

**In the Court of Sanjay Agnihotri,
Additional District Judge-I,
Kapurthala
(UID No.PB0099)**

CNR No. PBKP010013882025

Case No. ARB/28/2025



Presented on : 20-03-2025

Registered on : 21-03-2025

Decided on : 20-03-2026

1. Jaswinder Singh son of Gian Singh, Aged about 52 years;
2. Kuldev Singh son of Gian Singh, residents of Village Khokhar Kadim Jadid, Tehsil Sultanpur Lodhi, District Kapurthala.

Appellants/petitioners

Versus

- 1 Union of India through its Secretary, Ministry of Transport and Surface/National Highways, Government of India, New Delhi;
2. Project Director, National Highway Authority of India, Project Implementation Unit 44-A, Kalia Colony, Jalandhar-144008, Punjab;
3. Competent Authority-Cum-Land Acquisition, District Revenue Officer-cum-CALA, Kapurthala;
4. Commissioner, Jalandhar Division-cum-Arbitrator, Jalandhar.

Respondents

Objection Petition/Application under section 34 of the Arbitration and Reconciliation Act, 1996, against the award dated 18.12.2024 passed by the Court of Sh.Pardeep Kumar Sabharwal, IAS, Commissioner, Jalandhar Division-Cum-Arbitrator, Jalandhar in M.A No.293/2022 titled as "Jaswinder Singh etc Versus Union of India & Ors" whereby inadequate, insufficient amount of compensation was enhanced regarding acquired land from Rs.17,15,360/- per acre to Rs.20,65,284/- Per Acre for land by mis-appreciating

and misreading the material placed on record.

Claim in Application/Petition: To enhance the amount of compensation of land in question to the extent of Rs.40,00,000/-Per Acre alongwith multiplication in factor 2 as per notification alongwith 100% solatium and interest @18% P.A alongwith other additional benefits due under Section 30(3) and under Section 72 of Right to Fair Compensation and Transparent in Land Acquisition-Rehabilitation and Resettlement Act, 2013 by setting aside the award dated 18.12.2024.

Present: Sh.Amarjit Gosain, Advocate, for the petitioners.
Sh. Harsh Bhatt, Advocate, for the respondents no.1 & 2.
Sh.Malkit Singh Thind, Advocate, for respondent no.3.

ORDER:

This order shall dispose of an application for dismissal of the Arbitration case filed under Section 34 of the Arbitration and Conciliation Act, 1996, filed by respondents no.1 and 2, for want of territorial jurisdiction.

2. Reply to this application is already on file.
3. Arguments heard.
4. Learned counsel for the applicant (respondents no.1 &2 in the main application) argued that the objections under Section 34 of the Arbitration and Conciliation Act, 1996, are against the Award dated 18.12.2024 passed by the Learned Arbitrator-cum-Divisional Commissioner, Jalandhar, at Jalandhar. Hon'ble Court within whose jurisdiction the seat or place of arbitration is situated has jurisdiction to entertain the application under Section 34 of the Arbitration and Conciliation

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Act, 1996. Hon'ble Supreme Court in case titled as **"BBR (INDIA) Private Limited v. S.P. Singla Constructions Private Limited"** [2022]19 S.C.R. 977, has dealt with the question regarding territorial jurisdiction of the Court for the purpose of application under Section 34 of the Arbitration and Conciliation Act, 1996, and has held that the jurisdictional seat of arbitration has been determined and fixed under Section 20(2) of the Sub-section (2) of the Arbitration and Conciliation Act, 1996. It was held that the Courts having jurisdiction over Panchkula in Haryana, have exclusive jurisdiction. The Courts in Delhi would not get jurisdiction as the jurisdictional seat of arbitration is Panchkula and not Delhi. In case titled as **"Indus Mobile Distribution Private Limited Versus Datawind Innovations Private Limited & Ors."** 2017 AIR Supreme Court 2105, it is held that the moment the seat of arbitration is determined to be in Mumbai, Courts at Mumbai would have exclusive jurisdiction for the purpose of regulating arbitral proceedings arising out of the agreement between the parties. Hon'ble Allahabad High Court in case titled as **"Smt. Mukul Bahl and Ors. Versus Shri. Ranjan Mittal and Anr."** Law Finder Doc # 2741531, has held that for determination of jurisdiction on the basis of seat of arbitration proceedings, once parties participates without objection and arbitral proceedings are held at a particular location, that location becomes the seat of arbitration for subsequent proceedings. Hon'ble Supreme Court in case titled as **"BGS SGS Soma JV Versus NHPC Ltd."** 2020(4) SCC 234, has held that once seat is delineated by arbitration agreement, courts at place of seat would alone thereafter have exclusive jurisdiction over arbitral

proceedings. Therefore, only the Courts at Jalandhar, are competent to decide the application under Section 34 of the Arbitration and Conciliation Act, 1996. Therefore, the petition is liable to be dismissed.

5. On the other hand, learned counsel for the respondent (applicant in main petition), has argued that the judgments relied upon by learned counsel for the petitioner are not applicable to the facts of the present case. Hon'ble Supreme Court has discussed the concept of seat of arbitration and venue in those judgments. The law is very clear that Section 20 would be applicable when the parties have agreed a place of arbitration. Failing an agreement between the parties, the place of arbitration shall be determined by Arbitral Tribunal having regard to the circumstances of the case, including the convenience of the parties. In the present case, there is no agreement between the parties because National Highway Authority has acquired the land in District Kapurthala. Initial Award is passed in District Kapurthala. National Highway Authority Act has established the Arbitrator-cum-Commissioner Jalandhar, as Arbitrator by the Gazette Notification dated 23rd June, 2022. Thus, there was no agreement. The petitioners were forced to participate in those arbitration proceedings at Jalandhar. This does not confer territorial jurisdiction on the Courts at Jalandhar. The cause of action had arisen in Kapurthala. The land is acquired in Kapurthala. The Disbursing Authority i.e. competent-cum-Land Acquisition, District Revenue Officer-cum-CALA, is at Kapurthala. Thus, provisions of Section 16 of the Code of Civil Procedure, would be applicable. As the property, which is acquired, is within local jurisdiction of this Court, this Court has

jurisdiction in the matter. Similar application was moved by the respondents before the other Courts at Gurdaspur. Said application has been dismissed by the Learned Additional District Judge, Gurdaspur, holding that the land was acquired within the territorial jurisdiction of that Court, so that Court has jurisdiction in the matter. In case titled as **“BBR (INDIA) Private Limited v. S.P. Singla Constructions Private Limited”** (supra) Hon’ble Supreme Court has discussed in para no.20 of the judgment, the judgment of Hon’ble Supreme Court in case titled as **“BGS SGS Soma JV Versus NHPC Ltd.”** (supra) and has concluded that whenever there is a designation of a place of arbitration in an arbitration clause as being the venue is really the seat of arbitration proceedings. Where only hearings are to take place in the venue, that venue is not seat of arbitration proceedings but only a convenient place of meeting. The facts of the present case are totally different because the land is acquired under the National Highway Authority Act, 1956. The petitioners had no option to give their consent for the seat of arbitration. Thus, the arbitration award passed before the Arbitration-cum-Commissioner Jalandhar, was only venue and not seat of arbitration. This Court has jurisdiction to decide the application under Section 34 of the Act.

6. After hearing rival contentions, I have perused the file. The point of determination to decide the present application is :

- (i) Whether the provision of Sections 15 to 20 of the Code of Civil Procedure, would be relevant to decide the jurisdiction or Section 20 read with Section 42 of the Arbitration and Conciliation Act, 1996, would be applicable.

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7. The petitioner has taken an objection that the property, which is acquired by the National Highway Authority and initial award is passed in Kapurthala, so part transaction has taken place in Kapurthala. So, Civil Courts at Kapurthala, would be having jurisdiction as per Section 16 of the Code of Civil Procedure. This contention of learned counsel for the petitioner is not sustainable because Arbitration and Conciliation Act, 1996, is a complete Code. If there is any specific provision regarding territorial jurisdiction of the Courts in the matter concerning the Act, only that would be relevant. Thus, the relevant provisions are Section 42 and Section 20 of the Arbitration and Conciliation Act, 1996.

8. Section 42 of the Arbitration and Conciliation Act, 1996, is reproduced as follows :-

“Jurisdiction.- *Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court”.*

9. The language of Section 42 is very much clear that Court alone shall have jurisdiction over the arbitral proceedings, where with respect to an arbitration agreement any application under this Part has been made and no other Court shall have jurisdiction. Thus, only one Court would have jurisdiction to entertain any application under the Act and there cannot be two courts exercising the same jurisdiction.

10. Section 20 of the Arbitration and Conciliation Act, 1996, is reproduced as follows :-

“20. Place of arbitration.-(1) The parties are free to agree on the place of arbitration.

(2) Failing any agreement referred to in sub-section (1), the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(3) Notwithstanding sub-section (1) or sub-section (2), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property.”

11. In the present case, the award is passed by the Arbitration-cum-Additional Commissioner, Jalandhar, at Jalandhar. This fact is not disputed. The petitioner has taken a plea that they had never agreed to the place of arbitration. Meaning thereby, Section 20(2) of the Arbitration and Conciliation Act, 1996, is applicable. Sub-section (2) provides that if there is no such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties. Meaning thereby, arbitral tribunal shall decide the place of arbitration.

12. In the present case, the arbitral tribunal has selected the place at Jalandhar. All proceedings before arbitral tribunal has taken place at Jalandhar. Thus, there is no question of any convenience regarding seat of arbitration. Learned counsel for the petitioner has raised an argument that

they were forced to participate in the arbitral proceedings at Jalandhar because it was the mandate of National Highway Authority Act but in that case also either by the discretion of the arbitral tribunal or by the mandate of law, the arbitral tribunal has determined the seat of arbitral at Jalandhar. Thus, the place of Arbitration is determined under Section 22 of the Arbitration Act.

13. Hon'ble Supreme Court in case titled as **"BBR (INDIA) Private Limited v. S.P. Singla Constructions Private Limited"** (supra) has discussed and laid down by the Hon'ble Supreme Court in **"BGS SGS Soma JV Versus NHPC Ltd."** (supra) and has concluded in paras no.31 and 32 of the judgment regarding jurisdiction of the Court for the purpose of Section 34 of the Arbitration and Conciliation Act, 1996. Para no. 31 and 32 are reproduced as follows:

"31. We have already referred to the first few sentences of the aforementioned paragraph and explained the reasoning in the context of the present case. The paragraph BGS SGS Soma (supra) also explains the non-obstante effect as incorporated in Section 42 to hold that it is evident that the application made under Part-I must be to a court which has a jurisdiction to decide such application. Where 'the seat' is designated in the agreement, the courts of 'the seat' alone will have the jurisdiction. Thus, all applications under Part-I will be made in the court where 'the seat' is located as that court would alone have jurisdiction over the arbitration proceedings and all subsequent

proceedings arising out of the arbitration proceedings. The quotation also clarifies that when either no 'seat' is designated by an agreement, or the so-called 'seat' is only a convenient venue, then there may be several courts where a part of the cause of action arises that may have jurisdiction. An application under Section 9 of the Act may be preferred before the court in which a part of cause of action arises in the case where parties had not agreed on the 'seat of arbitration'. This is possible in the absence of an agreement fixing 'the seat', as an application under Section 9 may be filed before 'the seat' is determined by the arbitral tribunal under Section 20(2) of the Act. Consequently, in such situations, the court where the earliest application has been made, being the court in which a part or entire of the cause of action arises, would then be the exclusive court under Section 42 of the Act. Accordingly, such a court would have control over the arbitration proceedings.

32. Section 42 is to no avail as it does not help the case propounded by the appellant, as in the present case the arbitrator had fixed the jurisdictional 'seat' under Section 20(2) of the Act before any party had moved the court under the Act, being a court where a part or whole of the cause of action had arisen. The appellant had moved the Delhi High Court under Section 34 of the Act after the arbitral tribunal vide the order dated 5th August 2014 had fixed the jurisdictional 'seat' at Panchkula in Haryana. Consequently, the appellant cannot, based on fastest finger first

principle, claim that the courts in Delhi get exclusive jurisdiction in view of Section 42 of the Act. The reason is simple that before the application under Section 34 was filed, the jurisdictional 'seat' of arbitration had been- determined and fixed under sub-section (2) to Section 20 and thereby, the courts having jurisdiction over Panchkula in Haryana, have exclusive jurisdiction. The courts in Delhi would not get jurisdiction as the jurisdictional 'seat of arbitration' is Panchkula and not Delhi".

14. Thus, in view of the law laid down by the Hon'ble Supreme Court, only that Court has jurisdiction to entertain the application under Section 34 of the Arbitration and Conciliation Act, 1996, in whose jurisdiction the arbitral tribunal has its seat. In the present case, the Courts at Jalandhar, have jurisdiction to entertain the application under Section 34 of the Arbitration and Conciliation Act, 1996.

15. The applicant has sought dismissal of the petition under Section 34 of the Arbitration and Conciliation Act, 1996, on the ground of jurisdiction. But the petition is not to be dismissed but is required to be returned to the applicant to be presented before the Court of competent jurisdiction. The same is ordered accordingly. The petition is returned to the petitioner and he may present the petition before the Courts at Jalandhar.

Application in hand stands dispose off accordingly. Remaining papers be consigned to the Judicial Record Room, Kapurthala.

Pronounced in open court.
Dated: 20.03.2026

(Sanjay Agnihotri)
Additional District Judge,
Kapurthala (UID No.PB0099)

Nirlep Kaur, Stenographer Gr.I

Sanjay Agnihotri, Addl.District Judge UID no.00099

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Present: Sh.Amarjit Gosain, Advocate, for the petitioners.
Sh. Harsh Bhatt, Advocate, for the respondents no.1 & 2.
Sh.Malkit Singh Thind, Advocate, for respondent no.3.

RC for service of respondent no.4 not filed.

Arguments concluded. Vide separate detailed order of even date, application is disposed off. The petition is returned to the petitioner to be presented before the Learned Court at Jalandhar. Endorsement to this effect is made on the petition. Ahlmad concerned is directed to return the petition to the petitioner against proper receipt and identification, as per rules, and after retaining the receipt on file. Remaining papers be consigned to the Judicial Record Room, Kapurthala.

Pronounced in open court.
Dated: 20.03.2026

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