

IN THE COURT OF ABHISHEK PHUTELA,
ADDITIONAL DISTRICT JUDGE, PALWAL
(UID No.HR0220)

Arbitration No.	Petition	ARB-12/9.8.2019
CNR Number.		HRPL010003508-2019
CIS Number		ARB-44-2019
UID Number.		HR0220
Date of Decision.		04.10.2025

National Highway Authority of India
Through Project Director
PIU-EPE-II, Urbtech NPX Building,
4th Floor, Sector- 153, Noida, U.P.
Also at G-5 & 6 Sector-10, Dwarka, New Delhi-110075
... Petitioner

Versus

- 1.Har Chand
2. Jai Chand
- Both sons of Mungi Lal
3. Satish Chand.
4. Mahesh Chand.
- Both sons of Har Chand.
- All Residents of vill: Khedla Farizanpur, Tehsil and District Palwal.
- ... Respondents

APPLICATION FOR STAY ON THE IMPUGNED
AWARD DATED 10.4.2019

Argued by: Sh. K.S. Kang, Sh. Sumit Gupta and Sh. Nimish Goel,
Advocates for the petitioner NHAI
Sh. Arvind Kumar, Project Director NHAI in person
Sh. Hem Raj Chauhan, Advocates for
respondents.

ORDER:

This is to dispose of the application filed by the
Petitioner/Applicant, National Highways Authority of India (NHAI), under
Section 36(2) of the Arbitration and Conciliation Act, 1996 (hereinafter
referred to as the "Act"), seeking a stay on the operation and enforcement of

the impugned Arbitral Award dated 10.04.2019 passed by Shri Surinder Singh, HCS, ADC-cum-Arbitrator, Palwal.

2. The Award dated 21/07/2017 passed by the District Revenue Officer cum Competent Authority pertains to disputes arising from land acquisition proceedings under the National Highways Act, 1956, wherein it granted enhanced compensation benefits to the Respondents (land owners) under Sections 23(2) (solatium) and 28 (interest) of the Land Acquisition Act, 1894, after order dated 26/8/2016 passed by the Hon'ble High Court in Civil Writ petition no. 17334 of 2016. The supplementary Award dated 21/07/2017 was assailed by filing a petition under Section 3G(5) of the National Highways Act, upon which, the Arbitrator cum-ADC passed the impugned Arbitral Award dated 10/4/2019.

3. The NHAI filed objection petition under Section 34 of the Act challenging the award on grounds including perversity, non-application of mind, contravention of public policy, violation of substantive law as laid down by the Hon'ble Supreme Court, and the Arbitrator exceeding his jurisdiction by granting reliefs not prayed for or referred to him. The Applicant contends that the Award derogates from clear directions in precedents such as those from the Hon'ble High Court and Hon'ble Supreme Court, and that enforcement would cause grave and irreparable loss to the applicant as a public entity. It is argued that a prima facie case exists in favour of the applicant, with the balance of convenience tilting towards granting the stay.

4. In response, the respondents have opposed the application

through their reply, asserting that the Award is well-reasoned and aligns with binding precedents, including ‘Golden Iron and Steel Forging v. Union of India’ (decided on 28.03.2018 by the Hon’ble Punjab and Haryana High Court, holding Sections 3G and 3J of the National Highways Act ultra vires Article 14 of the Constitution, entitling land owners to solatium and interest under the Land Acquisition Act) and ‘Tarsem Singh v. Union of India’ (Hon’ble Supreme Court upholding similar views). The respondents highlight that the award elaborates on facts, addresses all issues raised by NHAI (including a December 2018 letter from the Ministry of Road Transport), and incorporates admissions by NHAI regarding a base compensation of Rs. 62 lakhs per acre. They invoke the doctrine of estoppel, noting that NHAI withdrew prior objections under Section 34 against an earlier Award dated 02.09.2015 by Ms. Garima Mittal (assessing market value at Rs. 62 lakhs per acre), rendering the current challenge untenable as per Hon’ble Supreme Court decision (2018 (1) RCR 944). The respondents argue that no prima facie case exists, the Award is a money decree not stayable on frivolous grounds, and granting stay would cause irreparable harm to them, as land owners deprived of due compensation since the acquisition.

5. During the course of arguments, the learned counsel for the applicant/petitioner has placed reliance upon the decision of the Hon’ble Supreme Court in the ‘National Highways Authority of India versus Mam Kaur’ Special Leave to Appeal(c) No. 15585/2025, decided on 25/02/2025 and upon the decision of the Hon’ble High Court of Punjab and Haryana in

the 'National Highways Authority of India versus Piara Lal' CR-2594-2025 decided on 4/9/2025(with other connected matters), and argued that a conditional stay on the operation of the impugned order may also be passed while directing the applicant to deposit the awarded amount.

6. I have heard learned counsel for the parties and have perused the record.

7. At the outset, it is pertinent to note that post the 2015 amendment to the Act, the filing of a Section 34 petition no longer results in an automatic stay on the Arbitral Award's enforcement. Section 36(2) requires a specific application for stay, and under Section 36(3), the Court may grant such stay subject to conditions it deems fit, with due regard to the provisions for stay of a money decree under the Code of Civil Procedure, 1908 (CPC), particularly Order XLI Rule 5. The proviso to Section 36(3) mandates recording reasons in writing and considering CPC principles as guiding factors, ensuring the Act's object of expeditious enforcement is not frustrated while balancing party interests. The settled principles for granting stay require the applicant to demonstrate a prima facie case, balance of convenience in its favour and possibility of irreparable injury if the stay is not granted. These conditions are conjunctive. Applying these principles, prima facie neither the supplementary Award nor the Arbitral Award appear to be suffering from any jurisdictional error or jurisdictional overreach. They are purportedly in consonance with the binding judicial precedents entitling the land losers to the benefits of solatium and interest. The contentions of the NHAI have met determination in several previous rounds of arbitration, the

awards thereof were previously challenged by filing petition under Section 34. The NHAI had previously challenged the Award dated 2/9/2015 rendering the assessment of market value at the rate Rs 62 lakhs per acre. In this new round, the scope is limited and not enough to warrant stay on the operation of the impugned order. The allegations of the NHAI of excess jurisdiction and perversity, rather appear to be prima facie untenable as the impugned award confines itself to the referred disputes and grants relief aligned with the prayer for enhanced compensation. On the aspect of balance of convenience, the scales tip in favour of the respondents. The respondents are individual landowners who have endured multiple rounds of arbitration and litigation since more than a decade. Granting stay would perpetuate delaying the matter. Rather the panacea would be the expeditious final determination of the main petition under Section 34, which must be argued as the same is pending since the year 2019.

8. For the aforesaid reasons, this Court is of the opinion that the applicant/petitioner(NHAI) has not made out a case for grant of stay. The application seeking stay on the operation of the impugned Award dated 10/4/19 is hereby dismissed, with no order as to costs.

No expression of this order shall be construed to be an opinion upon the merits of the main petition under Section 34.

Announced in open Court.

04.10.2025

Santosh Kumari/Stenographer Gr.I

(Abhishek Phutela)

**Additional District Judge,
Palwal. (UID No.HR0220)**

NOTE :- Certified that all the pages of this order have been checked and signed by me.

(Abhishek Phutela)

**Additional District Judge,
Palwal (UID No.HR0220)**

04.10.2025