

**IN THE COURT OF NARESH KUMAR GARG,
ADDITIONAL DISTRICT JUDGE, JALANDHAR.
(UID NO.PB00841)**

CNR No. PBJL010048582022**Case No. ARB/332/2022****Presented on : 04-05-2022****Registered on : 04-05-2022****Decided on : 11-08-2026**

Project Director, National Highway Authority of India, 44 A Kalia Colony,
Jalandhar.

(Petitioners)

Versus

1) Swaran Singh (deceased) S/o Pritam Singh S/o Bisakha Singh R/o Village Kureshian, Tehsil and District Jalandhar through his LR Gurdev Singh S/o Swaran Singh S/o Pritam Singh R/o Village Kureshian, Tehsil and District Jalandhar.

..Respondent

2) Competent Authority-cum-Land Acquisition Collector, Punjab PWD (B&R), Bhawan and Marg Shakha, Jalandhar.

3) The Punjab State through District Collector Jalandhar

4) The Center Government through Secretary, PWD, New Delhi

5) Sh. Parveen Kumar, Ld. Arbitrator, Office at Divisional Commissioner, Jalandhar.

...Proforma Respondents

Petition under Section 34 of the Arbitration and Conciliation Act, 1996 as amended vide the Arbitration and Conciliation Amended upto date for Setting Aside Arbitration Award Dated 23.12.2021 (in case MA No.26 of 2011) (Old MA No.52 of 2007) passed by Sh. Parveen Kumar, IAS (retd), Arbitrator, Jalandhar.

Present: Sh. Puneet Sareen, Advocate for the petitioners.
Sh. Bhupesh Vaid, Advocate for respondent no. 1.
Service of Proforma Respondents dispensed with.

ORDER

1. This order shall dispose of an objection petition filed by the petitioner Union of India under Section 34 of the Arbitration and

Conciliation Act, 1996 whereby the petitioner has come up with a prayer for setting aside the Arbitration Award dated **23.12.2021 (in case MA No.216 of 2011)** passed by the Arbitrator-cum-Commissioner, Jalandhar Division, Jalandhar.

2. Briefly stated, the factual matrix as it emerges out of records of the case is that with a view to widening/four laning, maintenance, management and operation etc. of National Highway No.1A, the Government of India issued a notification under Section 3-A(1) of the National Highways Act, 1956 thereby declaring its intention to acquire certain area of land falling within the area of Tehsil and District Jalandhar including the land of the present respondent no. 1 situated at **Village Kureshian, Tehsil and District Jalandhar** and said notification was published in Gazette of India on **24.12.2004** expressing its intention to acquire the land of the said village and after receipt and disposal of the objections, if any preferred by the land owners under Section 3(C) of the National Highways Act, 1956, notification under Section 3-(D) of the Act *ibid* was issued on **11.07.2005** that the land specified in the schedule of said notification should be acquired for the aforesaid purpose and final award dated **18.09.2006** was passed and compensation for the acquired land has been assessed @ ₹10,000/- per marla i.e. Rs.16,00,000/- per acre for Gair Mumkin Tor & Abadi Land by the Competent Authority Land Acquisition-cum-SDM and the said compensation was received by the land owners including respondents.

3. Feeling dissatisfied by the award passed by the LAC, the land owners preferred the petition under Section 3-G (5) of National Highway Act before the Ld. Arbitrator i.e. Commissioner Jalandhar Division, Jalandhar (Ld. Arbitrator). The Ld. Arbitrator vide award dated **23.12.2021 (in case**

MA No.216 of 2011), determined the compensation as under and the relief part is reproduced as under :-

- 1. The applicant is awarded Rs.1,40,000/- per marla irrespective of nature of land in terms of FAO No. 8615 of 2014 decided on 27.01.2016 and FAO No. 4871 of 2014 decided on 10.02.2016.*
 - 2. 9 % interest for the first year from the date of possession and 15 % interest p.a for the subsequent years till the date of payment as per provision of Section 28 of Land Acquisition Act 1894.*
 - 3. Solatium @ 30 % as per provision of Section 23 (2) of Land Acquisition Act 1894.*
 - 4. Additional Compensation @ 12 % per annum U/s 23 (1) (A) of Land Acquisition Act, 1897.*
4. Feeling aggrieved therewith, the petitioner come up by way instant objection petition so as to challenge the award dated **23.12.2021 (in case MA No.216 of 2011)** by Ld. Arbitrator on the following grounds:-
- a. It is argued by the Ld. Counsel that the Arbitrator erred while passing award dated 23.12.2021, enhanced the compensation to many fold high then the price of land mentioned on the basis of assumptions and presumptions and without any cogent evidence in support of the claim of the land owner. The award under the present petition is legally not maintainable and tenable under law.
 - b. It is argued by the Ld. Counsel that the Ld. Arbitrator has wrongly awarded Solatium @ 30 % as per provision of Section

23 (2) of Land Acquisition Act and interest @ 9% per annum on excess amount for the first year and thereafter @ 15 % p.a for subsequent year as per provision of Section 28 of Land Acquisition act.

c. It is further averred and argued that the benefit of judgment of **Union of India Vs. Tarsem Singh and Others** are not applicable for the purpose of additional compensation @ 12 percent U/s 23 (1A) of Land Acquisition Act as the same was held not to be applicable by the Hon'ble Supreme Court in IA No. 2572 of 2020 in Civil appeal no. 7086 of 2019 titled as **NHAI Vs. Tehal Singh and Others**.

d. It is argued by the Ld. Counsel that the impugned award contains decision on the matter beyond the scope of submissions and has been passed in a biased manner by the Ld. Arbitrator and the same is in conflict with Public Policy and beyond the scope of the law and jurisdiction and authority of the Arbitrator.

e. It is argued while relying upon the judgment of Hon'ble High Court of Punjab and Haryana passed in the case titled as **Renu Mehra vs. National Highway and Others passed in FAO No. 5104 of 2015 decided on 27.11.2020**, wherein the Hon'ble High Court held that the land of Village Verka Tehsil and District Amritsar has been acquired for the purpose of widening of Pathankot-Amritsar National Highway and the competent authority awarded different compensation amount of the acquired land of the very same village Verka vide award no.

18 dated 31.05.2010. The Hon'ble High Court in the aforesaid case upheld the different compensation amount awarded by the Competent Authority.

f. It is averred that the arbitrator failed to act in a judicious manner and has simply granted the benefit qua enhancement of land price on the basis of a Judgment passed by Hon'ble High Court in **FAO No.8615 of 2014 and 4871 of 2014** and thus the arbitrator failed to act independently.

It is further averred that the award passed by the Ld. Arbitrator may kindly be set aside. Hence the present petition.

5. Upon being notated, respondent no.1 appeared through counsel, Written reply filed by respondents taking preliminary objections regarding cause of action etc. It is averred that the award passed by the Arbitrator is not in conflict with the public policy of India rather the same was passed under the four corners of law. Hence, the matter was decided by the Ld. Arbitrator as per the facts and circumstances of the case. It is further submitted that the the land owner are entitled for statutory benefits by virtue of Judgment of Hon'ble Division bench of our Hon'ble High Court in case titled as **Golden Iron and steel Forging V. Union Of India 2011(4)RCR page 375**. It is further argued that the Ld. Arbitrator has passed the award after taking into consideration all the aspects and after giving equal opportunity of hearing to both the parties.

It is further argued that the award of Arbitrator cannot be modified and he relied upon the judgment passed by the Hon'ble Supreme Court in case titled **The Project Director Vs. M. Hakeem SLP Civil No. 13020 of 2020**. It is further argued that the Court cannot sit as an Appellate

Court over the award passed by the Ld. Arbitrator but can certainly interfere when the award suffers from illegality or incapacity of the Arbitrator and the award is non speaking. He relied upon the judgment passed by the Hon'ble Supreme Court in **MD Army Welfare Housing Organisation vs. Sumangal Services Pvt Ltd 2003 (3), ALR 361 (SC)**. With these submissions in brief, the respondents made a prayer for dismissal of the objection petition.

6. The record of the arbitral proceedings were also requisitioned from the office of Ld. Arbitrator and on receipt of such records, I have heard the learned counsels for the parties and have perused the records of the case carefully.

7. The learned Arbitrator originally passed his Award on 27.08.2009 in **MA No.52/2007** which on being assailed by way of objection petition under Section 34 of the Arbitration and Conciliation Act, 1996 was set aside by the court of the then learned Addl. District Judge, Jalandhar on 01.12.2011 and the matter was remanded back to the arbitrator for fresh decision.

8. From the pleading of the parties, the following issues emerged for the determination:

1. Whether there are sufficient grounds to set aside the award dated 23.12.2021 passed by Ld. Arbitrator in MA No.216 of 2011?
2. Whether the award passed by the Ld. Arbitrator can be partly set aside for benefits which are not available under law?

9. Firstly, the scope of interference by the court in the award passed by the Ld. Arbitrator is to be seen and in this regard it is appropriate to mention here that the jurisdiction of the appellate court to interfere with an

award passed by the Arbitrator is limited and the court can interfere only if it comes to the conclusion that on the basis of the material that was before the learned Arbitrator, it was impossible for the Arbitrator to take the view that has been taken by the learned Arbitrator in the Award, as has also been observed by the three Judge Bench of Hon'ble Supreme Court in **Konkan Railway Corporation Limited Vs. Chenab Bridge Project Undertaking (2023) 9 SCC 85** referring to **MMTC Limited Vs. Vedanta Ltd (2019) 4 SCC 163** held that the scope of jurisdiction U/s 34 and Section 37 of the Act is not like a normal appellate jurisdiction and the court should not interfere with arbitral award lightly in a casual and a cavalier manner. The mere possibility of an alternative view on facts or interpretation of the contract does not entitle the court to reverse the finding of the arbitral tribunal. Similarly, in case titled **MD Army Welfare Housing Organisation Versus Sumangal Services Pvt. Ltd. 2003(3) Arbitration Law Reporter 361 (SC)**, the Hon'ble Supreme Court has observed that the court cannot sit in appeal over the award of arbitrator, but can certainly interfere when the award suffers from non- application of mind or when relevant fact is ignored or irrelevant fact not germane for deciding the dispute is taken into consideration.

The Hon'ble Punjab and Haryana High Court in case titled **Active Promoters Pvt Ltd Vs. Desh Raj and Others passed in FAO-CARB-3-2020 (O&M)** decided on 18.11.2024 and held that the award of arbitrator cannot be set aside simply based on an alternative interpretation of agreement and the same can be set aside only on the ground of patent illegality and if it conflicts with the public policy of India.

10. In view of the above, this court cannot interfere in the land rates awarded by the Ld. Arbitrator as the award was passed after taking into consideration the decision passed by Hon'ble High Court of Punjab and

Haryana in FAO No.8615 of 2014 titled as Sumittar Singh Vs. Union of India and in FAO No. 4871 of 2014 titled as Sohan Singh Vs. Union of India

wherein the land rate of the similar villages have already upheld to the tune of Rs.1,40,000/- per marla.

11. The petitioners have challenged the benefits of solatium and interest awarded by the Ld. Arbitrator on the ground that the same are not permissible under the National Highway Act but the said benefits were granted by the Ld. Arbitrator in light of the judgment passed by the Hon'ble Punjab and Haryana High Court in case titled as **Golden Iron and Steel forging Vs. Union of India** reported as 2011 (4) Recent Civil Reports Page 375 and the judgment passed by the Hon'ble Supreme Court in case titled as *Union of India Vs. Tarsem passed in Civil Appeal No. 7064 of 2019 arising out of SLP (C) No. 9599 of 2019*.

12. Further, the review of petition filed in the judgment of **Union of India Vs. Tarsem Singh and Others** is dismissed by the Hon'ble Supreme Court vide order dated 04.02.2025 passed in MA No. 1773/2021 in Civil Appeal No. 7064 of 2019 arising out of SLP (C) No. 9599 of 2019 whereby the Union of India /NHAI prayed that the grant of solatium and interest to land owners shall be applied prospectively after the above said judgment.

In view of the above, the benefit of solatium and interest was granted by the Ld. Arbitrator as per the settled law and the contention of the Ld. Counsel for petitioner does not hold any water and the same is hereby repelled.

13. Ld. Counsel for the respondents suffered statement that he given up 12 % additional compensation under Section 23 (1) (A) of Land Acquisition Act as the Hon'ble Supreme Court in '**NHAI Vs. Tehal Singh**' has provided

clarification that said benefit is not available to the lands acquired under the National Highway Act.

In view of the statement, the issue regarding 12 % Additional compensation is not being discussed in detail and the said portion of the award is set aside.

14. No other issue was agitated during the arguments by the learned counsels for the parties.

15. In view of the above discussions, the award passed by the Ld. Arbitrator in **MA No. 216 of 2011 dated 23.11.2021** does not warrant any interference and the same is upheld except the partial setting aside of the Award with regard to Award of additional compensation at the rate of 12% p.a Accordingly, the present petition is **partly allowed**. Any other miscellaneous application pending on the file stands disposed off being not pressed. Memo of costs be prepared and the file be consigned to the Record Room. The record of arbitration be also returned to the quarter concerned.

Pronounced in Open Court.

Dated 11.08.2026

nishant *

(Naresh Kumar Garg)
Additional District Judge,
Jalandhar.(UID No.PB00841)

Note: All the Nine pages of this order have been checked and signed by me