भूमि का मुआवजा तय करते समय भूमि की पोटेंशियल वैल्यू दृष्टिगत रखनी चाहिए। इसके अलावा भूमि किस प्रकार की है, इसका वर्तमान में क्या उपयोग हो रहा है, इसके आसपास कौनसी भूमियां हैं और आसपास की भूमि का क्या उपयोग हो रहा है तथा उसका अवाप्तशुदा भूमि पर क्या प्रभाव है, यह सब तथ्य दृष्टिगत रखने चाहिए। 1992 सुप्रीम कोर्ट 150 में माननीय उच्चतम न्यायालय ने अवाप्तशुदा भूमि जिस गांव में थी, उस गांव में हुए पहले की अवाप्ति में दिए गए मुआवजा के बाद भूमि की कीमतों में हुई वृद्धि को दृष्टिगत रखते हुए मुआवजा की राशि में वृद्धि की है। हमारे मामले में स्वयं एलएओ ने अपने अवार्ड में माना है कि फरवरी, 82 की प्रचलित दर काफी अधिक है, परन्तु राज्य सरकार के निर्देश की वजह से उन्होंने उक्त दर से मुआवजा नहीं दिया। उन्होंने यह भी माना है कि उक्त भूमि विद्याधर नगर योजना के आसपास थी। जेडीए द्वारा प्रार्थी को दिए गये नोटिस दिनांक 17.12.83 से भी स्पष्ट होता है कि जेडीए उक्त भूमि को विद्याधर नगर योजना के लिए अवाप्त करना चाहती थी। इन तथ्यों से यह स्पष्ट है कि अवाप्तशुदा भूमि आवासीय योजना तथा व्यावसायिक योजना के लिए उपयुक्त है। भूमि में अवाप्ति के समय यदि खेती नहीं भी हो रही थी तो इससे मेरे विचार से कोई अंतर नहीं पड़ता। क्योंकि बंजर भूमि पर भी आवासीय या व्यावसायिक योजना बन सकती है और वास्तव में इसी उपयोग के लिए ऐसी भूमि परियोजना बनी हुई है। प्रार्थी के साक्ष्यों से यह स्पष्ट है कि विवादग्रस्त भूमि के चारों ओर आबादी बस चुकी है और विद्याधर नगर योजना जैसी जेडीए की महत्वपूर्ण आवासीय योजना है। विवादग्रस्त भूमि के पास के ग्राम बीड सरकारी में मुआवजा 24 हजार रु. प्रति बीघा की दर से दिया गया है, कोई कारण नहीं है कि विवादग्रस्त भूमि के संबंध में मुआवजा इस दर से प्रार्थीगण को न दिलाया जावे। विवादक क्रम 1 व 2 इसी प्रकार तय किय जाते हैं।

19— अतः भूमि अवाप्ति अधिनियम के रेफरेंस में इस प्रकार आदेश किया जाता है कि प्रार्थीगण अवाप्तशुदा भूमि का मुआवजा रु. 24000/- प्रतिबीघा की दर से पाने के अधिकारी है, जो

राशि रुपये 16,42,800/- होती है। इस राशि पर 30 प्रतिशत की दर से अनिवार्य अवाप्ति के कारण कुल रुपये 4,92,840/- भी प्रार्थीगण प्राप्त करने के अधिकारी हैं। इसमें से प्रार्थी द्वारा पूर्व में प्राप्त की गई राशि रु. 903540/- कम करने पर शेष राशि रुपये 12,32,100/- प्रार्थीगण प्राप्त करने के अधिकारी है।

20- धारा 23(1-ए) भूमि अवाप्ति अधिनियम के अनुसार अवाप्ति के लिए धारा 4 की अधिसूचना की तारीख 4.2.82 से कब्जा लेने की तारीख 28.8.82 तक बाजारू दर पर 12 प्रतिशत की दर से कुल राशि रु. 1,10,068/- रुपये प्रार्थीगण प्राप्त करने के अधिकारी है।

21- धारा 34 के तहत कब्जा लेने की दिनांक से मुआवजा राशि के भुगतान तक प्रथम वर्ष के लिए 9 प्रतिशत व बाद की अवधि के लिए 15 प्रतिशत सालाना दर से राशि भी प्रार्थीगण प्राप्त करने के हकदार होंगे। इस राशि में से कलेक्टर द्वारा दिलवाई गई 4 प्रतिशत की राशि समायोजन के बाद ही बकाया राशि प्राप्त करने के प्रार्थीगण अधिकारी हैं। इसके अलावा धारा 27 के अनुसार रेफरेंस की कोस्ट भी कलेक्टर द्वारा देय होगी। निर्णयानुसार डिक्री तैयार हो।"

(underline supplied)

6.4 It is not in dispute that based on the order dated 27.03.1992, passed by the competent authority whereby the compensation of acquired lands of khatedar- Ghasi Ram was re-determined, the compensation payable to respondents-Khatedars for their acquired lands under the same award dated 12.08.1983 also came to be re-determined/revised by the Land Acquisition Officer vide order dated 07.04.2011, and accordingly original award came to be amended, on the same terms of the order dated 27.03.1992, in exercise of powers under Section 28-A of the Act of 1894 as amended vide Amendment Act, 1984. Relevant portion of order dated 07.04.2011 is being reproduced hereunder:-

"धारा 28 (ए) में मुख्य विचारणीय प्रश्न निम्न है:—

1. धारा 4 की विज्ञप्ति एक ही दिनांक को एक ही गजट नोटिफिकेशन द्वारा जारी होनी चाहिए एवं अवार्ड एक ही दिनांक धारा 11 के तहत जारी होना चाहिए।
2. जो खातेदार धारा 18 भूमि अवाप्ति अधिनियम के तहत रेफरेंस पेश नहीं करता है और जिसने पेश किया है उसमें राशि मान्य सिविल जज द्वारा बढ़ाई जाती है तो वह प्रार्थना पत्र तीन माह के अंदर पेश कर बढी हुई राशि सिविल जज के फैसले के अनुसार प्राप्त कर सकता है। प्रस्तुत प्रकरण उपरोक्त धारा 28 (ए) के अनुसार है या नहीं यह हमें देखना है?
3. प्रार्थीगण द्वारा प्रार्थना पत्र दिनांक 20.06.1992 को पेश किया है एवं मान्य सिविल जज जयपुर शहर का फैसला दिनांक 27.03.1992 व 10.04.1992 का है। इसलिए प्रार्थना पत्र अंदर मियाद प्रस्तुत है एवं धारा 4 का नोटिफिकेशन गजट एक ही दिनांक एक ही गजट द्वारा प्रकाशित हुआ है जिसका अवार्ड भी एक ही दिनांक 12.08.83 जारी किया गया है। इसलिए प्रार्थना पत्र प्रार्थीगण का उक्त एक्ट की धारा 28(ए) के अनुसार मंजूर किया जाना न्यायोचित समझते हैं।
4. हमने उक्त प्रार्थना पत्र से संबंधित अप्रार्थीगण को नोटिस जारी किये जिनकी तामील विधिवत् होने पर विभागीय प्रतिनिधि उपस्थित हुए एवं बार बार के समय देने के पश्चात जवाब राज्य सरकार की ओर से पेश हुआ एवं श्रीमती निर्मला माथुर, एडवोकेट ने वकालतनामा पेश किया। हमने प्रार्थीगण के एडवोकेट श्री प्रभाती लाल शर्मा द्वारा प्रस्तुत लिखित बहस का अध्ययन किया एवं विपक्षी की ओर से श्रीमती निर्मला माथुर द्वारा एवं मौखिक बहस दिनांक 28.03.11 को सुनी जाकर वास्ते निर्णय दिनांक 07.04.11 निश्चित की गई। हमने प्रार्थीगण द्वारा प्रस्तुत प्रार्थना पत्र व लिखित बहस का अध्ययन मनन किया तथा धारा 28 ए भूमि अवाप्ति अधिनियम की धारा का अवलोकन किया। अवलोकन करने के पश्चात प्रार्थीगण द्वारा प्रस्तुत प्रार्थना पत्र को मंजूर किया जाना न्यायोचित समझते हैं। प्रार्थीगण का प्रार्थना पत्र धारा 28(ए) के तहत मंजूर किया जाकर प्रार्थीगण को अपनी भूमि की मुआवजा राशि 12,000/— रु प्रतिबीघा की दर के स्थान पर मान्य सिविल जज जयपुर के फैसले दिनांक 27.03.92 व 10.04.92 के अनुसार 24,000/—रु प्रतिबीघा की दर से मुआवजा राशि तय की जाती है क्योंकि धारा 28(ए) के अनुसार प्रार्थीगण धारा 18 रेफरेंस की बढी हुई राशि ही प्राप्त करने के अधिकारी है, एवं प्रार्थीगण को धारा 23(1) (ए) के अनुसार धारा 4 की विज्ञप्ति जारी होने की तारीख से कब्जा लेने की तारीख तक की 12 प्रतिशत राशि कीमत के अलावा प्राप्त करने के अधिकारी है एवं धारा 23(2) के अनुसार सोलेसियम राशि 30 प्रतिशत के साथ ही धारा 28 व 34 के अनुसार उपरोक्त राशि

का 1 वर्ष का ब्याज 9 प्रतिशत वार्षिक दर से एवं उसके पश्चात 15 प्रतिशत वार्षिक दर से ब्याज की राशि अपनी खातेदारी भूमि प्रार्थना पत्र में वर्णित भूमि खसरा नंबराने 46/53 रकबा 4 बीघा 03 बिस्वा, 46/54 रकबा 2 बीघा 10 बिस्वा, 46/55 रकबा 4 बीघा 05 बिस्वा, 46/56 रकबा 2 बीघा 15 बिस्वा, 46/57 रकबा 0 बीघा 05 बिस्वा, 46/58 रकबा 18 बीघा 10 बिस्वा, 46/59 रकबा 2 बीघा 19 बिस्वा, 46/1 रकबा 233 बीघा 08 बिस्वा कुल किता 8 रकबा 268 बीघा 15 बिस्वा वाके ग्राम बीड पापड़ तहसील एवं जिला जयपुर में स्थित की राशि उपरोक्तानुसार अपने अपने हिस्से की दर्जनानुसार प्राप्त करने के अधिकारी है।"

(emphasis supplied)

6.5 It is further undisputed fact on record that the order of the Land Acquisition Officer dated 07.04.2011 whereby virtually original award dated 12.08.1983 for the acquired land of respondents came to be amended by revising/re-determining the compensation, which was declared to be payable by petitioner to respondents-khatedars for their acquired lands, was challenged by the petitioner-State by way of filing S.B. Civil Writ Petition No.18557/2011 (State of Rajasthan & Anr. Versus Land Acquisition Officer, Jaipur-I, Jaipur & Ors.). Respondents-Khatedars had also preferred a Writ Petition being S.B. Civil Writ Petition No.11551/2011 (Bhonri Lal & Ors. Versus State of Rajasthan & Ors.) seeking implementation of the amended award dated 07.04.2011, to calculate and pay the compensation to them as per the enhanced and revised rate. Both the Writ Petitions came to be decided by the High Court vide a common order dated 10.04.2012 and while affirming the order dated 07.04.2011, it was directed by the High Court that the additional compensation, as determined vide order dated 07.04.2011, passed by the Land Acquisition Officer be paid to Khatedars within a period of three months.

6.6 It is noteworthy that the order of the High Court passed by the learned Single Judge dated 10.04.2012 has been affirmed by the Division Bench as D.B. Civil Special Appeals (Writ) No.1257/2012 & 1262/2012 filed thereagainst by the petitioner-State, have been dismissed on merit vide order dated 19.02.2013 and thereafter, the order of amended award dated 07.04.2011 has attained finality. For ready reference, relevant portion of order dated 19.02.2013 reads as under:-

"The submission made is wholly bereft of merit for the reason that Section 28A of the Act has been enacted by the legislature only with the intent that all the khatedars/land owners whose land has been acquired must be kept at par, which could be notices by the Land Acquisition Officer while passing Award, if any order is passed at a later point of time U/s 28A of the Act benefits have to be granted in the same manner under the law and once the enhanced compensation was awarded by the competent authority vide its order dated 27.03.1992 there appears no justification to adopt different standards as regards payment of enhanced compensation including solatium & interest to other khatedars/land owners, who too were covered under the same notification whose land was also acquired and possession was taken over by the appropriate government on 28.08.1982 and this what the learned Single Judge noticed in its order impugned and rejected the contention advanced by the counsel for appellant-State.

After hearing counsel for the parties at length & having gone through the material which came on record, we are of the view that once enhanced compensation was awarded to one of the khatedar/land owner all other similarly situated are also entitled for the same benefits in terms thereof U/s 28A of the Act and as regards rate of interest, the khatedar/owner is entitled to in terms of Sec.34 of the Act and in the instant case, enhanced compensation has been paid in conformity with the mandate of law and that does not require any

interference in the instant appeals which have been filed at the behest of State of Rajasthan.

Consequently, all these appeals are wholly devoid of merit & accordingly stand dismissed."

(emphasis supplied)

6.7 Thus, it is clear that the compensation for acquired lands of the respondents is required to be paid by the petitioner-State at the rate of Rs.24,000/- per bigha instead of Rs.12,000/- per bigha along with solatium at the rate of 30% thereupon and interest on the compensation amount, as per amended award/ order dated 07.04.2011, in the same terms as has been calculated and paid by petitioner-State to another Khatedar – Ghasi Ram for his acquired land in terms of the order dated 27.03.1992, pursuant to the one and same common award dated 12.08.1983.

6.8 It appears that one execution application by legal heirs of khatedar-Mr. Ghasi Ram (deceased), namely Nathu was filed, which was registered on No.55/2012 before the Senior Civil Judge and therein, compensation as per the enhanced rate was calculated as also has been paid by the petitioners-State. This fact stands fortified by the orders of calculation of award as per enhanced rate and the information provided under Right to Information Act to respondents. The relimit orders, proceedings of execution and information divulged under RT Act are available on record.

6.9 It appears that an another Execution Application was filed by the respondents against the petitioner-State for awarding the additional compensation at the revised rate in terms of the order dated 07.04.2011 passed by the Land Acquisition Officer, which

was affirmed by the High Court vide order dated 10.04.2012. The execution application of respondents, was registered on No. 56/2012, titled 'Smt. Bholi & Ors. Versus Additional Chief Engineer, Irrigation Department & Ors.' wherein due compensation was calculated by Senior Civil Judge and after adjustment of compensation amount, already paid to respondents, an order to attach the properties of the petitioner-State came to be passed on 09.07.2013, in order to realise the unpaid amount of enhanced compensation along with solatium and interest. Feeling aggrieved against the order of attachment dated 09.07.2013, petitioner-State preferred S.B. Civil Writ Petition No.13370/2013 (State of Rajasthan & Ors. Versus Smt. Bholi & Ors.), before the High Court. This writ petition came to be disposed of by the High Court, vide order dated 18.05.2017 with the consent of the counsel for both the parties, and the order of attachment dated 09.07.2013, was set aside and issue of calculation of the compensation and interest thereupon, payable to the respondents-Khatedars for their acquired lands, was remanded back to the learned Civil Court for recalculation afresh within a period of six weeks after hearing both parties.

6.10 In furtherance to the remand order of the High Court dated 18.05.2017, petitioner submitted calculation chart dated 04.07.2017 before the Civil Court, wherein calculation of the due compensation with interest up to 28.07.2017 was made to the tune of Rs.85,74,725/- (Annexure-2). Respondents-Khatedars also submitted their calculation of due compensation along with interest up to the date i.e. 08.08.2017 (Annexure-3) for

Rs.4,59,87,589/-. Learned Civil Court, having pondered over the calculations of due compensation, respectively submitted from both sides differently, followed the criteria of calculation as adopted by State Government itself, while calculating and awarding the due compensation amount to other khatedars in terms of order of reference dated 27.03.1992 pursuant to the same award dated 12.08.1983 and accordingly by applying same method and formula, due compensation payable to respondents-khatedars has been computed by the Civil Court to the tune of Rs.3,14,47,142/- vide order dated 13.07.2017 (Annexure-5). Thereafter, petitioner-State filed an application dated 08.08.2017 (Annexure-6), seeking to recall/review the calculation of compensation made under order dated 13.07.2017. Respondents-khatedars too, after accepting the calculation made under order dated 13.07.2017, filed a belated application dated 01.03.2019 for recalling the order. Learned Senior Civil Judge after hearing both parties, dismissed both the applications, vide order dated 14.10.2019 and since it came to notice that interest of one month (08.12.2013 to 07.01.2014) could not be calculated by calculating the due interest and additional accrued interest up to 02.11.2019, calculated the due amount of compensation to the tune of Rs.3,46,13,863/- (Annexure-7). Hence, challenging the calculation of due compensation as per amended award / order dated 07.04.2011, both the orders dated 13.07.2017 and 14.10.2019, by the Senior Civil Judge, petitioner-State has filed the present Writ Petition before this Court.

7. Learned Additional Advocate General, Mr. Basant Singh Chhaba, put in appearance for and on behalf of petitioners-State and submitted a brief note of written submissions on 16.07.2026 and pointed out that the complete compilation of documents has already been placed on record from his side on 13.03.2026 which has been taken on record. His submission is that as per the computation of compensation, respondents are not entitled to get any more amount of compensation because whatever was the due compensation, payable to respondents as per calculation chart (Annexure-1), has already been paid by petitioners on 08.11.2021 in compliance of the interim order dated 05.10.2021, hence, nothing more is required to be paid. His prayer is that after adjustment of the already paid amount to respondents, impugned orders be quashed and set aside. During course of verbal arguments on 14.07.2026 as well, from the side of petitioner, the compilation of documents submitted by them on 13.03.2026 were pressed and arguments were made that incorrect calculation was made by the Civil Court in the impugned orders which needs to be corrected.

8. The contention of petitioners-State is that learned Civil Court fell in grave error, while calculating the due amount of compensation payable to respondents as calculated in orders impugned.

8.1 According to the petitioners, the amount of compensation to respondents at the rate of Rs.12,000/- per bigha along with solatium of 10% and interest at the rate of 4% thereupon in terms

of the original award dated 12.08.1983 had already been paid, therefore, calculation for the rest amount of compensation as per the revised rate of Rs.24,000/- per bigha instead of Rs.12,000/- per bigha along with solatium of 30% and interest thereupon in terms of the amended award dated 07.04.2011 ought to have been made, confined to the differential amount of compensation i.e. Rs.24,000/- per bigha minus Rs.12,000/- per bigha at the rate of Rs.12,000/- per bigha only. Their contention is that the amount of compensation under the original award, paid to the respondents, could not be deduced against the interest, after calculating the compensation afresh in terms of the amended award dated 07.04.2011. Their contention is that interest, on the already calculated amount of interest may not be calculated and allowed to be paid, therefore, the calculation as made by the petitioners in the chart (Annexure-2), for the differential amount of compensation, only amount of Rs.85,74,725/- is required to be paid to the respondents in terms of the order/amended award dated 07.04.2011. According to them, the calculation chart (Annexure-2), is only the correct calculation and same should have been accepted by the Civil Court. According to such calculation, the only payable amount of enhanced compensation in terms of amended award/ order dated 07.04.2011 to the respondents come to the tune of Rs.85,74,725/- by calculating interest thereupon upto the date of 28.07.2017. According to this calculation, payment of compensation to respondents along with interest upto the date of 31.10.2021, amounting to Rs.1,13,95,294/- (Rs.85,74,725/- principal amount +

Rs.28,20,569/- interest amount) has already been paid. This payment has been paid in furtherance to the interim order dated 05.10.2021, passed in this writ petition and now, no more amount of compensation, as calculated under the orders impugned dated 13.07.2017 and 14.10.2019, is liable to be paid to respondents, therefore, impugned orders deserve to be set aside to this extent.

In the written submissions, previously submitted by and on behalf of the petitioners, which are available on record, reliance has been placed on the judgment of Constitutional Bench of the Hon'ble Supreme Court in case of **Gurpreet Singh Versus Union of India [(2006) 8 SCC 457]** wherein the Hon'ble Supreme Court affirmed the "stagewise rule of appropriation" as laid down by the Supreme Court in previous case of **Prem Nath Kapur Vs. National Fertilizers Corpn. of India Ltd. [(1996) 2 SCC 71]** and held in Para No.53 as under:-

"53. Thus, on the whole, we are satisfied that the essential ratio in Prem Nath Kapur on appropriation being at different stages is justified though if at a particular stage there is a shortfall, the awardee-decree-holder would be entitled to appropriate the same on the general principle of appropriation, first towards interest, then towards costs and then towards the principal, unless, of course, the deposit is indicated to be towards specified heads by the judgment-debtor while making the deposit intimating the decree-holder of his intention. We, thus, approve the ratio of Prem Nath Kapur on the aspect of appropriation."

8.2 The further contention on behalf of the petitioners is that the doctrine of merger does not apply, when the compensation of acquired land, is enhanced by the Reference Court or by the High Court or by the Supreme Court at the level of next award stage,

that too, after receipt of entire compensation with interest by the awardee under the original award.

8.3 According to the petitioners, respondents are not entitled to reopen the entire transaction of compensation and after making calculation of the compensation afresh at the rate of Rs.24,000/- per bigha along with 30% solatium and interest thereupon payable in terms of amended award dated 07.04.2011, then, to deduce the received amount of compensation under the original award against the interest.

8.4 Thus, the contention of the petitioners is that the Civil Court grossly erred in calculating the due compensation under the order dated 13.07.2017 to the tune of Rs.3,14,47,182/- calculating the interest upto 08.08.2017 and rejecting the calculation of due compensation, as made by the petitioners to the tune of Rs.85,74,725/-. Further, while denying to review/recall the order dated 13.07.2017, calculating again the due compensation to the tune of Rs.3,46,13,863/- with interest upto the date of 02.11.2019 under the order impugned dated 14.10.2019.

8.5 Hence, prayer of petitioners is that the impugned orders are not sustainable to the extent of calculating the compensation over and above to the principal amount of due compensation of Rs.85,74,725/- as made by the petitioners in the calculation chart (Annexure-2).

9.1 *Per contra*, on behalf of the respondents-Khatedars, submission has been made that respondents may not be discriminated by the petitioners-State, in respect of calculation

and payment of due compensation for their acquired land. Their submission is that the land of Khatedar – Ghasi Ram, who is deceased and survived by natural heirs Nathu, Hanuman and others, situated in Village Kishanbag, Tehsil and District Jaipur, was also acquired by the petitioner-State under the same award dated 12.08.1983, whereunder the lands of respondents situated at Village Beed Papad, Tehsil and District Jaipur, was acquired and for the *barani* nature of acquired land, compensation was determined at the same rate i.e Rs.12,000/- per bigha along with solatium of 10% and 4% interest thereupon. Later on, the compensation under award dated 12.08.1983, in respect of acquired lands of Khatedar – Ghasi Ram, was enhanced and re-determined by the competent authority under Reference Acquisition Case No.47/1984 vide order dated 27.03.1992 at the rate of Rs.24,000/- per bigha along with solatium of 30% and further, interest at the rate of 12% per annum to be paid from the date of notification under Section 4 of the Act of 1894 till the date of taking possession with further interest at the rate of 9% per annum for the first year commencing from the date of taking possession and then 15% for the remaining period until making the actual payment of due compensation. The compensation payable to Khatedar – Ghasi Ram under the original award dated 12.08.1983 had also been paid, but thereafter, when the compensation was enhanced under the order dated 27.03.1992, the recalculation of the compensation was made in the execution application No.55/2012 and the recalculated amount of compensation has been paid by the petitioner-State to Nathu,

Hanuman and others, who are legal heirs of Late Ghasi Ram, pursuant to the orders dated 24.01.2017 and 07.01.2023 passed in Execution Application No.55/2012. Therefore, on the principle of parity and equality, the respondents, who are awardees under the same award dated 12.08.1983 and the compensation payable to them has also been redetermined by the competent authority vide order dated 07.04.2011 at par with another Khatedar – Ghasi Ram and same has been affirmed finally upto the Hon'ble Division Bench of the High Court, hence, the petitioner-State may not apply a different method or formula to calculate the due compensation to the respondents.

9.2 Their submission is that the petitioner-State is under a legal obligation and bound to pay the compensation at the equal rate and as per similar method of calculation i.e. respondents-khatedars and legal heirs of another khatedar Mr. Ghasi Ram, whose lands were acquired under the same notification and to both the awardees, under the common award dated 12.08.1983, compensation was enhanced at the similar rate for their similar nature of acquired lands, hence, the calculation of balance amount of unpaid compensation as made by the Civil Court in the orders dated 13.07.2017 and 14.10.2019, impugned herein, do not call for any interference by the High Court in its jurisdiction under Article 227 of the Constitution of India.

9.3 Their further submission is that the amount of compensation, which was paid by the petitioner-State and received by the respondents, under the original award dated 12.08.1983 has rightly been deduced by the Civil Court while computing the

compensation under the amended award dated 07.04.2011 afresh, against the interest, as same was done by the State Government in case of Khatedar-Ghasi Ram. Hence, the impugned orders on the principle of 'equity and parity' do not suffer from any infirmity or manifest illegality or jurisdictional error, warranting interference therein by the High Court in its writ jurisdiction.

9.4 Their submission is that in the calculation as, made by the Civil Court, nowhere interest upon interest has been calculated, rather the compensation has rightly been calculated in terms of the amended award dated 07.04.2011, which was passed based on the order dated 27.03.1992 passed in Reference Case No.47/1984 in respect of Khatedar - Ghasi Ram, to whom compensation has already been paid by the petitioner-State, as per the similar method of calculation of enhanced compensation.

9.5 Therefore, according to the respondents, writ petition deserves to be dismissed and the petitioners be directed to pay the balance amount of compensation along with interest to the respondents-Khatedars forthwith.

10. It has not been disputed from the side of the respondents that out of the determined compensation under the orders impugned, amount of Rs.1,13,95,294/- has been paid by the petitioner-State in furtherance to the interim stay order dated 05.10.2021 and now, differential amount is required to be paid by the petitioner-State to respondents along with interest at the rate of 10% per annum w.e.f. 31.10.2021 onwards in terms of the interim order dated 05.10.2021.

11. Heard and considered.

12. It is an admitted and undisputed fact that under the common award dated 12.08.1983, 268 Bighas 15 Biswa lands of respondents-khatedars located at Village Beed Papad and 68 Bighas and 9 Biswa land of one another Khatedar – Ghasi Ram (Now deceased and represented through his legal heirs Nathu, Hanuman and others) situated at Village Kishangarh Bagh, in the Tehsil and District Jaipur, were acquired by the petitioners-State and for the similar nature of Barani land, compensation was determined at the rate of Rs. 12000/- per bigha with solatium at the rate of 10% and interest at the rate of 4% thereupon. Later on, the compensation of acquired land of Khatedar-Ghasi Ram was re-determined by the competent authority at the rate of Rs.24,000/- per bigha with 30% solatium and interest at the rate of 12% as per scheme of Act, 1894 under Reference Land Acquisition Case No. 47/1984 vide order dated 27.03.1992 and based on this order, compensation payable to respondents-Khatedars for their acquired land was also revised/re-determined by the Land Acquisition Officer vide order dated 07.04.2011 passed in exercise of power and jurisdiction under Section 28A of the Act of 1984 (as amended), as such original award came to be amended vide order dated 07.04.2011.

13. It is not in dispute that the order dated 07.04.2011, has attained finality and petitioners-State is required to pay compensation to the respondents-Khatedars for their acquired 268 Bighas 15 Biswa land in terms thereof i.e. at the rate of Rs. 24,000/- per bigha instead of Rs. 12,000/- per bigha and 30%

solatium thereupon instead of 10% as per Section 23(2) of the Act of 1984 and future interest at the rate of 12% from the date of notification under Section 4 of the Act, till the date of taking possession as per Section 23 (1-A) of the Act, with future interest at the rate of 9% for the first year from the date of taking possession and then, at the rate of 15% for the subsequent period as per Section 34 of the Act of 1894, instead of a general rate of interest at the rate of 4%, as awarded under the original award dated 12.08.1983.

14. Thereafter, order dated 07.04.2011 has also been affirmed by learned Single Judge vide order dated 10.04.2012 and directions were issued to implement the same within three months.

15. Then, order dated 10.04.2012 has been affirmed by the Hon'ble Division Bench vide order dated 19.02.2013.

16. The Hon'ble Division Bench of this High Court, while dismissing the Special Appeals, filed by the State, and affirming the order of learned Single Judge dated 10.04.2012, has clearly held and observed in its order dated 19.02.2013 (supra) that "there appears no justification to adopt different standards as regards payment of enhanced compensation including solatium & interest to other khatedars/land owners, who too were covered under the same notification whose land was also acquired and possession was taken over by the appropriate government on 28.08.1982 and this what the learned Single Judge noticed in its order impugned and rejected the contention advanced by the counsel for appellant-State." The Division Bench further clearly

held that, "we are of the view that once enhanced compensation was awarded to one of the khatedar/land owner all other similarly situated are also entitled for the same benefits in terms thereof U/s 28A of the Act and as regards rate of interest, the khatedar/owner is entitled to in terms of Sec.34 of the Act".

17. It is noteworthy that compensation at the enhanced rate as per order dated 27.03.1992 for khatedar-Mr. Ghasi Ram was calculated afresh in the execution application No.55/2012 and amount of compensation paid to him under the original award dated 12.08.1983 was deduced against the interest amount and then the calculated amount of compensation has been denied to be paid by the State authorities.

Thus, the factual position, which has emerged, has not been and cannot be disputed that the compensation for acquired lands of the respondents is required to be paid by the petitioner-State at the rate of Rs.24,000/- per bigha instead of Rs.12,000/- per bigha along with solatium at the rate of 30% thereupon and interest as per Section 23 (1-A), (2) and Section 34 of the Act, as per amended award/ order dated 07.04.2011 and due compensation to the respondents by the petitioners-State should be calculated as per the same method and in the same terms as has been calculated and paid by petitioner-State to legal heirs of deceased Khatedar – Ghasi Ram, for their acquired land, in terms of the order dated 27.03.1992, pursuant to the one and common award dated 12.08.1983.

18. From the side of petitioners, a copy of order dated 24.01.2017 (Annexure-16) was placed on record along with

application (2/2021) dated 19.08.2021, which has been taken on record vide order dated 06.09.2021. A perusal of this order dated 24.01.2017 reveals that same was passed by the Civil Court in Execution No.19/2015 in case of Nathuram Gurjar Vs. Secretary, Department of Water Resources and Ors. In this order, calculation of compensation was made as payable to Nathuram Gurjar, who happens to be son of Khatedar- Ghasi Ram Gurjar, whose 68.9 Bigha land of Khasra No.27 & 28 located at Village Kishangarh Bagh, Tehsil and District Jaipur was acquired under the same award dated 12.08.1983. A perusal of the order further reveals that under the award dated 12.08.1983, compensation for the acquired lands of khatedar-Ghasi Ram was ordered to be paid at the rate of Rs.12,000/- per bigha, but same was later on revised and re-determined at the rate Rs.24,000/- per bigha, then further at the rate of Rs. 29,400/- per bigha and 50,000/- per bigha. The compensation determined under the award dated 12.08.1983 had been paid by the State Government and received by the Khatedars prior thereto.

19. It appears that in case of Nathu Ram as well, from the side of State-Department, similar stand was taken, as has been taken in the present case, for calculation of the compensation as per the amended award dated 07.04.2011, but while calculating the compensation as per enhanced/revised rate, in furtherance to the order of competent authority dated 27.03.1992, compensation already paid by the petitioner-State under the original award dated 12.08.1983 was deduced against the interest, while determining the compensation afresh as per the enhanced rate

along with solatium of 30% and interest payable thereupon under the provisions of Section 23(1A), 2 and Section 34 of the Act of 1894.

20. It would be apropos to reproduce the relevant portion of the order dated 24.01.2017 hereunder for ready reference, which would obviously throw light on the issue involved herein in this writ petition:-

"उपरोक्त दोनों गणना चार्ट का अवलोकन किया गया, साथ ही पेश किये गये दस्तावेजात एवं लिखित बहस का भी अवलोकन किया गया। प्रकरण में निष्कर्ष रूप से देखा जावे तो कुछ बिन्दु इस प्रकार के हैं, जिन पर पक्षकारों के मध्य विवाद नहीं है, जैसे कि

1. कुल 68 बीघा 9 बिस्वा भूमि के सम्बन्ध में अवार्ड जारी होना
2. 50,000/- रुपये की दर से भुगतान किया जाना
3. अवार्ड की दिनांक 12.08.1983

उक्त बिन्दु इस प्रकार के हैं, जिनमें पक्षकारों के मध्य किसी प्रकार का विवाद नहीं है। प्रकरण में गणना के बिन्दु पर मुख्य रूप से विवाद प्रकट हुआ है, उसी के अनुक्रम में प्रार्थी नाथूराम की ओर से पेश किये गये गणना चार्ट का अवलोकन करने के पश्चात् जहाँ तक प्रार्थी नाथूराम की ओर से पेश किये गये गणना चार्ट का प्रश्न है, उचित प्रतीत होता है, जो कि निम्न प्रकार से है:-

1. माननीय उच्च न्यायालय के निर्णय दिनांक 12.09.2011 से संशोधित दर रुपये 50,000 रुपये प्रति बीघा से 68 बीघा 9 बिस्वा की रकम
34,22,500.00 रुपये
2. उक्त रकम पर दिनांक 04.02.1982 से दिनांक 28.08.1982 तक 12 प्रतिशत वार्षिक दर से 206 दिन के ब्याज की राशि—
2,31,790.00 रुपये
3. उक्त रकम पर 30 प्रतिशत की दर से सोलेशियम राशि
10,26,750.00 रुपये
कुल मुआवजा राशि का योग 46,81,042.00 रुपये
4. उक्त रकम पर 1 वर्ष दिनांक 28.08.1982 से दिनांक 27.08.1983 तक 9 प्रतिशत वार्षिक दर से ब्याज
4,21,293.00 रुपये
5. दिनांक 28.08.1983 से 5.10.1985 तक 2 वर्ष 1 माह 8 दिन का ब्याज 15 प्रतिशत वार्षिक दर से
14,77,413.00 रुपये
6. दिनांक 05.10.1985 को 12000/- रुपये प्रति बीघा की दर से विभाग द्वारा किये गये भुगतान को ब्याज में से समायोजित
14,77,413.00—10,15,133.00=4,62,280.00 रुपये
शेष रकम 55,64,615.00 रुपये
7. दिनांक 06.10.1985 से 31.12.1993 तक 8 वर्ष 85 दिन का ब्याज 15 प्रतिशत वार्षिक दर से
68,71,918.00 रुपये
8. अप्रार्थी सिंचाई विभाग द्वारा दिनांक 18.12.1993 को भुगतान की गई रकम को प्रथमतः ब्याज में से समायोजन
68,71,918.00—44,35,000.00=24,36,918.00 रुपये
शेष रकम 80,01,533.00 रुपये

9. दिनांक 01.01.1994 से 25.11.1994 तक अर्थात् 329 दिन का ब्याज 15 प्रतिशत दर से

10,88,851.00 रुपये

10. अप्रार्थी विभाग द्वारा दिनांक 25.11.1994 को भुगतान की गई रकम का ब्याज में समायोजन

$10,88,851.00 - 40,98,31.00 = 6,79,020.00$ रुपये

शेष रकम 86,80,553.00 रुपये

11. दिनांक 25.11.1994 से 20.07.2003 का ब्याज 8 वर्ष 4 माह 6 दिन का 15 प्रतिशत वार्षिक दर से ब्याज

1,08,64,515.00 रुपये

12. अप्रार्थीगण विभाग द्वारा दिनांक 21.07.2003 को भुगतान की गई राशि का ब्याज में समायोजन

$108,64,515.00 - 37,97,064.00 = 70,67,451.00$ रुपये

शेष रकम 1,57,41,004.00 रुपये

13. दिनांक 21.07.2003 से 12.02.2004 तक 8 माह का ब्याज 15 प्रतिशत वार्षिक दर से

15,52,537.00 रुपये

14. अप्रार्थीगण विभाग द्वारा दिनांक 12.02.2004 को भुगतान की गई राशि का ब्याज में समायोजन

$15,52,537.00 - 3,29,739.00 = 12,22,798.00$ रुपये

शेष रकम 1,69,63,802.00 रुपये

15. दिनांक 12.02.2004 से दिनांक 03.09.2012 तक 15 प्रतिशत की दर से ब्याज

21,840,680.00 रुपये

16. अप्रार्थी विभाग द्वारा दिनांक 03.09.2012 को भुगतान की गई राशि का ब्याज में समायोजन

$21,840,680.00 - 80,83,544.00 = 1,37,57,136.00$ रुपये

शेष रकम 3,07,23,908.00 रुपये

17. दिनांक 04.09.2012 से सम्भावित भुगतान तिथि 15.01.2017 तक 4 वर्ष 4 माह 11 दिन का 15 प्रतिशत वार्षिक दर से ब्याज

20,10,94,27.00 रुपये

कुल देय राशि

5,08,33,335.00

दिनांक 15.01.2017 के पश्चात् प्रतिदिन का ब्याज 12,626/-रुपये
अप्रार्थी सिंचाई विभाग की ओर से समय-समय पर जो राशि उनके द्वारा जमा कराना प्रकट किया गया, वह निम्नानुसार है—

(अ) चैक संख्या 627255 दिनांक 28.09.1985 द्वारा 12000/- रुपये प्रति बीघा की दर से किया गया भुगतान	1015133/-रुपये
(ब) चैक संख्या 522627 दिनांक 18.12.1993 चैक संख्या 934560 दिनांक 25.11.1994	4435000/-रुपये 409831/-रुपये
(स) चैक संख्या 870345 दिनांक 21.07.2003 चैक संख्या 877324 दिनांक 12.02.2004	3797064/-रुपये 329739/-रुपये
(द) दिनांक 03.09.2012 को किया गया भुगतान	8083544/-रुपये
दिनांक 03.09.2012 तक कुल भुगतान की गई राशि	18070311/-रुपये

उक्त भुगतान प्राप्त किया जाना प्रार्थी नाथूराम की ओर से स्वीकार किया गया है और प्रकट किया गया है कि उपरोक्त राशि अप्रार्थी विभाग द्वारा जमा

करायी गयी थी, किन्तु मुख्य विवाद उक्त राशि के समायोजन के सम्बन्ध में है कि उक्त राशि सर्वप्रथम ब्याज की राशि में से समायोजित होगी या मूल राशि में से, इसके सम्बन्ध में भी निष्कर्ष रूप से देखा जावे तो स्वयं विभाग ने कई स्थानों पर इस तथ्य को स्वीकार किया है कि जो गणना की गई है वह उचित है और समायोजन सर्वप्रथम ब्याज की राशि में से ही होगा, इसके सम्बन्ध में जैसा कि पूर्व में इसी न्यायालय द्वारा दिनांक 28.07.2016 को किये गये आदेश में उल्लेख किया गया है कि—

जहां तक जो कैलकुलेशन, आदेश दिनांक 03.10.2015 में की गई है, वह ब्याज पर ब्याज जोड़ते हुए की गई है और गलत रूप से की गई है। इस सम्बन्ध में भी देखा जावे तो स्वयं राजस्थान सरकार जल संसाधन विभाग के पत्र क्रमांक एफ(24)/एस/आई/सैल/10/3100 दिनांक 01.10.2012 में यह स्पष्ट रूप से उल्लेख किया गया है कि

“अब कृषक द्वारा मुख्य न्यायिक मजिस्ट्रेट, सिविल न्यायाधीश, जयपुर से इजराय प्रार्थना पत्र 53/2012 की गणना शीट में ब्याज की गणना प्रतिवर्ष (ब्याज पर ब्याज) के आधार पर नहीं की गई है। इसमें भुगतान की गई तिथि को बकाया ब्याज को मूल राशि में सम्मिलित करते हुए ब्याज का आंकलन कर प्रस्तुत किया गया है। इस इजराय प्रार्थना पत्र में दिनांक 30.03.12 तक की गणना कर 37548682/—रुपये एवं 6900/—रुपये प्रतिदिन ब्याज के भुगतान चाहा है। इस आधार पर पेशी दिनांक 28.09.12 तक का 182 दिवस का ब्याज रुपये 1255800/—जोड़ने पर कुल राशि 38804482/— रुपये का भुगतान चाहा है। अतः प्रश्नगत प्रकरण में दिन प्रतिदिन लगने वाले ब्याज से राज्यपक्ष का बचाव करते हुए एवं कुर्की वारन्ट का इन्तजार नहीं करके उक्त राशि मा. न्यायालय में जमा करने हेतु बजट मद 8674—101—(01) अंकित कर अविलम्ब गणना स्टेटमेन्ट मय चैकलिस्ट तैयार कर भेजे विलम्ब की स्थिति में सम्बन्धित का स्पष्टीकरण प्राप्त कर अपनी स्पष्ट अभिशंषा सहित भिजवाये। ”

इस प्रकार स्वयं राजस्थान सरकार जल संसाधन विभाग की ओर से उक्त पत्र में स्पष्ट रूप से यह उल्लेख किया गया है कि ब्याज की गणना ब्याज पर ब्याज के आधार पर नहीं की गई और राशि का भुगतान किया जाना उचित है।

इस प्रकार स्वयं राजस्थान सरकार, जिला संसाधन विभाग द्वारा ही इस तथ्य को स्पष्ट रूप से स्वीकार किया गया है कि गणना उचित है। इसके उपरान्त भी प्रार्थी नाथूराम की ओर से पेश किये गये दस्तावेजात का अवलोकन किया जावे तो एनेक्चर-4 जो कि वित्त विभाग की टिप्पणी है और सहायक लेखाधिकारी वित्त द्वारा दी गई टिप्पणी के अनुसार

“विभाग के सहायक विधि परामर्शी व मुख्य विधि परामर्शी ने अनुच्छेद 433—434/एन पर अपनी राय दी है उनके अनुसार विधि के सामान्य सिद्धान्तों के अनुसार—“ब्याज पर ब्याज देय नहीं होता है किन्तु किसी ऋणी द्वारा स्पष्ट प्रावधान नहीं होने की स्थिति में भुगतान के समय यह स्पष्ट करना होता है कि दिया जा रहा भुगतान प्रथमतः मूल में से काटा जाना है अथवा ब्याज में से। यदि ऋणी ने ऐसा स्पष्ट उल्लेख भुगतान के संबंध में नहीं किया है तो सामान्यतः भुगतान की राशि प्रथमतः ब्याज में समायोजित की जा सकती है और इन्हीं सिद्धान्तों के

आधार पर इस मामले में लेख है कि विभाग ने जब जब भी भुगतान किया है यह काश्तकारों को अवगत नहीं कराया है कि अमुक राशि ब्याज पेटे नहीं होकर मूलधन के पेटे किया जा रहा है। अतः ऐसी स्थिति में रुपये 40,89,928/-की गणना सही प्रतीत होती है।”

विधि विभाग ने अनुच्छेद 438-442/एन पर अपनी राय दी है। अनुच्छेद 440/एन पर विधि विभाग ने 434/एन की विभागीय DLR की राय से सहमत होते हुए उल्लेखित किया है कि उच्चतम न्यायालय के एक निर्णय में यह व्यवस्था दी गई कि यदि पहले से ही यह स्पष्ट नहीं किया गया है कि राशि किसी पेटे जमा की जा रही है तो वह पहले ब्याज में समायोजित की जावेगी। आगे अनुच्छेद 441/एन पर उल्लेखित किया है कि - On the basis of law propounded by S.C. in AIR 1970 SC 161 Meghraj Vs. Bajabai I have no option but to agree with the opinion of ALR and DLR. Now this is for the AD to take an appropriate decision.

इस प्रकार स्वयं वित्त विभाग की उपरोक्त टिप्पणी, जिसमें की माननीय सर्वोच्च न्यायालय के निर्णय का भी उल्लेख किया गया है, के अनुसार यदि यह स्पष्ट नहीं किया जाता है कि भुगतान के समय उक्त राशि किस पेटे समायोजित होगी तो वह सर्वप्रथम ब्याज में से ही समायोजित होती है। प्रस्तुत मामले में ऐसा कहीं प्रकट नहीं होता है कि इस प्रकार के कोई निर्देश काश्तकारों को दिये गये हों। इस कारण वह पहले ब्याज में ही समायोजित होगी, इस तथ्य को माना गया है और इसी टिप्पणी में आगे यह भी उल्लेख किया गया है कि

“उक्त प्रस्तावों में अब विभाग द्वारा ब्याज पर ब्याज तो नहीं दिया गया है, परन्तु विधि विभाग की राय के अनुसार सरकार द्वारा जमा कराई गई राशि को सर्वप्रथम ब्याज में समायोजन किया है तथा बाद में मूलधन में समायोजित किया है।

न्यायालय के कुर्की आदेश की पालना में उक्त राशि की भुगतान सहमति देते हुए पत्रावली वित्त (बजट) विभाग को डिक्रीटल मद में अतिरिक्त स्वीकृति हेतु भेजा जाना उचित होगा।”

और न्यायालय द्वारा कुर्की आदेश में दी गई राशि को उचित मानते हुए भुगतान के सम्बन्ध में स्वीकृति हेतु भी राय दी गई थी।

इस प्रकार प्रकरण में पेश की गई गणनाओं के सम्बन्ध में निष्कर्ष रूप से देखा जावे तो प्रार्थी नाथूराम की ओर से पेश की गई गणना चार्ट उचित है, क्योंकि इस सम्बन्ध में स्वयं वित्त विभाग एवं राज्य सरकार के परिपत्रों के अनुसार भी इसे उचित माना गया है। अनावश्यक रूप से पूर्व में तय बिनदुओं पर भी बार-बार विवाद उत्पन्न किया जा रहा है और उपरोक्त के अनुक्रम में गणना पेश की गई है, जो उचित प्रतीत नहीं होती है। ऐसी स्थिति में प्रार्थी नाथूराम की ओर से पेश की गई गणना चार्ट के अनुसार प्रार्थी नाथूराम भुगतान प्राप्त करने का अधिकारी होना पाया जाता है।”

(emphasis supplied)

21. It has been pointed out by the counsel for respondents, on the strength of documents, Annexure-6/1, 6/2 and 6/3 placed on

record that in execution proceedings in Execution Petition No.55/2012 (19/2015) for recovery of unpaid amount of compensation in terms of order dated 24.01.2017, entire amount has been paid by the State Government to legal heirs of khatedar- Ghasi Ram, after taking decision at departmental level that it would be proper to make payment of compensation as determined by the Civil Court as per enhanced rate/amended award, after adjustment of the amount already paid by the State Government under the original award dated 12.08.1983 against the accrued interest. The factum of payment of entire enhanced compensation made by State to the legal heirs of khatedar- Ghasi Ram, has not been denied from the side of petitioners as well.

22. Here, at this juncture, it is noteworthy and clear from the record that in the present matter as well, in respect of making payment of the enhanced compensation as determined by the Civil Courts under order dated 14.10.2019 in Execution Petition No.56/2012 a decision was taken by the State Government for making payment accordingly, which transpires from the letter dated 06.07.2021 issued by the Chief Secretary, Government of Rajasthan and further financial approval for the entire unpaid amount as calculated in the order dated 14.10.2019 by the Civil Court, was also granted, but thereafter due to passing the interim order dated 05.10.2021, only an amount of Rs. 1,13,95,294/- (Rs.85,74,725/- principal amount + Rs.28,20,569/- interest amount) has been deposited by the State Government and differential amount due as per order dated 14.10.2019 despite grant of financial solatium, same has not been deposited. In terms

of the order dated 05.10.2021 (*supra*), same carry interest at the rate of 6% per annum. For ready reference, letter dated 06.07.2021 is being reproduced hereunder:-

राजस्थान सरकार

जल संसाधन विभाग राज्य जल संसाधन आयोजना,
इन्दिरा गांधी नहर एवं सी.ए.डी. विभाग

विषय:- मजार बाँध हेतु अवाप्त की गई भूमि के मुआवजा राशि भुगतान के सम्बंध में दायर इजराय संख्या 56/2012 श्रीमति भौली पत्नि स्व. भौरीलाल व अन्य बनाम राज्य सरकार व अन्य में पारित निर्णय दिनांक 14.10.2019।

प्रशासनिक निर्णय दिनांक 07.05.1992 की अनुपालना में अमानीशाह नाले पर स्थित मजार बाँध की भराव क्षमता (एफ.टी.एल) के डूबे में आने वाली भूमि (275 बीघा 3 बिस्वा) को छोड़कर शेष भूमि (1145 बीघा 5 बिस्वा) का कब्जा फर्द भूमि दिनांक 08.06.1992 को जयपुर विकास प्राधिकरण जयपुर को सुपुर्द किया गया था। कब्जा फर्द भूमि दस्तावेज में यह स्पष्ट अंकन किया गया है कि, “अब भूमि के हस्तान्तरित दिनांक से भूमि का समस्त स्वामित्व जयपुर विकास प्राधिकरण, जयपुर का होगा एवं प्राधिकरण के पत्र क्रमांक जविप्रा/निस/जोन/6/92/2529 दिनांक 07.05.1992 के अनुसार जयपुर विकास प्राधिकरण जयपुर सिंचाई विभाग को उनकी भूमि के चुकाये गये/चुकाई जाने वाली राशि व उस पर देय ब्याज का भुगतान करेगा।”

मजार बाँध हेतु अवाप्त की गई भूमि के मुआवजा राशि भुगतान के सम्बंध में दायर इजराय संख्या 56/2012 श्रीमति भौली पत्नि स्व. भौरीलाल व अन्य बनाम राज्य सरकार व अन्य में माननीय न्यायालय वरिष्ठ सिविल न्यायाधीश जयपुर महानगर जयपुर द्वारा पारित निर्णय दिनांक 14.10.2019 से प्रार्थी को राशि रु. 34613863/- का भुगतान करने के निर्देश दिये गये हैं।

अतः इजराय संख्या 56/2012 में माननीय न्यायालय द्वारा दिये गये उक्त निर्णय दिनांक 14.10.2019 की पालना में मुआवजा राशि के भुगतान की कार्यवाही जयपुर विकास प्राधिकरण के स्तर से कराया जाना अपेक्षित है।

संलग्न:- विस्तृत विवरण।

प्रमुख शासन सचिव"

23. It is worthy to note here that in the order dated 13.07.2017, the Civil Court adopted and followed the same method of calculation, to calculate the due compensation as per enhanced rate in terms of amended award dated 07.04.2011 and for adjustment of the compensation, already paid by the State under the original award dated 12.08.1983, as was applied while calculation of the enhanced compensation, for awarding the

compensation to the legal heirs of the deceased khatedar- Ghasi Ram in Execution Petition No. 55/2012 (19/2015). To justify the same, learned Civil Court has recorded a fact finding that since the calculation of compensation under the original award dated 12.08.1983 was not made as per the correct rate of compensation for acquired land nor the solatium and interest thereupon was calculated as per Act, 1894, therefore, while making afresh calculation as per the amended award and as per the enhanced rate of compensation of Rs.24,000/- with solatium of 30% thereupon and interest as per scheme of Act of 1894, the erstwhile paid amount by State deserves to be deduced against the interest only.

24. It may be noted here that this is the same method as was applied by the State Government itself in making calculation of the enhanced award, payable to legal heirs of khatedar-Ghasi Ram as per the revised/re-determined rate of compensation under order dated 27.03.1992.

25. Otherwise also, when the calculation of compensation made as per the rate prescribed in the original award dated 12.08.1983 was not held correct, then, it may not be said that amount paid by the State as per the original award was considered against the principal compensation. For such charge (Annexure-1), was rejected by the Civil Court and calculation of enhanced compensation as per amended award dated 07.04.2011 and the amount, paid by the State under the previous award dated 12.08.1983, was adjusted against interest.

26. For ready reference, it would not be out of place to reproduce the calculation made by the Civil Court in the order dated 13.07.2017 for the compensation payable to respondents and deductions as has been made for the amount already paid by the State Government to the respondents under the original award dated 12.08.1983:-

"अब इन स्थितियों में प्रार्थीगण के सम्पूर्ण प्रकरण को देखें तो प्रार्थीगण न्यायालय के आदेश के पश्चात् स्वयं की विभिन्न अवाप्त की गई खसरा नम्बर से भिन्न-भिन्न भूमि अर्थात् कुल अवाप्त की गई कुल 268 बीघा 15 बिस्वा भूमि हेतु रुपये 24000/- मात्र प्रति बीघा की दर से मुआवजा राशि और उस पर विज्ञप्ति जारी होने की दिनांक से कब्जा लेने की तिथि तक 12 प्रतिषत वार्षिक दर से राशि एवं सोलेषियम राशि के रूप में 30 प्रतिषत राशि प्राप्ति के अधिकारी दिखाई देते हैं। इन स्थिति के सम्बन्ध में भी उभय पक्षकारान के मध्य कोई विवाद नहीं है तथा स्वीकृत स्थिति है। इस स्थिति के पश्चात् जो गणना पत्र अप्रार्थीगण की ओर से प्रस्तुत किया गया है उसको देखें तो अप्रार्थीगण द्वारा अवाप्त की गई भूमि की मुआवजा दर में पूर्व में प्रदत्त मुआवजा दर एवं बाद में न्यायालय के आदेश द्वारा प्रदत्त मुआवजा दर के अंतर की गणना करते हुए प्रस्तुत किया गया है, जो उचित नहीं है। इस सम्बन्ध में प्रार्थीगण द्वारा जो गणना करते हुए गणना चार्ट प्रस्तुत किया गया है वह पूर्णतया उचित दिखाई देता है, अर्थात् प्रार्थीगण 268 बीघा 15 बिस्वा भूमि की मुआवजा राशि रुपये 24,000/- मात्र मात्र प्रति बीघा की दर कुल मुआवजा राशि रुपये 6,45,0000/- मात्र तथा उक्त रकम पर 12 प्रतिषत वार्षिक की दर से 206 दिन की अर्थात् राशि रुपये 4,36,831/- मात्र एवं 30 प्रतिषत सोलेषियम राशि रुपये 19,35,000/- मात्र होती है। इस प्रकार प्रार्थीगण कुल मूल मुआवजा राशि रुपये 88,21,331/- मात्र प्राप्ति के अधिकारी दिखाई देते हैं। चूंकि अप्रार्थीगण सिंचाई विभाग द्वारा प्रारम्भ से प्रार्थीगण को प्राप्त होने वाली मूल मुआवजा राशि के सम्बन्ध में गणना त्रुटिपूर्ण की गई है। अतः उनकी गणना चार्ट लैषमात्र भी स्वीकार किये जाने योग्य नहीं रहती है, लेकिन प्रार्थीगण नाथू वगैरह द्वारा कुल मुआवजा राशि के पश्चात् जो ब्याज की गणना एवं उन्हें समय-समय पर सिंचाई विभाग द्वारा प्रदत्त की गई राशि का समायोजन सम्बन्धी जो गणना की गई है, वह भी उचित नहीं है, क्योंकि प्रार्थीगण द्वारा इसमें ब्याज पर ब्याज की गणना के साथ-साथ गणना भी त्रुटिपूर्ण की गई है। अतः इस सम्बन्ध में प्रार्थीगण द्वारा कुल मुआवजा राशि के पश्चात् प्रस्तुत की गई गणना स्वीकार किये जाने योग्य नहीं है।

इस प्रकार प्रार्थीगण की जो सम्पूर्ण 268 बीघा 15 बिस्वा भूमि रुपये 24,000/- मात्र प्रति बीघा की दर से अवाप्त की गई है,

उसके सम्बन्ध में अप्रार्थीगण सिंचाई विभाग द्वारा समय-समय पर प्रदत्त की गई राशि को समायोजित करते हुए गणना करें तो वह निम्न प्रकार आती है—

ए.	268 बीघा 15 बिस्वा भूमि/मुआवजा राशि रुपये 4000/ प्रति बीघा कुल राशि	64,50,000 /—
बी.	4.02.82 से 28.8.82 तक 12 प्रतिषत वार्षिक दर से 206 दिन की अतिरिक्त राशि	4,36,831 /—
सी.	30 प्रतिषत सोलेषियम राशि	19,35,000 /—
	कुल मुआवजा राशि	8821831 /—
डी.	एक वर्ष (28.8.82 से 27.8.83) का 9 प्रतिषत वार्षिक ब्याज:—	7,93,965 /—
ई.	2 वर्ष 7 माह 8 दिन (28.8.83 से 6.4.86) का 15 प्रतिषत वार्षिक ब्याज	3447462 /—
	अर्थात कुल ब्याज राशि (डी+ई)=	4241427 /—
एफ	सिंचाई विभाग द्वारा 7.04.86 को अदा राशि	3118442 /—
जी	(एफ) को समायोजन के पश्चात् शेष ब्याज राशि	1122985 /—
एच	4 माह 11 दिन (6.04.86 से 19.8.86) तक का 15 प्रतिषत वार्षिक ब्याज	482125 /—
	(जी+एच) अर्थात कुल बकाया ब्याज=	1605110 /—
आई	20.8.86 को सिंचाई विभाग द्वारा भुगतान की गई राशि	949592 /—
जे	(आई) को समायोजन के पश्चात् ब्याज राशि	655518 /—
के	27 वर्ष 3 माह 16 दिन (20.8.86 से 7.12.13) का 15 प्रतिषत वार्षिक ब्याज राशि	35999875 /—
	अर्थात कुल ब्याज (जे+के)	36655393 /—
एल.	7.12.13 को विभाग द्वारा किया भुगतान	18288000 /—
एम.	(एल) को समायोजन के पश्चात् शेष ब्याज राशि	18367393 /—
एन.	7.1.14 को विभाग द्वारा किया गया भुगतान	385707 /—
ओ	(एन) को समायोजन के पश्चात् शेष ब्याज राशि	17981686 /—
पी	8.1.14 से 8.8.17 तक (संभावित भुगतान तिथि तक) 15 प्रतिषत वार्षिक ब्याज	4643625 /—
	अर्थात कुल ब्याज (ओ+पी)	22625311 /—
क्यू.	कुल मुआवजा राशि = 8821831 /— + ब्याज = 22625311	31447142 /—

इस प्रकार उपरोक्त विवेचनानुसार अप्रार्थीगण संख्या 1 लगायत 3 की ओर से जो गणना प्रपत्र प्रस्तुत किया गया है, वह लैषमात्र भी स्वीकार किये जाने योग्य नहीं है एवं साथ ही साथ प्रार्थीगण की ओर से जो गणना प्रपत्र पेश किया गया है वह कुल मुआवजा राशि रुपये 88,21,831 /— मात्र की अवस्था तक अंशतः स्वीकार किये जाने एवं तत्पश्चात् ब्याज गणना सम्बन्धी प्रपत्र अस्वीकार किये जाने योग्य है और ब्याज गणना उपरोक्तानुसार की जाकर इस अवस्था पर प्रार्थीगण अप्रार्थीगण से रुपये 3,14,47,142 /— मात्र प्राप्ति के अधिकारी दिखाई देते हैं। अप्रार्थीगण को आदेश दिया जाता है कि वे उपरोक्तानुसार प्रार्थीगण को राशि की अदायगी नियमानुसार करें।"

27. It is further noteworthy that the petitioners-State did not challenge the order dated 13.07.2017 passed by the Civil Court before the Higher Forum at the first instance, rather only chose to file an application dated 08.08.2017 seeking to review/recall the same by the Civil Court itself. During hearing of the application for recalling/review, when the issue of adopting two different methods of calculation by the State Government, to calculate the enhanced award differently in the present case, then made in case of Nathulal & Ors. Vs. Legal Representatives of deceased khatedar-Ghasi Ram, came to force, learned Civil Court passed a specific order dated 03.04.2018. In this order, it was clearly held that the order dated 13.07.2017 has been passed on merits, hence, in the calculation of due compensation made therein, no recall/ review can be made except to make some clerical or arithmetical corrections within scope of Section 152 CPC. It was also noted specifically that the State Government has not assailed the order dated 13.07.2017 before higher forum and same has attained finality. The copy of the order dated 03.04.2018 is also available on record and it would not be out of place to reproduce the same hereunder:-

"वकील पक्षकारान उपस्थित। उभय पक्षों की ओर से इस न्यायालय के आदेश दिनांक 13.07.2017 को रिकॉल/रिव्यू करने पर बहस सुनी गई। पत्रावली एवं लिखित बहस का अवलोकन किया गया।

मदयून की ओर से प्रार्थना पत्र में मुआवजा राशि व ब्याज राशि के सम्बन्ध में जो आक्षेप उठाये गये हैं वे इस स्टेज पर दस्तावेजी साक्ष्य के अभाव में स्वीकार किये जाने योग्य नहीं पाये जाते हैं, क्योंकि इस न्यायालय के आदेश दिनांक 13.07.2017 के विरुद्ध उसकी ओर से कोई अपील, रिवीजन आदि

पेश नहीं की गई है। इसलिए गुणावगुण पर आदेश दिनांक 13.07.2017 के पुनः परीक्षण के कोई विधिक आधार नहीं है। न्यायालय केवल धारा 152 सिविल प्रक्रिया संहिता के तहत लिपिकीय व गणनात्मक त्रुटि को ही सुधार सकता है। पक्षकारान की ओर से प्रस्तुत किये गये प्रार्थना पत्र एवं लिखित बहस आदि के अवलोकन से उक्त प्रार्थना पत्र के निस्तारण हेतु पक्षकारान से निम्न स्थिति शपथ पत्र पर स्पष्ट कराया जाना आवश्यक है:—

1. मद्यून व डिक्रीदार शपथ पत्र द्वारा स्पष्ट करें कि क्या इस न्यायालय के आदेश दिनांक 13.07.2017 में कोई लिपिकीय या गणनात्मक त्रुटि है? यदि हां तो क्या?
2. मद्यून शपथ पत्र द्वारा स्पष्ट करें कि क्या “नाथूराम” से संबंधित अवाप्ति व मुआवजा की कार्यवाही में मद्यून द्वारा उसे विभिन्न समयों पर भुगतान की गई राशि को ब्याज राशि में कम कर शेष ब्याज एवं मूल राशि को जोड़कर ब्याज की गणना की गई थी अथवा नहीं?
3. मद्यून शपथ पत्र द्वारा स्पष्ट करें कि “नाथूराम” से सम्बन्धित मामले व इस मामले की अवाप्ति सम्बन्धी कार्यवाही एक ही नोटिफिकेशन द्वारा की गई थी एवं क्या नाथूराम के मामलों में विधि व वित्त विभाग द्वारा भुगतान की गई राशि की गणना दी गई राशि को ब्याज राशि में समायोजित करते हुए शेष ब्याज व मूल रकम जोड़कर आगामी ब्याज की गणना शेष ब्याज व मूल राशि के योग पर की गई ? यदि हां तो डिक्रीदार को उक्तानुसार भुगतान क्यों नहीं किया जा रहा है एवं उसका मामला किस प्रकार “नाथूराम” से भिन्न है?

इस बाबत स्पष्ट उत्तर दिया जावे।

पत्रावली वास्ते पेश होने शपथ पत्र डिक्रीदार व मद्यून दिनांक 20.04.16 को पेश हो।"

(emphasis supplied)

28. It may be noted here that the order dated 03.04.2018 has not been questioned by the petitioners herein in the present writ petition, nor any specific reply/explanation to the queries put forth by the Civil Court, more particularly, in respect of point No.3, mentioned hereinabove, was/is submitted by the State Government, hence, taking note of such stand of the petitioners-State, learned Civil Court passed the order dated 14.10.2019 wherein not only the calculation of amended award as made in the

order dated 13.07.2017 was affirmed but since, an arithmetical mistake of not calculating the interest of one month from 08.12.2013 to 07.01.2014 in the order dated 13.07.2017 came to notice and the interest of future period up to 02.11.2019 was re-calculated therein. There appears no dissimilarity and calculation of enhanced compensation so also adjustment of amount paid by State under the original award has been deduced against the interest accrued upon the calculated amount of enhanced compensation, applying the same methodology, as was applied in calculating the enhanced compensation of another khatedar Nathuram, legal heir of Ghasi Ram in the order dated 24.01.2017 (supra). The chart of re-calculation, finds place in the order dated 14.10.2019 itself and according to this calculation the due and unpaid compensation with solatium and interest as on 02.11.2019 comes to the tune of Rs. 3,46,13,863/-.

29. It is important to note that in the impugned orders, the deduction of compensation paid by the State Government, in furtherance to the original award dated 12.08.1983 has been made in the same manner as was made by the State Government and accepted by the Civil Court, while calculating the enhanced compensation in case of Execution Petition No. 55/2012 relating to acquired land of khatedar-Ghasi Ram through his legal representatives Nathu and others.

30. Having perused the calculation, as made by the Civil Court in the orders dated 13.07.2017 and 14.10.2019, in the considered opinion of this Court, it is not a case where the interest upon interest has been calculated nor it is a case that the Civil Court

has breached the rule of appropriation as laid down in case of Prem Nath Kapur (supra) and affirmed in case of Gurpreet Singh (supra) by the Hon'ble Supreme Court. Learned Civil Court has not erred in rejected the calculation as per chart (Annexure-2), submitted by the petitioners-State based on the principle of equity and maintaining parity with the calculation made in case of Nathu Ram. Thus, the contentions made by and on behalf of petitioners-State are hereby rejected.

31. In the opinion of this Court, it is a clear case where the calculation of compensation as per amended award/order dated 07.04.2011 has been made properly and the amount paid by the State Government and received by the respondents-khatedars under the original award dated 12.08.1983 has been deduced in the same manner against the interest, as was deduced by the State Government itself and followed by the Civil Court while calculating the compensation as per the revised/enhanced rate for the acquired lands of khatedar-Ghasi Ram (Now deceased and represented through his legal representatives Nathu and others) in execution application No.55/2012 (19/2015). Further, it is not disputed that the compensation as calculated in case of Ghasi Ram has already been decided to be paid by the State Government and has been paid to the khatedars. Therefore, petitioners-State may not be permitted to apply any different formula or method other than, which has been applied and followed in calculation of the compensation payable to the acquired land of khatedar- Ghasi Ram and no inequality/ disparity in making calculation of

enhanced compensation, payable to the respondents can be allowed to be made.

32. As a final result, calculation of enhanced compensation as made in the orders impugned does not warrant any interference in the writ jurisdiction, which is otherwise an equitable jurisdiction, hence, this writ petition is hereby dismissed. Incidentally, the stay order dated 05.10.2021 also stands vacated and comes to an end.

33. Since against the due compensation, as calculated in the order dated 14.10.2019, petitioners have paid an amount of Rs.1,13,95,294/- (Rs.85,74,725/- principal amount + Rs.28,20,569/- interest amount up to 31.10.2021) and till today against recovery of remaining amount, stay was in operation in light of the order dated 05.10.2021 which has come to an end now, therefore, it is hereby observed that in case petitioners make payment of differential amount to respondents within a period of two months, same shall carry interest at the rate of 6% per annum as fixed in the order dated 05.10.2021, failing which, thereafter, on the differential unpaid amount of compensation, the rate of interest, as prescribed in the amended award/order dated 07.04.2011 shall apply.

34. Stay application and other pending application(s), if any, stand disposed of.

(SUDESH BANSAL),J