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Unequal Acres: The Supreme Court’s Constitutional Call On Compensation Under The National Highways Act, 1956

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Introduction

The law of land acquisition has long stood at the intersection of State-driven development and constitutionally protected property rights. While Parliament has repeatedly sought to recalibrate this balance through progressive legislative reform, most notably through the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, acquisitions under sector-specific statutes continue to raise serious constitutional concerns.

In a significant and carefully reasoned order under the *M/s Riar Builders Pvt. Ltd. & Anr. v. Union of India & Ors.,* the Supreme Court has drawn attention to the structural inequity embedded within the National Highways Act, 1956, particularly in the manner in which compensation disputes are determined and reviewed. The Court observed that landowners whose properties are acquired for national highways are placed at a distinct procedural and remedial disadvantage when compared to landowners under general acquisition laws leading to unequal compensation.

While refraining from striking down the statutory schemes at this stage, the Court has issued a clear constitutional signal to the Union Government to revisit the legislative framework and ensure parity, fairness, and judicial robustness, in line with Article 300A of the Constitution.

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Factual Matrix and Procedural Background

The batch of Special Leave Petitions before the Supreme Court arose from a judgment of the Punjab and Haryana High Court, which had declared Section 3G and 3J of the National Highways Act, 1956 unconstitutional. These provisions form the backbone of the compensation determination mechanism under the 1956 Act.

Following the High Court's decision dated 20th March 2025, the statutory arbitral mechanism under the National Highways Act stood invalidated. Several landowners, whose compensation disputes were pending under Section 34 of the Arbitration and Conciliation Act, 1996, withdrew their petitions on the belief that the arbitral framework itself no longer survived.

However, this Court subsequently stayed the operation of the High Court judgment, thereby temporarily reviving the arbitral regime under the 1956 Act. This unexpected procedural reversal left the landowners in a legal cul-de-sac: any fresh challenge under Section 34 would now be barred by limitation, effectively rendering those remediless.

It was in this extraordinary factual context that the Supreme Court was called upon to intervene.

Invocation of Article 142: Restoring Access to Justice

Recognising that procedural confusion had resulted in substantive injustice, the Supreme Court exercised its extraordinary powers under Article 142 of the Constitution to restore the withdrawn petitions.

The Court set aside the orders permitting withdrawal and directed that all Section 34 petitions be revised and heard from the stage at which they had been withdrawn or abandoned, the Court reaffirmed that procedural law is a handmaiden to justice, not its master.

This intervention, however, was only the starting point. This exercise of Article 142 thus became diagnostic as well as curative, and prompted the Court to interrogate the deeper constitutional infirmities embedded within the statutory scheme of the National Highway Act, 1956.

The National Highways Act, 1956: A Distinct and Restrictive Compensation Regime

The National Highways Act, 1956 represents a sector-specific acquisition statute, premised on the legislative objective of enabling rapid and uninterrupted development of national highway infrastructures. While this objective is undeniably significant, the statutory architecture governing compensation determination under Section 3A to 3J reveals a model that consciously departs from the safeguards traditionally associated with land acquisition jurisprudence.

Under Section 3G, the determination of compensation is initially carried out by a *competent authority,* an executive appointee. Where a landowner is dissatisfied, the statute mandates through the use of unequivocal language that the dispute *"shall be referred to arbitration"* under Section 3G(5). It is the sole statutory remedy, not an optional alternative.

What troubled the Supreme Court was the identity and institutional capacity of the arbitrator. Unlike consensual commercial arbitration, this is a statutorily imposed adjudicatory mechanism, where the arbitrator is typically a District Collector or Commissioner, appointed by the Central Government of India itself.

The Court sharply noted that:

"These officers are generally pre-occupied with their multiple administrative responsibilities and they also do not have the desired experience of a judicially trained mind to adjudicate the complex issues like determination of market value of the land or other statutory benefits…"

These observations go beyond individual competence and strikes at institutional design. Valuation of land involves complex factual analysis, examination of comparable transactions, appreciation of evidence, and application of evolving judicial standards, tasks that lie at the heart of judicial function. By entrusting this responsibility to executive officers, the statutory scheme collapses the separation between acquisition authority and adjudicatory authority, thereby diluting neutrality and expertise.

Limited Judicial Review under the Arbitration Framework

The restrictive character of the National Highways Act does not conclude with executive arbitration. It extends into the appellate architecture, where judicial review is deliberately constrained.

Once an arbitral award is rendered under Section 3G(5), the landowner's remedies are confined only to:

- a challenge under Section 34 of the Arbitration and Conciliation Act, 1996, and
- a further appeal under Section 37.

The Supreme Court has, in a long line of precedents, consistently held that courts exercising jurisdictions under Section 34 and 37 do not sit as appellate authorities. They cannot reassess evidences, re-evaluate market value, or correct factual errors unless they meet the narrow grounds of patent illegality or perversity.

In the context of compulsory land acquisition, where property is taken without the consent, this limited review assumes constitutional significance. The Court observed that such a framework effectively insulates compensation determinations from substantive judicial scrutiny, even where the valuation may be demonstrably inadequate or erroneous.

The result is a statutory paradox. The more coercive the acquisition, the narrower the judicial review, which sits at odds with the constitutional notions of fairness and due process under Article 300A.

Contrast with the Land Acquisition Act, 1894: Judicial Determination as the Norm

The Supreme Court contrasted this constrained regime with the earlier framework under the Land Acquisition Act, 1894, which governed acquisitions across India for more than a century and formed the backbone of land acquisition jurisprudence.

Under Section 18 of the 1894 Act, any person dissatisfied with the compensation awarded by the Collector was entitled to seek a reference to a civil court. These references were adjudicated by District Judges or Additional District Judges, applying judicial standards of evidence and valuation.

Crucially, the remedial structure did not end there. A full-fledged first appeal to the High Court lies against the reference court's decision, empowering the appellate court to re-appreciate evidence, reassess market value, and correct both factual and legal

errors.

As the Supreme Court recalled:

"Such references were decided only by the judicial Courts… There was a further remedy of first appeal before the High Court, and thus even the High Court had the power to re-appreciate and re-appraise the evidence…"

This multi-tiered judicial scrutiny reflected a legislative recognition that determination of compensation is not a mere administrative exercise, but a judicial function requiring independence, expertise, and appellate oversight.

The 2013 Act: A Right-Oriented Compensation Paradigm

The enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 marked a very decisive break from the acquisition laws driven purely by State convenience. It embodies a legislative acknowledgement that compulsory acquisition of property must operate within a right-based framework, particularly in light of Article 300A, which demands that deprivation of property occur only through *just, fair, and reasonable* law.

Unlike the sector-specific statutes such as National highways Act, 1956, the 2013 Act does not treat land acquisition as a purely infrastructural or administrative exercise. Instead, it recognises acquisition as a constitutionally sensitive intrusion into private property, requiring heightened safeguards at every stage. From valuation to adjudication.

At the heart of the 2013 Act lies Section 26, which prescribes a detailed and transparent method for determining market value. The provision mandates consideration of:

- sale deeds of similar land in the vicinity,
- consented compensation amounts in private purchases, and
- other objective valuation benchmarks.

This market value is a baseline subject to judicial examination, correction, and enhancement. The Supreme Court's concern in the present judgment directly resonates with this feature, particularly when contrasted with the executive-dominated arbitral model under the National Highways Act, 1956.

Beyond market value, the 2013 Act statutorily mandates multipliers also under Section 26(2) and Schedule I, recognising rural-urban disparities and livelihood dependence. In addition, Section 30 mandates 100% solatium on the total compensation amount.

These components are not discretionary benefits, they are statutory entitlements, immune from administrative dilution. This stands in stark contrast to the National Highways Act, 1956 regime, where compensation determination is often constrained by narrow valuation methodologies and limited judicial correction.

The Supreme Court took judicial notice of this right-expansive structure, observing:

"Such a recourse… has been further widened by the grant of additional statutory benefits and a higher rate of compensation under the provisions of the 2013 Act."

Equally significant is the adjudicatory framework under the 2013 Act that is compensation disputes are adjudicated by Land Acquisition, Rehabilitation and Resettlement Authorities, which function as quasi-judicial bodies. Importantly, their decisions are subject to appellate scrutiny by the High Courts, ensuring:

- re-appreciation of evidence,
- correction of valuation errors, and
- uniform application of legal principles.

This layered adjudicatory mechanism stands in direct contrast to the finality attached to the arbitral awards under the National Highways Act, 1956, where judicial review is restricted by the narrow contours of Section 34 and 37 of the Arbitration and Conciliation Act, 1996.

It is precisely this consensus that underpins the Supreme Court's concern in the present case. When the Court observes that landowners under the National Highways Act are treated as a separate class *"apparently without any intelligible differential",* it is implicitly measuring the 1956 Act against the rights-oriented benchmark set by the 2013 Act.

Unequal Treatment without the Intelligible Differentia

At the heart of the Court's concern lies the unequal legislative classification between landowners whose lands are acquired under the National highways Act and those covered by general acquisition laws.

The Court in unequivocal terms:

"The land owners, whose land is acquired under the 1956 Act, vis-à-vis the land owners whose lands are acquired now under the New Act, have been treated as separate classes, apparently without any intelligible differentia."

This disparity, the Court noted, results in "grave heartburn" among affected landowners and raises serious constitutional question under Article 300A.

Balancing Infrastructural Development with Constitutional Justice

Importantly, the Court did not disregard the legislative objective behind the 1956 Act. It acknowledged that national highways development requires speed, certainty, and administrative efficiency.

However, it cautioned:

"Though such a legislative policy is laudable, prima facie, it seems that this object can be kept intact while ensuring the land owners that they will be entitled to assessment of compensation… in the same manner as is determined for the land owners whose land are acquired under the Old act or under the New Act."

Expedition need not come at the cost of equality.

Despite its strong observations, the Supreme Court consciously refrained from delivering a final verdict on the constitutional validity of Section 3G and 3J of the National Highways Act, 1956.

Instead, it adopted a stance of institutional restraint, observing:

"Since the issue primarily falls within the domain of the legislature, we refrain from expressing any final opinion…"

The Court requested the Attorney General for India to examine the issue and directed that its order be circulated to both the Attorney General and the Solicitor General of India, signalling that the matter requires legislative introspection rather than judicial fiat.

Conclusion

This order represents far more than an interim procedural correction. It exposes a systematic imbalance in India's land acquisition architecture, one where landowners affected by national highway projects are denied the procedural and substantive safeguards that Parliament itself has recognised as essential in other acquisition contexts.

Whether the legislature responds to this constitutional nudge will determine whether infrastructure development can progress without eroding the principles of equality, fairness, and judicial oversight. The matter, now listed for further consideration in April 2026, has the potential to reshape the future of land acquisition under the sector-specific statutes.

For more details, write to us at: contact@indialaw.in

Reference:

https://www.livelaw.in/pdf_upload/26933202511667431order13-jan-2026-647941.pdf

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