2026:HHC:47840

IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

Arb. Appeal No. 7 of 2012
Reserved on : 18.9.2026
Decided on: 31.10.2026
Uploaded on: 31.10.2026

Union of India & ors.

... Appellants

Versus

Pramod Sood

...Respondent

Coram
Hon'ble Mr. Justice Virender Singh, Judge
Whether approved for reporting?

For the Appellants: Mr. K.B. Khajuria, Advocate.

For the Respondents : Mr. Vikrant Thakur, Senior Advocate, assisted by Mr. Shubham Guleria, Advocate.

Virender Singh, Judge

The appellants have filed the present appeal under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as 'the Act'), against the order dated 1.9.2011, passed in Arbitration Case No. 1-S/2 of 2007, by the learned District Judge, Shimla, whereby, the objections preferred, by the appellants under Section 34 of the Act, against the award dated

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21.7.2006, passed by the Sole Arbitrator, were dismissed.

2. Parties to the lis are hereinafter referred to, in the same manner in which, they were referred to, by the learned Arbitrator.

3. Brief facts, leading to filing of the present appeal, under Section 37 of the Act, as borne out from the record, may be summed up, as under:

The claimant Pramod Sood has raised the dispute pertaining to the work relating to trenching and laying of OFC cables, before the learned Arbitrator in pursuance of the directions of the High Court. The arbitration proceedings were concluded by the sole Arbitrator, Shri V.K. Khurana.

3.1 The appellants Union of India and another have filed the objections, under section 34 of the Act, before the learned District Judge, Shimla, which were dismissed by the learned District Judge, Shimla, on 1.9.2011.

4. Now, the present appeal has been filed before this Court challenging the award, so made, by the

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Arbitrator, mainly on the ground that the award passed by the learned Arbitrator is based upon surmises and conjectures. The findings of the learned District Judge, Shimla have further been assailed on the ground that the Arbitrator has not considered the fact that the record of the case was seized by CBI in the year 1997 and even prior to that, a vigilance inquiry was being conducted, with regard to the work, for which, the award has been passed.

4.1 According to the appellants, in case the authorities are compelled to make payment, during the pendency of the inquiry, then, the very purpose of looking into the irregularities, will stand frustrated.

4.2 The award is also stated to be against the public policy, as the same grants interest at the rate of 14% per annum from 1.11.1996 onwards, whereas, according to them, as per clause 16.2 of the agreement, no interest was payable on earnest money of the security deposit or the amount payable to the contractor under the contract.

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5. On the basis of the above facts, Mr. K.B. Khuraria, learned counsel appearing for the appellants, has prayed that the present appeal may kindly be allowed, by setting aside the order passed by the learned District Judge, Shimla, by virtue of which, the objections under section 34 of the Act were dismissed, by setting aside the award passed by the learned Arbitrator.

6. Per contra, Mr. Vikrant Thakur, Senior Advocate, assisted by Mr. Shubham Singh Guleria, Advocate appearing for the respondent, has supported the award and prayed that the Court cannot interfere in the concurrent findings of the learned District Judge, as the scope of interference by this Court, under section 37 of the Act is narrower than the scope of interference, under section 34 of the Act.

7. The non-claimant is before this Court, under Section 37 of the Act. It is no longer res-integra that the scope of the Appellate Court, exercising jurisdiction under Section 37 of the Act, to review the findings is limited, if the award has been upheld under Section 34 of the Act. While holding so, the view of this Court is

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being guided by the decision of Hon'ble Supreme Court in **Konkan Railway Corporation Ltd. Vs. Chenab Bridge Project Undertaking, 2023 (9) SCC 85**. Relevant paras 19 & 25, of the judgment, is reproduced, as under:-

> *"19. Therefore, the scope of jurisdiction under Section 34 and Section 37 of the Act is not akin to normal appellate jurisdiction. It is well-settled that courts ought not to interfere with the arbitral award in a casual and cavalier manner. The mere possibility of an alternative view on facts or interpretation of the contract does not entitle courts to reverse the findings of the Arbitral Tribunal. In Dyna Technologies Private Limited v. Crompton Greaves Limited (2019) 20 SCC 1, this Court held:*
> *"24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.*
> *25. Moreover, umpteen number of judgments of this Court have categorically held that the courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The courts need to be cautious and should defer to the view taken by the Arbitral Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Section 34 of the Arbitration Act."*
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> *xxxx xxxx xxxx*

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> *25.* The principle of interpretation of contracts adopted by the Division Bench of the High Court that when two constructions are possible, then courts must prefer the one which gives effect and voice to all clauses, does not have absolute application. The said interpretation is subject to the jurisdiction which a court is called upon to exercise. While exercising jurisdiction under Section 37 of the Act, the Court is concerned about the jurisdiction that the Section 34 Court exercised while considering the challenge to the Arbitral Award. The jurisdiction under Section 34 of the Act is exercised only to see if the Arbitral Tribunal's view is perverse or manifestly arbitrary. Accordingly, the question of reinterpreting the contract on an alternative view does not arise. If this is the principle applicable to exercise of jurisdiction under Section 34 of the Act, a Division Bench exercising jurisdiction under Section 37 of the Act cannot reverse an Award, much less the decision of a Single Judge, on the ground that they have not given effect and voice to all clauses of the contract. This is where the Division Bench of the High Court committed an error, in re-interpreting a contractual clause while exercising jurisdiction under Section 37 of the Act. In any event, the decision in Radha Sundar Dutta (supra), relied on by the High Court was decided in 1959, and it pertains to proceedings arising under the Village Chaukidari Act, 1870 and Bengal Patni Taluks Regulation of 1819. Reliance on this judgment particularly for interfering with the concurrent interpretations of the contractual clause by the Arbitral Tribunal and Single Judge under Section 34 of the Act is not justified."

8. In a recent decision in **Bombay Slum Redevelopment Corporation Pvt. Ltd. Vs. Samir Barain Bhojwani, (2024) 7 SCC 218**, the Hon'ble Supreme Court has again reiterated that supervisory role of the Courts is very restricted in dealing with appeals under Section 37 of the Act. The scope of interference in a petition under Section 34 of the Act is very narrow, and whereas, jurisdiction under Section 37 of the Act is narrower.

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Relevant para 26 of the judgment, is reproduced, as under:-

> *"**26.** The jurisdiction of the appellate court dealing with an appeal under Section 37 against the judgment in a petition under Section 34 is more constrained than the jurisdiction of the Court dealing with a petition under Section 34. It is the duty of the appellate court to consider whether Section 34 Court has remained confined to the grounds of challenge that are available in a petition under Section 34. The ultimate function of the appellate court under Section 37 is to decide whether the jurisdiction under Section 34 has been exercised rightly or wrongly. While doing so, the appellate court can exercise the same power and jurisdiction that Section 34 Court possesses with the same constraints."*

9. Being guided by the above decision, now, this Court would proceed further to ascertain the fact whether the awarded amount is liable to be interfered with by this Court.

10. As stated above, the award has been mainly assailed on the ground that neither the learned Arbitrator nor learned District Judge have taken into consideration the fact that in the year 1997, record was seized by CBI and even prior to that, a vigilance inquiry was being conducted, with regard to the work, for which, the award has been passed by the learned Arbitrator.

11. To the considered opinion of this Court, these facts have no bearings upon the merits of the case, as

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the learned Arbitrator, after giving an opportunity to both the parties, have decided the said contention. Even the learned District Judge has also taken into consideration the said fact while deciding point for determination No. 1, by holding that the proper forum to raise all these objections was the High Court, when the application under section 18 of the Act was decided. There is nothing on the record to show as to how the award is against the public policy.

12. Considering the above facts, there is no occasion for this Court to interfere with the well-reasoned order, passed by the learned District Judge, Shimla, while dismissing the objections, under Section 34 of the Act.

13. In view of above, the present appeal is dismissed, so also the pending application(s), if any.

14. Record be sent back.

(Virender Singh)
Judge

27.10.2026
Kalpana

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