

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

CNR No. PBJL010016222024

Case No. ARB/119/2024



Presented on : 01-02-2024

Registered on : 01-02-2024

Decided on : 04-04-2026

- 1) Union of India, through its Secretary, Ministry of Transport and Surface Ministry/National Highways, Govt of India, New Delhi.
- 2) Project Director, National Highway Authority of India, 31 Kalia Colony Jalandhar

(Petitioners)

Versus

- 1) Jatinder Singh S/o Sh. Kirpal Singh R/o Near MH. Chowk Jammu Jalandhar Road Bye Pass Pathankot, District Gurdaspur.
- 2) Competent Authority cum Land Acquisition Collector, Punjab PWD (B&R) Jalandhar, Tehsil and District Jalandhar.
- 3) Commissioner, Jalandhar Division cum Arbitrator Jalandhar.

(Proforma Respondents)

Petition under Section 34 of the Arbitration and Conciliation Act, 1996 as amended vide the Arbitration and Conciliation (Amendment) Ordinance Act 2015 for Setting Aside the Arbitration Award Dated 06.06.2023 in case MA No.371 of 2013 (Old MA No. 417 of 2008) passed by the Arbitrator cum Commissioner, Jalandhar Division Jalandhar.

Present: Sh. Puneet Sareen Rana, Ld. Advocate for the petitioners.
Respondent no. 1 exparte vide order dated 09.04.2025
Service of remaining respondents dispensed with.

JUDGMENT

1. This order shall dispose of an objection petition filed by the petitioners under Section 34 of the Arbitration and Conciliation Act, 1996

(Act of 1996) whereby the petitioner has come up with a prayer for setting aside the Arbitration Award dated **06.06.2023 in case MA No.371 of 2013** 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.1-A, 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 various Villages of Tehsil Pathankot and District Gurdaspur including the land of the present respondent situated at Village Daulatpur Tehsil and District Pathankot 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** thereby declaring that the land specified in the schedule of the said notification including the land of the respondents, should be acquired for the purpose aforesaid. This was followed by a notice inviting claims from all the interested and effected persons.

That after deciding the objections so received, the Competent Authority Land Acquisition cum SDM (CALA) passed on dated **28.02.2007** and the compensation of the acquired land has been determined by the Competent Authority Land Acquisition cum SDM (CALA) and the said compensation was received by the land owners.

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 **06.06.2023** in case **MA No.371 of 2013**, determined the compensation as under and the relief part is reproduced as under :-

1. Price of land enhanced @ 4,50,000/- per marla for acquired land in terms of FAO No. 9678 of 2014 decided on 30.03.2016.

2. Statutory benefits as per the provision of Section 23 (2) and 28 of Land Acquisition Act, 1894.

4. Feeling aggrieved therewith, the petitioner come up by way instant objection petition so as to challenge the award dated **06.06.2023** in case **MA No.371 of 2013** by Ld. Arbitrator on the following grounds:-

a) It is argued by the Ld. Counsel that the Arbitrator erred while passing award dated 06.06.2023, 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 averred and argued 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. The impugned award is bad in the eyes of law.

c) It is further averred and argued the 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**, 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.

d) It is further argued that the Ld. Arbitrator has not given any reasonable opportunity of bearing heard to the petitioner to the petitioner in unbiased mind. Ld. Arbitrator wrongly enhanced compensation on the basis of decision passed by the Hon'ble High Court of Punjab and Haryana in FAO No. 9678 of 2014 titled as **Union of India and Ors Versus Tehal Singh and Others.**

With these submissions Ld. Counsel for petitioners prayed to allow the present objection petition and to set aside the award passed by the Ld. Arbitrator.

5. Despite service through notice, respondent no. 1 failed to appear before the court and he was proceeded ex parte vide order dated 09.04.2025.

6. Record of arbitration proceedings was called for and I have perused the record of arbitration proceedings with the able assistance of the Ld. Counsel in order to decide the present objection petition and heard the arguments of the counsel on behalf of petitioner.

Issues

7. From the pleadings, the following issues emerged for the determination:

1. Whether there are sufficient grounds to set aside the award dated **06.06.2023** in the case MA No.371 of 2008 passed by the **Ld. Arbitrator?**

Findings

8. It is pertinent to mention here that the learned arbitrator originally passed his Award on **23.12.2010** in **MA No.417-2018** 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 **01.08.2013** and the matter was remanded back to the arbitrator for fresh decision.

9. To deal with the first contention of the parties, regarding the scope of interference by the court in the award passed by the Ld. Arbitrator, 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.

In view of the above legal position, the scope of this court in interference in the award passed by the Ld. Arbitrator is very limited and this court is of the considered view that the award is not against the public policy or suffers from patent illegality. Moreover, the land rates were already upheld by the Hon'ble High Court the same Village and the Ld. Arbitrator could not take a different view. Therefore, the contention of the Ld. Counsel for respondent that the award may be set aside qua the land rate is hereby repelled.

10. To deal with the main contention of the Ld. Counsel for petitioners regarding the grant of solatium @ 30% and interest @ 9% for first year and 15 % for remaining period, the perusal of the award passed by the Ld. Arbitrator shows that the Ld. Arbitrator granted the benefit of solatium @ 30 % U/s 23 (2) and interest @ 9% and 15 % as per Section 28 of Land Acquisition Act as per the judgment passed by the Hon'ble Punjab and Haryana High Court in case titled as **M/s Golden Iron and Steel Forging Vs. Union of India & others** (Supra).

I have gone through 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 wherein it is held that : -

Section 3-J of the National Highways Act, 1956 is arbitrary, irrational and violative of Article 14 of the Constitution as far they deny payment of solatium and interest and that in respect of all the acquisitions made under the National Highways Act, 1956 solatium and interest will have to be granted in terms of

Section 23(2) and Sec.28 of the Land Acquisition Act, 1894. While Section 23(2) of the LAA, 1894 pertains to grant of solatium to the land owners, Section 28 of the said Act pertains to grant of interest at the rate of 9% p.a. for the first year from the date of taking possession of the acquired land and at the rate of 15% for the subsequent period.

*Further the Hon'ble Supreme Court in judgment titled as **Union of India Vs. Tarsem** passed in **Civil Appeal No. 7064 of 2019 arising out of SLP (C) No. 9599 of 2019** held that Section 3 (J) of National Highway Act is violative of Constitution of India and held that Section 23 (2) and Section 28 that pertains to Solatium and interest @ 9% per annum for first year from the date of taking possession and 15 % per annum for the subsequent period are applicable on the National Highway Act .*

*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.*

11. In view of the above, the Ld. Arbitrator granted the benefits solatium @ 30% and interest @ 9% per annum for the first year from the

date of taking possession and 15 % for the rest of period as per Section 23 (2) and 28 of Land Acquisition Act 1894 which were made applicable by the above said judgments on the acquisitions made under the National Highway Act 1956 and therefore the contention of the Ld. Counsel for petitioner regarding the said benefits not payable does not find any force as the same was granted as per the settled law and therefore the same is repelled.

12. No other issue was agitated during the arguments by the learned counsel for the petitioner.

13. In view of the above discussions, the award passed by the Ld. Arbitrator in MA No.371 of 2013 dated 06.06.2023 does not warrant any interference and the same is upheld and the present petition is **dismissed** with costs. Memo of costs be prepared and the file be consigned to the Record Room. The records of arbitration be also returned to the quarter concerned.

Pronounced in Open Court.

Dated 04.04.2026

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