IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Appeal No.211 of 2026

Date of decision:09.10.2026

National Highway Authority of India ...Appellant.

Versus

Minaxi Devi & another ...Respondents.

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the appellant: Mr. Santosh Kumar, Advocate, vice Mr.Raghujeet Singh Madan, Advocate.

For the respondents: Mr. Umesh Kanwar, Advocate, for respondent No.1.

Mr. Baldev Singh Negi, Additional Advocate General, for respondent No.2.

Romesh Verma, Judge (oral):

The present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for brevity, "Act of 1996") arises out of the judgment dated 02.01.2025, as passed by the learned District Judge, Mandi, H.P. in Arbitration Petition No. 33/2024, whereby application filed by the appellant/National Highway Authority of India, under Section 34 of the Act of 1996 was dismissed and the award as passed by the Arbitrator was upheld.

Whether reporters of Local Papers may be allowed to see the judgment?

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2 Brief facts of the case are that the land of the respondents was acquired by the appellant in revenue estate Dhondi, Tehsil Sadar, District Mandi, for the purpose of building (four laning etc.), maintenance, management and operation of National Highway No.21. Notification under Section 3A(1) of the Act of 1956 was published in the official gazette on 21.4.2012 for acquiring the land of owners for the aforesaid purpose. Notification under Section 3D(1) of the Act of 1956 was issued by the appellant on 15.12.2012. Notification under Section 3G(3) of the Act of 1956 inviting claims from the interested persons was published in the newspaper. The competent authority passed an award on 05.07.2013, whereby market value of the land in question was assessed at Rs.30,00,000/- per bigha for all kinds/classifications of acquired land.

3 Feeling dissatisfied by the award, the respondents filed claim petition for enhancement of amount of compensation under Section 3G(5) of the Act before the Arbitrator, which came to be partly allowed vide award dated 07.08.2023, to the extent that the respondents shall not be entitled to any enhancement in the market rate of the land as awarded by the Competent Authority and shall be entitled to all statutory benefits granted by the Hon'ble Apex Court in ***Civil Appeal No.7064 of 2019, titled as Union of India vs. Tarsem Singh and others decided on 19.09.2019, AIR 2019 SC 4689*** on compensation amount.

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4 The appellant feeling aggrieved by the award, dated 07.08.2023 preferred an application under Section 34 of the Act of 1996 before the learned District Judge, Mandi on 21.02.2024, who vide judgment dated 02.01.2025 dismissed the application filed by the appellant and upheld the award of the Arbitrator.

5 By taking recourse to provisions of Section 37 of the Act of 1996, the appellant has now preferred the instant appeal challenging the judgment, dated 02.01.2025, as passed by the learned District Judge.

6 It is contended by Mr. Santosh Kumar, learned vice counsel appearing for the appellant-NHAI, that impugned judgment is erroneous, perverse and liable to be quashed and set aside. He has submitted that the learned District Judge has not decided controversy in hand strictly in accordance with the Act of 1996, therefore, the impugned judgment is liable to be quashed and set aside. Primarily, as urged by learned counsel for the appellant, the impugned judgment as passed by the learned District Judge has been challenged on the ground that the relief of additional amount under Section 23(1-A) of the Act has illegally been granted by the Arbitral Tribunal.

7 On the other hand, Mr. Umesh Kanwar, learned counsel for respondent No.1, has defended the impugned judgment and has submitted that no interference of any kind is required in the present appeal.

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8 I have heard the learned counsel for the parties and have also gone through the case file.

9 Before coming to factual matrix of the case, this Court shall delve into the scope of interference while dealing with appeal filed under Section 37 of the Act of 1996.

10 In ***M/s C & C Constructions Ltd. Vs. IRCON International Ltd, 2025 INSC 138***, the Hon'ble Supreme Court has held as under: -

> "27. As far as scope of interference in an appeal under Section 37 of Arbitration Act is concerned, the law is well settled. In the case of Larsen Air Conditioning and Refrigeration Company v. Union of India and Ors. in paragraph 15, this court held thus:
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> > "15. The limited and extremely circumscribed jurisdiction of the court under Section 34 of the Act, permits the court to interfere with an award, sans the grounds of patent illegality i.e. that "illegality must go to the root of the matter and cannot be of a trivial nature"; and that the Tribunal "must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground" [ref : Associate Builders [Associate Builders v. DDA, (2015) 3 SCC 49 : (2015) 2 SCC (Civ) 204] , SCC p. 81, para 42]. The other ground would be denial of natural justice. In appeal, Section 37 of the Act grants narrower scope to the appellate court to review the findings in an award, if it has been upheld, or substantially upheld under Section 34."
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> (emphasis added)

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28. In the case of Konkan Railway Corporation Limited v. Chenab Bridge Project Undertaking in paragraph 18, this court held thus:

> "18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in MMTC Ltd. v. Vedanta Ltd. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163 : (2019) 2 SCC (Civ) 293] , is akin to the jurisdiction of the court under Section 34 of the Act. [Id, SCC p. 167, para 14:
> "14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision."] Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act."

29. Considering the limited scope of interference, as laid down by this Court, we find absolutely no merit in the appeal and the same is accordingly dismissed."

11 The Hon'ble Supreme Court in ***Som Dutt Builders vs. NHAI 2025 INSC 113*** has held as follows:

> *"36. In MMTC Ltd. Vs. Vedanta Ltd., this Court held that as far as Section 34 is concerned, the position is well settled that the court does not sit in appeal over an arbitral award and may interfere on merits only on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award is against the public policy of India. Even then, the interference would not entail a review on the merits*

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of the dispute but would be limited to situations where the findings of the arbitrator are arbitrary, capricious or perverse or when the conscience of the court is shocked or when the illegality is not trivial but goes to the root of the matter. An arbitral award may not be interfered with if the view taken by the arbitrator is a possible view based on facts. As far as interference with an order made under Section 34 by the court under Section 37 is concerned, it has been held that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision.

37. What is public policy of India has been explained in Ssangyong Engineer and Construction Company Ltd. (supra). It means the fundamental policy of Indian law. Violation of Indian statutes linked to public policy or public interest and disregarding orders of superior courts in India would be regarded as being contrary to the fundamental policy of Indian law. It would also mean that the arbitral award is against basic notions of justice or morality. An arbitral award can be set aside on the ground of patent illegality i.e. where the illegality goes to the root of the matter but re-appreciation of evidence cannot be permitted under the ground of patent illegality.

38. xxx xxx xxx

39. In Reliance Infrastructure Ltd. (supra), this Court referring to one of its earlier decisions in UHL Power Company Ltd. Vs. State of Himachal Pradesh14, held that scope of interference under Section 37 is all the more circumscribed keeping in view the limited scope of interference with an arbitral award under Section 34 of the 1996 Act. As it is, the jurisdiction conferred on courts under Section 34 of the 1996 Act is fairly narrow. Therefore, when it comes to scope of an appeal under Section 37 of the 1996 Act, jurisdiction of the appellate court in examining an order passed

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under Section 34, either setting aside or refusing to set aside an arbitral award, is all the more circumscribed.

40. Again in M/s Larsen Air Conditioning and Refrigeration Company (supra), this Court reiterated the position that Section 37 of the 1996 Act grants narrower scope to the appellate court to review the findings in an arbitral award if it has been upheld or substantially upheld under Section 34."

12 In ***A.C. Chokshi Share Broker Private Limited vs. Jatin Pratap Desai, 2025 INSC 174***, the Hon'ble Supreme Court has observed as under:

"22. Whether the arbitral award ought to have been set aside: The limited supervisory role of courts while reviewing an arbitral award is stipulated in Section 34 of the Act, beyond whose grounds courts cannot intervene and cannot correct errors in the arbitral award. 26 The appellate jurisdiction under Section 37 is also limited, as it is constrained by the grounds specified in Section 34 and the court cannot undertake an independent assessment of the merits of the award by re-appreciating evidence or interfering with a reasonable interpretation of contractual terms by the arbitral tribunal. 27 The court under Section 37 must only determine whether the Section 34 court has exercised its jurisdiction properly and rightly, without exceeding its scope.

23-26 xxx xxx xxx

27. Applying the test for perversity under Section 34 as explained above, it is clear that the High Court, while exercising jurisdiction under Section 37, adopted an incorrect approach. The arbitral tribunal's findings are definitely based on evidence, as has been rightly held by the Section 34 court. The High Court, at the stage of the Section 37 appeal, took an alternative view on this finding of fact by reappreciating evidence. The arbitral tribunal's conclusion was based on oral and documentary evidence regarding the

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conduct of the parties, which leads to a reasonable and possible view that there is joint and several liability. Hence, the High Court, while exercising jurisdiction under Section 37, has incorrectly held the award to be perverse."

13. The judgments, relevant portion whereof have been quoted hereinabove, hold that jurisdiction of the Courts under Section 37 of the Act of 1996 is akin to that under Section 34 of the Act of 1996. The Courts ought not to interfere with the arbitral award in a casual 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. Further, it has been held that the supervisory role of Courts is very limited in dealing with appeals under Section 37 of the Act of 1996. Scope of interference in a petition under Section 34 of the Act of 1996 is narrower.

14. The controversy at hand is no longer res integra in view of orders passed by the Hon'ble Apex Court in ***Miscellaneous Application Diary No. 2572/2020 in Civil Appeal No. 7086/2019, titled as National Highway Authority of India & Anr. Vs. Tehal Singh & Ors. decided on 30.07.2021*** as also in ***Miscellaneous Application No. 1773/2021 in Civil Appeal No. 7064/2019 in Union of India & Anr. Vs. Tarsem Singh & Ors., decided on 04.02.2025***, wherein one of the issues, as has been raised in the instant appeal, qua relief of additional amount under Section 23 (1A) of the Act, has been answered against the landowner(s).

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15. It would be pertinent to mention here that similar issue came up before this Court in bunch of appeals, lead being ***Arb. Appeal No.135/2024, titled as National Highway Authority of India vs. Kamla Devi, decided on 08.10.2025,*** wherein in para 4(v) of the judgment, it has been observed as under: **-**

> *"4(v)Award of interest @12% per annum under Section 23(1-A) of the Land Acquisition Act by the learned District Judge.*
> *There is considerable force in the contention advanced by the learned counsel for the appellant that the respondents-land owners were not entitled to the award of 12% interest per annum on the enhanced market value of the land from the date of publication of notification under Section 3A till the date of award by the competent authority or till the date of taking possession of land, whichever was earlier.*
> *The land owners had already been awarded 30% solatium on the compensation amount of the acquired land, along with 9% interest on the enhanced amount from the date of taking possession of the land till actual deposit, under the award passed by the learned Arbitrator.*
> *The Hon'ble Apex Court in **Tarsem Singh & Ors**. had declared Section 3J of the NH Act as unconstitutional. It was further held that the provisions of Land Acquisition Act, 1894, relating to the assessment of solatium and interest as contained in Section 23(1-A) and 23(2) as well as the interest payable in terms of proviso to Section 28 of the NH Act, would ipso facto apply to the acquisition made under NH Act.*
> *However, subsequently, the appellant-NHAI sought a clarification in **Tehal Singh & Ors**. on the ground that benefit of Section 23(1-A) of the Land Acquisition Act had not been claimed before any authority or the Court in the facts of those cases. The said plea of appellant was accepted and vide order dated 30.07.2021, the decision in **Tehal Singh & Ors**. was modified by deleting the expression '(1-A)'. It would also be pertinent to notice that the aforesaid decision dated 30.07.2021*

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was followed by a Division Bench of Hon'ble Punjab and Haryana High Court in National Highway Authority of India Vs. Resham Singh, wherein it was held that all land owners, whose lands were acquired by invoking the provisions of the NH Act were though entitled to solatium and interest under Section 23(2) and 28 of the Land Acquisition Act, 1894,but not to the additional market value contemplated under Section 23(1-A) of the said Act. While deciding miscellaneous application in Tarsem Singh & Ors., the Hon'ble Apex Court dismissed Raj Kumar & Anr. Vs. Union of India & Ors. Raj Kumar had arisen from a decision rendered by the Punjab & Haryana High Court that was based upon Resham Singh case, whereby landowners' claim for award of Additional market value was declined. Hon'ble Apex Court held that the challenge therein pertained to the High Court's refusal to grant additional market value as another component of the compensation, even though solatium and interest had already been awarded. The relevant portion of the said decision reads as under: -

> *"3. Additionally, SLP (C) Diary No. 52538/2023 titled 'Raj Kumar and another v. Union of India and others', has been preferred by a private party whose lands were acquired by NHAI. In this ins10 In view of the aforesaid exposition of law, thetance, the Punjab and Haryana High Court has rejected their claim for the award of 'Additional Market Value' relying upon its decision in National Highway Authority of India v. Resham Singh29whereby the landowners were held entitled to 'solatium' and 'interest', but their claim for the grant of 'Additional Market Value' was declined These benefits were granted / partly declined in terms of Sections 23(2) and 28 of the Land Acquisition Act, 1894 (1894 Act), which were read into the provisions of the National Highways Act, 1956 (NHAI Act).*
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> *25. In view of the foregoing analysis, we find no merit in the contentions raised by the Applicant, NHAI. We reaffirm the principles established in Tarsem Singh (supra) regarding the beneficial nature of granting 'solatium' and 'interest' while emphasising the need to avoid creating unjust classifications*

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> *lacking intelligible differentia. Consequently, we deem it appropriate to dismiss the present Miscellaneous Application.*
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> *26. Leave is granted in the other connected matters, and all the appeals are disposed of with a direction to the Competent Authority to calculate the amount of 'solatium' and 'interest' in accordance with the directions issued in Tarsem Singh (supra). In view of above, landowners were not entitled to market value under Section 23(1A) of the Land Acquisition Act.*

16. In view of the aforesaid exposition of law, the landowner is not entitled to market value under Section 23(1A) of the Land Acquisition Act.

17. In the backdrop of the above discussion, award passed by the Arbitrator cannot be said to be suffering from perversity or illegality necessitating interference by this Court, however the instant appeal is partly allowed and the impugned judgment passed by learned District Judge on 02.01.2025 as well as award passed by learned Arbitrator on 07.08.2023 is modified to the extent it holds the landowner entitled for market value under Section 23(1-A) of the Land Acquisition Act. Pending application(s), if any, also stands disposed of.

(Romesh Verma)
Judge

9th October, 2026.
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