IN THE COURT OF PARAS DOGER, DISTRICT JUDGE, MANDI DIVISION, DISTRICT MANDI H.P.

CIS Registration No.	**: 419 of 2025**
CIS CNR No.	**: HPMA01-001135-2025**
Case Type	**: Arbitration Act**
Arbitration Act No.	**: 419 of 2025**
Filing No.	**: 775 of 2025**
Date of Filing.	**: 04.03.2025**
Date of decision	**: 09.04.2026**

1. Sanjeev Kumar aged 50 years, S/o Smt. Gayatri Devi W/o Sh. Bhim Sain,
2. Narender Kumar aged 47 years S/o Smt. Gayatri Devi W/o Sh. Bhim Sain,

   Both residents of Muhal Aut, Tehsil Aut, District Mandi,H.P.

...Applicants.

Versus

1. National Highway Authority of India, Ministry of Road Transport, Govt. of India, through its Secretary at New Delhi.
2. Land Acquisition Officer (SLAU) -cum- Competent Authority under National Highway Authority of India, at Pandoh, District Mandi, H.P.

...Respondents.

APPLICATION UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996, SEEKING SETTING ASIDE THE IMPUGNED AWARD No.69/2019 DATED 11.09.2024 PASSED BY LEARNED ARBITRATOR -CUM- DIVISIONAL COMMISSIONER, MANDI, DISTRICT MANDI, H.P.

For the Applicants	**: Sh. C.L. Sharma, Ld. Counsel.**
For Respondent No.1 & 2	**: Ms. Sunita Verma, Ld. Vice Counsel**
For the respondent No.3	**: Sh. Vinod Bhardwaj, Ld. D.A.**

<u>J U D G M E N T</u>

By way of the present application under Section 34 of the Arbitration and Conciliation Act, 1996, the applicants (landowners) have assailed the award dated 11.09.2024 passed by learned Arbitrator-cum-Divisional Commissioner, Mandi Division Mandi, H.P., exercising the power of Arbitrator under the National Highways Act,1956. (For the sake of convenience the parties hereinafter be referred to as landowners and Competent Authority, NHAI and National Highways Act shall be referred to as "Act of 1956" and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall be referred to as the " Act of 2013").

2. In brief, the facts giving rise to the present application are that the land and building of the applicants situated in Muhal Kotadhar, Tehsil Aut, District Mandi, H.P. was acquired by the respondents for the purpose of construction of four lane and compensation of the acquired structure was assessed and paid to the applicant vide Award No.45/4 dated 06.04.2018 passed by the Competent Authority.

3. Thereafter, being aggrieved by the award dated 45/4 dated 06.04.2018, passed by the Competent Authority, the applicants/landowners filed a claim application under section 3G(5) of the Act of 1956 before the Ld. Arbitrator, Mandi and the Ld. Arbitrator vide impugned award dated 11.09.2024 partly allowed the application of the landowners by holding that the applicant (landowner) shall not be entitled to any increase in the compensation of the acquired structure, however, they shall be entitled to a token compensation of an amount of ₹2 Lakh for the loss of business goodwill as provided in section 3G(7) (d) of the Act of 1956 as well as to all the statutory benefits contained under section 30(1) of the Act No.30 of 2013 and interest @ 9% for the first year and 15% per annum thereafter as the case may be in accordance with law on the amount of compensation, <u>if already</u>

<u>not paid.</u>

4. Feeling dis-satisfied, the applicants-landowners preferred the present application for setting-aside the impugned award passed by the learned Arbitrator on the premise that the impugned award dated 11.09.2024 was passed by the Ld. Arbitrator behind the back of the applicant and illegally held the applicant to be not entitled to the benefits of section 30(3) of the Act of 30 of 2013 of acquired structure and illegally justified the plinth area with deduction upon the plinth area rate with deduction upon the plinth area rate of ₹18,100/- per square meter against law. It is submitted that the the award dated 45/4 dated 06.04.2018 passed by the Competent Authority and impugned Arbitral Award dated 11.09.2024 passed by the Learned Arbitrator, both, are against the law and facts and same are liable to be set aside and the applicants are entitled for the amount of compensation of the said structure with plinth area rate without any deduction, in accordance with law. It is submitted that the impugned award has been passed on misreading, misappreciation of evidence of the case on record, misinterpretation of the provisions of law and as such, serious miscarriage of justice has been caused to the applicant. It is submitted that the Ld. Abrbitrator has wrongly and illegally accepted the valuation report of the valuer of the NHAI, who has not appeared in the witness box and has not legally justified the deduction in the plinth area rate of ₹18,100/- per square meter and depreciation with are against the provisions of law and the same is patent illegality, hence, the impugned award is liable to be set aside and the plinth area rate of the acquired structure is liable to be enhanced. It is submitted that the Ld. Arbitrator has wrongly and illegally contrary to the provisions of law and

notification has justified the plinth area rate as ₹18,100/- per square meter and has committed patent illegality and the same is perverse and hence the award is liable to be set aside. It is submitted that the plinth area rate of ₹18,100/- per square meters without giving escalation charges and site development charges has been wrongly reduced by the valuer of the NHAI and the respondent No.2 and the Ld. Arbitrator has illegally held that fair and adequate compensation has been paid to the applicant, hence, it is prayed that the impugned award be set aside.

5. It is submitted that the applicants are entitled for the integrated plinth area rate of more than ₹22,625/- per square meter as per the notification of government but the valuer by ignoring yearly escalation charges, site development charges had made wrong deductions in the plinth area rate of the structure, which is patently illegal, hence the impugned award is liable to be set aside. The structure of the applicant were acquired vide notification under Section 3A of the Act on 16.02.2015 and the compensation was paid in the year 2018-19 and no amount under law at the rate of 12% per annum under section 30(3) of the Act No.30 of 2013 from the date of notification till payment has been given to the applicant for which the applicant are entitled on the market value of the said structure along with land but the findings to the contrary given by the Ld. Arbitrator is patently illegal and liable to be set aside. It is submitted that the applicant had not been granted rehabilitation and resettlement compensation for change of residence, loss of business until the new construction is done at the rate of ₹2,000/- per square meters or equivalent to the rental charges of the accommodation for 24 months and further, the applicant have not been paid charges for shifting of fixtures and furnishing and re-installation at the new place including

losses in the process with over heads due to emergent construction at the rate of 5% of the market value of the structure acquired or ₹1000/- per square meters and on all these factors, the applicant have suffered loss of more than ₹9 Lakh.

6. It is submitted that the respondents have not assessed the value of the building as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and as per the schedule of the Act, the market value as determined under section 26 and 29 of the said Act should have been multiplied by applying the factor 2 and under section 27 of the said Act and the applicant is entitled to a total compensation including all assets attached to the land under section 30(3) of the said Act, but the respondent No.2 and Ld. Arbitrator wrongly and illegally ignored the said provision and the market value of the acquired building has been wrongly assessed and paid to the applicant. It is submitted that the valuer of the NHAI had wrongly assessed the age of the building of the applicant and the valuation has been wrongly, illegally and arbitrarily prepared by the valuer of the respondents without any date, month and year of the preparation of the same. It is submitted that the applicant are entitled to enhanced amount of compensation along with interest, solatium and loss of income, rent and profit compensation and other benefits as per the Act of 2013. It is asserted that the Competent Authority has wrongly and illegally deducted administrative and levy charges and income tax from the total amount of compensation of the acquired building. Therefore, it is prayed that the application be allowed and award passed by learned arbitrator dated 11.09.2024 be set-aside with enhancement of plinth area rate and compensation and the respondents be directed to make

the payment of the compensation of the said structure along with interest upto date.

7. Reply has been filed on behalf of the respondent No.1 and the claim of the applicant has been contested with vehemence. The preliminary objections were raised that the present objection petition is liable to be dismissed as the same is barred by limitation. It is submitted that the Ld. Arbitrator had pronounced the award on 11.09.2024 and therefore, the objection petition under section 34 of the Act was to be filed within a period of three months i.e. on or before 11.12.2024, whereas, the objection application was filed on 04.03.2025 i.e. after a delay of 2 months 22 days. It is submitted that the present respondent being aggrieved by the arbitral award dated 11.09.2024 has also partly assailed the same by filing a petition under section 34 of the Act of 1996 bearing case No. ARB. No.303 of 2025 titled Project Director NHAI v. Sanjeev Kumar & Ors. seeking partial setting aside of the arbitral award on the grounds that the Ld. Arbitrator has erroneously awarded the loss of business goodwill @ Rs.2 Lakh without considering that no evidence whatsoever in the form of a Financial Report/ITR/Revenue report was ever placed on record by the applicant to show that they had suffered losses due to the present acquisition and that the Ld. Arbitrator wrongly awarded interest @ 9% and 15% under section 80 of the Act of 2013 in favour of the present applicant without taking into consideration that the provisions under section 80 of the Act of 2013 are not applicable to the acquisition procedings carried out under the Act of 1956 in view of section 105(3) of the Act of 2013 and only the provisions enshrined under sections 26 to 30 red with the First Schedule, Second Schedule and Third Schedule are applicable to the Act of 1956. It is submitted that the respondents

are denying each and every averment made in the application. It is submitted that the applicants had produced a copy of valuation report Ext.PW2/B prepared by the private valuer in order to support their claim qua enhancement of compensation of the acquired structure. It is submitted that the applicants failed to established the inadequacy of cost of structure awarded by the Competent Authority and failed to prove its claim made before the Ld. Arbitrator. It is submitted that the Ld. Arbitrator rightly rejected the claim of the applicant regarding increase of compensation of the acquired structure on the ground that the private valuer adopted the similar yardstick and the methodology as adopted by the approved valuer of the respondent. It is submitted that the Ld. Arbitrator also rightly rejected the claim of the applicants for the benefit of interest @ 12% under section 30(3) of the Act of 2013 by holding that the benefit of section 30(3) is not admissible in the case of acquired structure because 12% amount is to be calculated on the market value of the land provided in section 26, whereas, the valuation of the structure has been done under section 29(1) of the Act of 2013. It is submitted that the Ld. Arbitrator had duly considered the contention of the applicant qua the multiplier factor of 2 and had rightly rejected the same as the Government of Himachal Pradesh had issued the notification with respect to the applicability of multiplication factor of 1 in Urban and Rural area under the Act of 2013. It is submitted that this Court cannot sit as a court of appeal and thereby re-appreciate the entire evidence on record, which is not at all permissible. It is submitted that the scope of section 34 of the Act of 1996 is limited and this Court has no power to enhance the compensation amount or modify the award and this court cannot re-appreciate the material on record.

8. While replying the grounds of challenge, the entire

contents of the preliminary objections have been reasserted and those made in the application have been denied. It is submitted that the applicants have been adequately compensated qua their acquired structure as per the value determined by the valuer of the respondent in accordance with the CPWD manual and guidelines and HPPWD norms after considering the necessary deductions including depreciation value, salvage, life of building and existing condition and specification. It is submitted that the Ld. Arbitrator had returned a categoric finding that the applicant had failed to prove that the method adopted by the valuer of the NHAI was defective. It is submitted that the claim was rightly rejected. It is submitted that the applicants are not entitled to any interest, loss of income, rent or profits as no documentary evidence was produced by the applicants before the Ld. Arbitrator to show that they had suffered any loss of income, rent and profit. It is submitted that no administrative charges have been levied upon the applicants. It is submitted that the present application is time barred and devoid of merits, hence, liable to be dismissed.

9. On the other hand, the respondent No.3 Competent Authority though appeared through Ld. D.A., but did not file any reply to the present application.

10. I have heard Learned counsels for the parties and have gone through the record with minute care.

11. The following points arise for determination :

1. **Whether the impugned award passed by the Ld. Arbitrator is liable to be set aside being not in accordance with the parameters of the Act?**
2. **Final Order.**

12. For the reasons to be recorded hereinafter, while discussing the aforesaid points for determination, my findings on

the above points are as under:

Point No.1: **No.**

Final Order: **The application is dismissed as per operative part of the judgment.**

REASONS FOR FINDINGS.

POINT NO.1.

13. Before adverting to the merits of the case, it would be apposite to first examine the ambit and scope of interference this Court is entitled to make, as per the provisions of Section 34 of the Arbitration and Conciliation Act, 1996.

14. The Hon'ble Apex Court of India in **Project Director, National Highways No.45 E and 220, National Highways Authority Of India Versus M. Hakeem And Another, 2021 (9) SCC 1,** has held that:

> *"What is important to note is that, far from Section 34 being in the nature of an appellate provision, it provides only for setting aside awards on very limited grounds, such grounds being contained in sub-sections (2) and (3) of Section 34. Secondly, as the marginal note of Section 34 indicates, "recourse" to a court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-sections (2) and (3). "Recourse" is defined by P.Ramanatha Aiyar's Advanced Law Lexicon (3rd Edn.) as the enforcement or method of enforcing a right. Where the right is itself truncated, enforcement of such truncated right can also be only limited in nature. What is clear from a reading of the said provisions is that, given the limited grounds of challenge under sub-section (2) and (3),an application can only be made to set aside an award. This becomes even clearer when we see sub-section (4) under which, on receipt of an application under sub-section (1) of Section 34, the court may adjourn the Section 34 proceedings and give the Arbitral Tribunal an opportunity to resume the arbitral proceedings or take such action as will eliminate the grounds for*

setting aside the arbitral award. Here again, it is important to note that it is the opinion of the Arbitral Tribunal which counts in order to eliminate the grounds for setting aside the award, which may be indicated by the court hearing the Section 34 application."(Para 16)

Section 34 of Arbitration and Conciliation act 1996 proceedings does not contain any challenge on the merits of the award. (Para 23)

Thus, there can be no doubt that given the law laid down by the Supreme Court, Section 34 of the Arbitration and Conciliation Act, 1996 cannot be held to include within it a power to modify an award. To state that the judicial trend appears to favour an interpretation that would read into Section 34 of the Arbitration and Conciliation Act Act, 1996 a power to modify, revise or vary the award would be to ignore the previous law contained in the Arbitration Act, 1940 as also to ignore the fact that the Arbitration and Conciliation Act, 1996 was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 which makes it clear that, given the limited judicial interference on extremely limited grounds not dealing with the merits of an award, the "limited remedy" under Section 34 of the Arbitration and Conciliation Act, 1996 is coterminous with the "limited right", namely, either to set aside an award or remand the matter under the circumstances mentioned in Section 34 of the Arbitration and Conciliation Act, 1996." (Paras 31 to 42)

15. Subsequently, the questions raised by three judges bench of Hon'ble Apex Court in **Gayatri Balasamy v. M/s. ISG Novasoft Technologies Ltd decided on 20.02.2024,** the Hon'ble Supreme Court on 30.04.2025, in the aforesaid case, has observed and held that:

"31. The next question that arises is whether the power to set aside an award includes the power to partially set it aside.

II. Severability of Awards

In the present controversy, the proviso to Section 34(2)(a)(iv) is particularly relevant. It states that if the *decisions on matters submitted to arbitration can be separated from those not submitted, only that part of the arbitral award which contains decisions on matters non-submitted may be set aside. The proviso, therefore, permits courts to sever the non-arbitrable portions of an award from arbitrable ones. This serves a two-fold purpose. First, it aligns wit Section 16 of the 1996 Act, which affirms the principle of kompetenz-kompetenz — that is, the arbitrators' competence to determine their own jurisdiction. Secondly, it enables the court to sever and preserve the "valid" part(s) of the award while setting aside the "invalid" ones. Indeed, before us, none of the parties have argued that the court is not empowered to undertake such a segregation.*

33. We hold that the power conferred under the proviso to Section 34(2)(a)(iv) is clarificatory in nature. The authority to sever the "invalid" portion of an arbitral award from the "valid" portion, while remaining within the narrow confines of Section 34, is inherent in the court's jurisdiction when setting aside an award.

34. To this extent, the doctrine of omne majus continet in se minus—the greater power includes the lesser—applies squarely. The authority to set aside an arbitral award necessarily encompasses the power to set it aside in part, rather than in its entirety. This interpretation is practical and pragmatic. It would be incongruous to hold that power to set aside would only mean power to set aside the award in its entirety and not in part. A contrary interpretation would not only be inconsistent with the statutory framework but may also result in valid determinations being unnecessarily nullified.

35. However, we must add a caveat that not all awards can be severed or segregated into separate silos. Partial setting aside may not be feasible when the "valid" and "invalid" portions are legally and practically inseparable. In simpler words, the "valid" and "invalid" portions must not be inter-dependent or intrinsically intertwined. If they are, the award cannot be set aside in part.

37. We would now proceed to examine, the permissibility and scope of the court's modification powers, within the parameters of Section 34 of the

> *1996 Act. In doing so, we will distinguish the court's power of modification from: (i) the court’s power of setting aside an award; (ii) the arbitrator's power under section 33 to correct, reinterpret, and/or issue an additional award; and (iii) the of the court to remand the award to the arbitrator under Section 34(4).*
>
> *IV. A Limited power of modification can be located in section 34.*
>
> *43. Equally, Section 34 limits recourse to courts to an application for setting aside the award. However, Section 34 does not restrict the range of reliefs that the court can grant, while remaining within the contours of the statute. A different relief can be fashioned as long as it does not violate the guardrails of the power provided under Section 34. In other words, the power cannot contradict the essence or language of Section 34. The court would not exercise appellate power, as envisaged by Order XLI of the Code of Civil Procedure, 1908.*
>
> *44. We are of the opinion that modification represents a more limited, nuanced power in comparison to the annulment of an award, as the latter entails a more severe consequence of the award being voided in toto. Read in this manner, the limited and restricted power of severing an award implies a power of the court to vary or modify the award. It will be wrong to argue that silence in the 1996 Act, as projected, should be read as a complete prohibition.*
>
> *45. We are thus of the opinion that the Section 34 court can apply the doctrine of severability and modify a portion of the award while retaining the rest. This is subject to parts of the award being separable, legally and practically, as stipulated in* ***Part II*** *of our* ***Analysis.***

16. Therefore, in view of the recent judgment of the Hon’ble Supreme Court, under Section 34, the Court in the appellate hierarchy do not have a power to modify the arbitral award, however, the Court can apply the doctrine of severability and set aside a portion of the award while retaining the rest, subject to parts of the award being separable, legally and practically. Further, the power to set aside will not include the

power to modify since the power to modify is not a lesser power subsumed in the power to set aside and both are qualitatively different. Further, Hon'ble Apex Court held the law laid down in the judgment in Hakeem (supra) to be correct with only exception to carry out corrections in computational errors, clerical errors or typographical errors and any other errors of similar nature.

17. Patent illegality is nowhere defined under the Act. In general, it is a ground to set aside the arbitral award if the award is found to be opposed to substantive provisions of law or requirement of the Arbitration and Conciliation Act, 1996, or against the terms of the contract.

18. It has been held by their Lordships of Hon'ble Supreme Court in **Delhi Airport Metro Express Pvt. Ltd. vs. Delhi Metro Rail Corporation Ltd. 2022(1)SCC 131** as under:-

> *"25. Patent illegality should be illegality which goes to the root of the matter. In other words, every error of law committed by the Arbitral Tribunal would not fall within the expression 'patent illegality'. Likewise, erroneous application of law cannot be categorised as patent illegality. In addition, contravention of law not linked to public policy or public interest is beyond the scope of the expression 'patent illegality'. What is prohibited is for courts to re-appreciate evidence to conclude that the award suffers from patent illegality appearing on the face of the award, as courts do not sit in appeal against the arbitral award. The permissible grounds for interference with a domestic award Under Section 34(2-A) on the ground of patent illegality is when the arbitrator takes a view which is not even a possible one, or interprets a Clause in the contract in such a manner which no fair-minded or reasonable person would, or if the arbitrator commits an error of jurisdiction by wandering outside the contract and dealing with matters not allotted to them. An arbitral award stating no reasons for its findings would make itself susceptible to challenge on this account. The conclusions of the arbitrator which are*

> *based on no evidence or have been arrived at by ignoring vital evidence are perverse and can be set aside on the ground of patent illegality. Also, consideration of documents which are not supplied to the other party is a facet of perversity falling within the expression 'patent illegality'.*

19. Therefore, the ground of patent illegality, with in built exception, is available in the statute for setting aside domestic award, if the decision of the Arbitrator is found to be perverse, or, so irrational that no reasonable person would have arrived at the same or construction of the contract is such that no fair or reasonable person would take or the view of the Arbitrator is not even possible.

20. Further, it has been observed by the Hon'ble Apex Court in **Patel Engineering v. North Eastern Electrical Power Corporation Ltd. 2020(7) SCC 167 (Para-20)** that the expansive definition given to the term public policy of India has been done away with, after the amendment of the Arbitration and Conciliation Act in the year 2015.

21. It is also a well-settled principle of law that challenge can be laid to the Award only on the ground that the Arbitrator has drawn his own conclusion or failed to appreciate the relevant facts. Nor can the Court substitute its own view on the conclusion of law or facts as against those drawn by the Arbitrator, as if it is sitting in appeal.

22. Ld. Counsel for the applicant-landowner contended that the Ld. Arbitrator passed the impugned award behind the back of the applicant and wrongly and illegally held the applicant to be not entitled to benefits under section 30(3) of the Act of 2013 of the acquired structures and also illegally justified the plinth area rate with deduction upon the plinth area rate of Rs.18,100/- per

square meter against law.

23. Perusal of the arbitral award shows that the applicant was duly represented by his counsel before the Ld. Arbitrator when the impugned award was passed on 11.09.2024, hence, it cannot be said that the award was passed behind the back of the applicant. So far as the contention of the Ld. Counsel for the applicant that benefits under section 30(3) of the Act of 2013 of the acquired structure were not given to the applicant is concerned, the Ld. Arbitrator has rightly rejected the said claim because as per provisions of section 30(3) of the Act of 2013, 12% of the amount is to be calculated on the market value of the land provided under section 26 of the Act. Since, section 26 has specifically been mentioned in section 30(3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, therefore, to my mind, the section 30(3) of the Act is only applicable to the market value of the land provided under section 26 of the Act and not to be included for the value of the things attached to the land or building.

24. It is further contended on behalf of the landowner that the value of the acquired buildings of the applicant was not assessed as per the provisions of Act of 2013 and as per the Schedule of the Act, the market value as determined under section 26 and 29 of the said Act should have been multiplied by applying factor 2.

25. Perusal of the award No.45/4 dated 06.04.2018 passed by the Competent Authority shows that the Competent Authority has specifically mentioned that the assessment of the structure has been made by the consultants appointed by the NHAI, who in association with the land acquisition staff as well as the affected persons and gram panchayat representatives have made the

valuation of the standing structures and followed the guidelines of the government and for determining the compensation amount, sections 29 and 30 of the Act of 2013 was taken into consideration.

26. Recently, it has been held by our own Hon'ble High Court in case **CWP No.149 of 2025 titled as Keshav Ram & Ors. v. State of H.P & Ors. And CWP No.14338 of 2024 titled Karam Chand & Ors. v. State of H.P & Ors. decided on 22.05.2025**, that the notification of the H.P. Government dated 01.04.2015 has been quashed and set aside and the state has been directed to notify the multiplier factor of 2 (two) in terms of the provisions of the Act with respect to the area in question and it has been further directed to pass a supplementary award in favour of the petitioner by applying the multiplier factor as 2 (two) and further directed to pay compensation to the petitioners along with statutory benefit. However, the operation has been stayed by the Hon'ble Supreme Court of India vide SLP (c) Nos. 20331-20332/2025. So still the notification of the Government, vide which, the factor 1 (one) was applied, holds good. Therefore, there is no error in the judgment of the Ld. Arbitrator since he has already applied the multiplier factor 1(one) taking into consideration the notification of the Government.

27. It is further contended on behalf of the applicant/landowner that the Ld. Arbitrator wrongly and illegally contrary to the provisions of law justified the plinth area rate below ₹18,100/- per square meter applicant is entitled for the integrated plinth area rate of more than ₹22,625/- per square meter as per the notification of the government, but the Ld. Arbitrator made wrong deduction in the plinth area rate of the structure to the applicant.

28. Perusal of the impugned award shows that the Ld. Arbitrator after comparative analysis of the assessment reports of the structure prepared by the private valuer as well as the valuer

appointed by the NHAI observed that both the valuers had adopted the same valuation method while assessing and calculating the market value of the acquired structure and the private valuer also did not follow the due process as no item wise assessment was made by him of the acquired structure. It has specifically been observed that in case the valuer of the applicants-landowners had adopted some other formula during the assessment, as such, item wise assessment, the authority would have appreciated the contention regarding non applicability of plinth area rate. It appears from this submission that the applicant is aggrieved from the finding of facts recorded by the learned arbitrator and wants this Court to re-appreciate the evidence to determine whether the learned arbitrator had drawn the correct conclusions or not. In view of the binding precedents of the Hon'ble Supreme Court and the High Courts, it is not permissible for this Court to sit in appeal over the finding recorded by the learned arbitrator by reassessing or re-appreciating the evidence led before the Ld. Arbitrator to determine whether his conclusions are correct or not. The legislature has made the arbitrator a final court on facts and it is not permissible to re-appreciate the evidence led before him unless there is patent illegality. No case of patent illegality can be said to be made in the application; therefore, the award of the ld. Arbitrator on facts has to be treated as final.

29. It is contended that the Ld. Arbitrator has not granted rehabilitation and resettlement compensation for change of residence, loss of business until the new construction was done by the applicant. This ground of challenge has already been decided by the Ld. Arbitrator while passing the impugned award, wherein, it has specifically been mentioned that the applicant failed to produce any supporting documents. Therefore, this contention cannot be

considered.

30. It is also contended on behalf of the applicant-landowners that the applicants had not been awarded the interest, solatium, loss of income, rent and profit and other benefits as per the provisions and schedule of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, Resettlement Act, 2013.

31. In the arbitral award, the landowner has specifically been held entitled to statutory benefits i.e. solatium under section 30(1) and interest under section 9% for the first year and 15% thereafter as per the provisions of section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Learned Arbitrator had considered the provisions of the National Highways Act, the Land Acquisition Act and Act of 2013, which are the substantive laws applicable to the present case in its right perspective and it cannot be said that there is any patent illegality.

32. The perusal of the impugned award shows that the Arbitrator has passed a well reasoned award while taking into consideration the evidence led by the parties, arguments advanced by them and the material placed on record in the arbitral proceedings. Nothing appears from the record that the impugned award has been passed in contradiction to the provisions of section 34 of the Arbitration and Conciliation Act, therefore, this Court finds no justification to interfere with the impugned award passed by the Ld. Arbitrator. Accordingly, the point No.1 is answered in negative.

33. No other point was urged.

FINAL ORDER

34. In view of the abovesaid discussion and the latest law

cited supra, the present application is dismissed. Memo of costs be prepared. The parties are left to bear their respective costs. Pending application(s), if any, are also disposed off, being rendered infructuous. Record of Ld. Arbitrator along with an attested copy of this judgment be returned to the learned Arbitrator and the record of this Court, after due completion, be consigned to the Record Room.

Announced and signed in the open Court today on this 9th day of April, 2026.

(Paras Doger)
District Judge
Mandi District Mandi (HP).

Certified that I have signed the Page Nos. 1 to 19 of the Judgment.

(Paras Doger)
District Judge
Mandi District Mandi (HP).

'Sanjeev'