

**IN THE COURT OF JASMINE SHARMA, ADDITIONAL DISTRICT
JUDGE, HISAR. UID No..HR0188**

HRHS010009562018 	Arb Case No.11 of 2018 CIS No. ARB/42/2018 Date of Institution: 30.01.2018/16.04.2021 Date of Decision: 11.08.2026
---	---

The Shivalya House Building Co-operative Society Limited, Hisar through its President Alok son of Late Shri Devender, resident of village Gorakhpur, Tehsil and District Hisar, at present residing at Urban Estate-II, Hisar (The name of the Society is mentioned as Shivalik House Building Co-operative Society Limited, Hisar whereas correct name is The Shivalya House Building Co-operative Society Limited, Hisar.

... Applicant/objector

Versus

1. Union of India through its Secretary Ministry of Shipping Road, Transport and Highways, New Delhi.
2. National Highway Authority of India, Ministry of Shipping, Road Transport and Highways (Department of Road, Transport and Highways) through its Chief General Manager, plot No.5 & 6, Sector 10, Dawarka, New Delhi,
2nd Address
Project Director, Project Implementation Unit, NHAI, House No. 305, Vidhya Niketan Road, D-Park, Model Town, Rohtak.
3. District Revenue Officer-cum-Competent Authority, Mini Secretariat, Hisar.

....Respondents

4. Additional Deputy Commissioner-cum-Arbitrator, Hisar appointed by the Central Government under Section 3-G (5) of the National Highway Act.

..... Respondent/Arbitrator

Present: Mr. Gaurav Beniwal, Advocate for the applicant.
Mr. R.K.Soni, Advocate for Lrs of Ram Kishan.
Mr. Mehtab Singh Poonia, Advocate for the respondents no. 1 and 2
Mr. Narender Kumar, Government Pleader on behalf of respondent no. 3.

Jasmine Sharma,
Additional District Judge,
Hisar, UID no.HR00188

JUDGMENT:

This judgment of mine will dispose of an Arbitration Petition filed under Section 34 of Arbitration and Conciliation Act, 1996 (hereinafter referred as “the Act, 1996”), whereby prayer is made to set aside the award dated **05.12.2017** passed by ADC-cum-Arbitrator, Hisar (hereinafter referred to as “Arbitrator”) on the plea that the same may kindly be set aside and the amount of Award may kindly be enhanced

2. The objector is the owner of the acquired land, the description whereof is detailed in the petition as well as in the Award passed by the Competent Authority. The said land was acquired for the public purpose of construction/widening of National Highway No. 10 (Rohtak-Hisar Section) under the provisions of the National Highways Act, 1956. The District Revenue Officer-cum-Competent Authority, Hisar announced Award No. 21-H dated 12.12.2011, awarding compensation at the rate of Rs.50,00,000/- per acre. This rate was awarded for all kinds of land without granting statutory benefits.

3. Aggrieved by the quantum of compensation, the objector filed a claim before the learned Additional Deputy Commissioner-cum-Arbitrator, Hisar under Section 3G(5) of the National Highways Act, 1956 seeking compensation at the rate of Rs.5.00 crores per acre along with compensation for standing trees, severance, damages and other statutory benefits. It was alleged that the acquired land was situated adjoining the National Highway and Abadi Deh of Village Satrod Kalan and possessed immense commercial potential. It was further pleaded that the Competent

Jasmine Sharma,
Additional District Judge,
Hisar, UID no.HR00188

Authority failed to award compensation in accordance with the prevailing market value and ignored the commercial potential of the acquired land. However, the learned Arbitrator, vide Arbitral Award dated **05.12.2017**, maintained the compensation awarded by the Competent Authority and only granted statutory benefits of solatium and interest without enhancing the market value.

4. Aggrieved by the Arbitral Award dated **05.12.2017**, the objector filed the present objections under Section 34 of the Arbitration and Conciliation Act, 1996. It was pleaded that the acquired land was commercially valuable, being situated on **National Highway No.10** and adjoining the Abadi Deh of Village Satrod Kalan. The objector further alleged that no compensation had been awarded for the standing Kikar, Shisham and fruit bearing trees, no compensation had been granted on account of severance and damage caused to the remaining land, and the Competent Authority had discriminated with the objector by awarding higher compensation in nearby villages acquired under the same project. It was also contended that the Arbitral Award dated **05.12.2017** is a non-speaking Award, lacking proper reasons, and that despite ample oral and documentary evidence led by the objector, the learned Arbitrator failed to enhance the compensation and merely granted solatium and interest. Accordingly, the objector sought setting aside of the Arbitral Award and grant of enhanced compensation along with all consequential statutory benefits.

5. Respondents No. 1 and 2 contested the objections by filing a detailed reply/written submissions, wherein preliminary objections regarding the maintainability of the objections were raised. It was pleaded that the objections filed by the applicant/objector were totally wrong, frivolous and not maintainable. It was further submitted that the objections were beyond the scope and ambit of Section 34 of the Arbitration and Conciliation Act, 1996, as the said provision does not confer any power upon the Court to modify an Arbitral Award and the Court can only set aside the Award if any of the grounds mentioned under Section 34 of the Act are made out. It was also pleaded that the applicant/objector had neither any cause of action nor locus standi to file the present objections and that the same were liable to be dismissed.

6. On merits, the respondents No. 1 and 2 submitted that the amount of compensation had been correctly and legally assessed by the competent authority as per the market value prevailing at the site. It was pleaded that the learned Arbitrator, after considering the pleadings, documents, evidence and arguments of both the parties, rightly passed the Award dated 05.12.2017 and declined any further enhancement of the original amount of compensation, as sufficient compensation had already been awarded in comparison to the actual market value of the land. It was further submitted that the learned Arbitrator had carefully appreciated all the material available on record before passing the Award. The respondents denied the allegations raised by the applicant/objector regarding the validity of the Award and submitted that the arbitral

proceedings were conducted in accordance with law and both the parties were afforded complete opportunity of hearing. It was pleaded that the Award dated 05.12.2017 was a legal and valid Award passed after appreciation of oral as well as documentary evidence and arguments advanced by both the parties. The respondents further submitted that no ground as prescribed under Section 34 of the Arbitration and Conciliation Act, 1996 was made out for interference with the Award and the objections filed by the applicant/objector were liable to be dismissed with costs.

7. Respondent No. 3 did not file any separate reply and, vide statement dated 23.08.2021, adopted the written reply filed by respondents No. 1 & 2, praying that the same be read as his reply as well.

8. Learned counsel for the objector argued that the learned Arbitrator erred in declining enhancement of compensation and illegally upheld the Award passed by the Competent Authority. It was contended that the acquired land possessed immense commercial potential as it was situated adjoining National Highway No.10 and Abadi Deh of Village Satrod Kalan. It was argued that commercial activities were being carried on along the National Highway and the acquired land had great potential for commercial use. Despite the advantageous location and commercial potential of the land, compensation was awarded at an unreasonably low rate of Rs.50,00,000/- per acre, whereas the market value of the land was not less than Rs.5.00 crores per acre at the time of acquisition.¹⁰ It was further argued that the Competent Authority failed to award compensation

for the standing Kikar, Shisham and fruit bearing trees and also failed to grant compensation on account of severance and damage caused to the remaining land. Learned counsel further submitted that the objector had produced ample oral and documentary evidence including sale deeds, revenue record and comparable awards of nearby villages, but the learned Arbitrator failed to appreciate the same and passed a non-speaking Award by merely granting solatium and interest without enhancing the compensation.

9. Learned counsel for respondents No.1 and 2 argued that the present objections are wholly misconceived, not maintainable and liable to be dismissed, as they do not fall within any of the grounds enumerated under Section 34 of the Arbitration and Conciliation Act, 1996. It was contended that the objector is, in substance, seeking modification and enhancement of compensation, whereas the jurisdiction of this Court under Section 34 is confined only to setting aside an arbitral award on the limited grounds specified therein. It was further submitted that the objections are barred by limitation under Section 34(3) of the Act.

10. learned counsel further argued that the learned Arbitrator, vide Award dated **05.12.2017**, after appreciating the pleadings, oral and documentary evidence and hearing both parties, rightly upheld the compensation determined by the Competent Authority. It was submitted that the compensation had already been assessed in accordance with the prevailing market value and statutory provisions, and that the objector had failed to establish any ground warranting enhancement of compensation.

The allegations regarding non-consideration of objections, improper application of the belting method, non-award of compensation for trees, discrimination in assessment of compensation and the Award being non-speaking were specifically denied.

11. It was further argued that the objector has failed to demonstrate any patent illegality, violation of public policy, procedural irregularity or any other ground envisaged under Section 34(2) of the Arbitration and Conciliation Act, 1996. Since the Court cannot re-appreciate the evidence or sit in appeal over the findings recorded by the learned Arbitrator, no interference with the Award dated **05.12.2017** is called for. Accordingly, dismissal of the objections was prayed for.

12. Learned counsel for the objector, learned Government Pleader and learned counsel for the respondents have been heard and the case file as well as the record have been perused carefully.

13. Before advertng to the rival contentions, it is necessary to examine the settled scope of interference under Section 34 of the Arbitration and Conciliation Act, 1996, it would be appropriate to reproduce grounds mentioned in Section 34 of the Act, 1996:-

"34. Application for setting aside arbitral award. --(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if-

(a) the party making the application furnishes proof that

- (i) a party was under some incapacity, or*
- (ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or*
- (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or*
- (iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration: Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or*
- (v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or*
- (b) the Court finds that--*
 - (i) the subject-matter of the dispute is not cap standing Kikar, Shisham and fruit bearing trees and also failed to grant compensation on account of severance and damage caused able of settlement by arbitration under the law for the time being in force, or*
 - (ii) the arbitral award is in conflict with the public policy of India.*

[Explanation 1.--For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,--

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.]

Explanation 2.--For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.]

14. The law is well settled that the scope of Section 34 of the Arbitration and Conciliation Act, 1996 is very restricted, and this Court cannot exercise powers as an appellate authority. In fact, when two views are possible and the view taken by the learned Arbitrator is a plausible view, the same cannot be interfered with by this Court. While exercising powers under Section 34 of the Act, this Court cannot appreciate the

evidence, and the illegality of the award must be proved to be of such a nature and character as to go to the root of the award. It is reiterated that there is a limitation on the powers of the Court while exercising jurisdiction under Section 34 of the Act. It is only when any of the conditions mentioned in Section 34(1), (2), 2A are violated that this Court can interfere with the arbitral award, and not otherwise.

15. The Hon'ble Supreme Court in ***National Highways Authority of India v. M/s. Hindustan Construction Company Ltd.*** 2024 (6) SCC 809, refused to set aside an arbitral award, while holding that it is not open to court under Section 34 of the A&C Act to (i) set aside an award if the construction of the contractual terms by the arbitrator was reasonable, as the arbitrator is the ultimate master of the quantity and quality of evidence; and (ii) correct factual errors while applying the 'public policy' test. The Hon'ble Supreme Court also placed reliance on ***UHL Power Company Ltd. v. State of Himachal Pradesh*** 2022 (4) SCC 116 and reiterated that a Court's jurisdiction under Section 34 of the Act is relatively narrow. The court may interfere on merits only on the limited grounds mentioned in Section 34(1), (2), 2A of the Act. Patent illegality itself has been held to mean contravention of the substantive law of India, the Act, and the terms of the contract. If two plausible interpretations of the terms of the contract emerge, fault cannot be found merely because one interpretation is adopted rather than the other by the Arbitrator.

16. The Hon'ble Division Bench of the High Court of Delhi in ***Delhi Skills Mission Society v. Samuel Foundation Charitable India Trust***

2024 SCC OnLine Del 5196 emphasized that a Court may intervene under Section 34 of the A&C Act, only if the Tribunal's decision is found to be unreasonable or fundamentally flawed. A court's interference with arbitral awards is limited to specific grounds, such as patent illegality and other established legal bases. The Hon'ble Court observed that an award cannot be said to be perverse and vitiates patent illegality where the Arbitrator has interpreted the clauses of a contract in a reasonable manner.

17. The Hon'ble High Court of Delhi in the case of ***Netaji Subhash Institute of Technology v. M/S Surya Engineers and Anr.*****2024 SCC OnLine Del. 4527**, relying on the principles established in ***State of Chhattisgarh v. SAL Udyog (P) Ltd. 2022(2) SCC 275***, emphasized that courts cannot reappreciate evidence or substitute the arbitrator's findings unless they are perverse or patently illegal, as courts do not sit in appeal against the arbitral award. The Hon'ble Court, after observing that the Arbitral Tribunal has considered the material and evidence presented, held that if the interpretation of the Arbitral Tribunal is fair and reasonable, then under the limited jurisdiction of section 34 of the A&C Act, courts cannot interfere.

18. The Arbitration court cannot interfere with the Award on the ground that the Award is erroneous if the Award is otherwise proper. It is not open to the arbitration Court to re-appreciate reasonableness of reasons in the arbitral award. In this regard, I draw my attention to the case titled as Union of India v. Pam Developments P. Ltd. AIR 2004 NOC 353 (Cal.).

Jasmine Sharma,
Additional District Judge,
Hisar, UID no.HR00188

19. The Supreme Court itself has held in ***Rajasthan State Mines and Minerals Limited v. Eastern Engineering Enterprise AIR 1999 Supreme Court 3627*** that the Court cannot interfere with the decision of an arbitrator on the ground that his decision is based on error of law or fact.

20. The Hon'ble Supreme Court of India in ***Oil and Natural Gas Corporation Ltd. Vs. Discovery Enterprises Pvt. Ltd. and Ors AIR 2022 SC 2080*** has held that:

(i) A mere contravention of substantive law is not a ground to set aside an award;

(ii) The court while exercising the power of judicial review should not reappreciate evidence;

(iii) The construction of a contract is essentially a matter for the arbitral tribunal to decide;

(iv) An award can be construed to be perverse only if it is based on no evidence or has ignored vital evidence;

(v) The illegality of an award must be of such a nature or character so as to go to the root of the award; and

(vi) Judicial intervention under Section 34 would not be warranted only because an alternative view on facts or the construction of the award is available.

21. Further, Hon'ble Supreme Court of India in ***Delhi Airport Metro Express Private Limited Vs. Delhi Metro Rail Corporation Limited (2022) 1 SCC 131***, in para 28 has held as under:-

“28. This Court has in several other judgments interpreted Section 34 of the 1996 Act to stress on the restraint to be shown by Courts while examining the validity of the arbitral awards. The limited grounds available to Courts for annulment of arbitral awards are well known to legally trained minds. However, the difficulty arises in applying the well-established principles for interference to the facts of each case that come up before the Courts. There is a disturbing tendency of Courts setting aside arbitral awards, after dissecting and reassessing factual aspects of the cases to come to a conclusion that the award needs intervention and thereafter, dubbing the award to be vitiated by either perversity or patent illegality, apart from the other grounds available for annulment of the award. This approach would lead to corrosion of the object of the 1996 Act and the endeavours made to preserve this object, which is minimum judicial interference with arbitral awards. That apart, several judicial pronouncements of this Court would become a dead letter if arbitral awards are set aside by categorising them as perverse or patently illegal without appreciating the contours of the said expressions.”

22. Therefore, in view of the above, Court cannot reassess the evidence analysed by the Arbitrator. The Court has no jurisdiction to substitute its own evaluation or conclusions of law or fact, as it is not permitted to sit as an appellate authority over the conclusions drawn by the Arbitrator and is also not permitted to re-examine or re-appraise the evidence which has already been considered by the Arbitrator. The decision of the Arbitrator cannot be interfered with if the decision is reached fairly after hearing both the sides and if principles of natural

justice have been followed. The Arbitrator has the final say on the evidence produced before him, and the Court cannot enquire into or give its own opinion as to which document is important, which document should be accepted, which document should be ignored, and how the evidence should be appreciated. The award cannot be challenged on the ground of inadequacy, inadmissibility, or impropriety of evidence if the Arbitrator has not disregarded the principles of natural justice.

23. The jurisdiction of the Court under Section 34 of the Act is relatively narrow, and the Court may interfere on merits only on the limited grounds which are mentioned in Sections 34(1), (2), 2A of the Act. If two plausible interpretations of the terms of the contract are possible, the award cannot be set aside merely because one interpretation has been taken by the Arbitrator rather than the other. The Arbitral Tribunal is the sole judge of the quality and quantity of the evidence, and this Court is not required to re-evaluate the evidence or adjudicate the dispute afresh. The Tribunal is the judge of the quality as well as the quantity of the evidence led before it, and it is for the Arbitral Tribunal to evaluate the material placed before it and draw its conclusions.

24. The grounds for setting aside the arbitral award are that the subject matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or that the arbitral award is in conflict with the public policy. The award may also be set aside if it was passed in violation of the principles of natural justice.

25 In the case in hand, it is an admitted fact that the land belonging to the objector was acquired for the public purpose under the provisions of the National Highways Act, 1956. The Competent Authority assessed the compensation for the acquired land. Dissatisfied with the quantum of compensation, the objector invoked the provisions of Section 3G(5) of the National Highways Act, 1956 and sought enhancement of compensation before the learned Additional Deputy Commissioner-cum-Arbitrator, Hisar. The learned Arbitrator, after considering the pleadings, evidence and submissions of both the parties, passed the Arbitral Award dated 05.12.2017, whereby the claim for enhancement of compensation was declined and the compensation assessed by the Competent Authority was upheld. Aggrieved by the said Arbitral Award dated 05.12.2017, the objector has filed the present objections under Section 34 of the Arbitration and Conciliation Act, 1996.

26 The grievance of the objector is primarily with regard to the quantum of compensation awarded by the Competent Authority, which was upheld by the learned Arbitrator vide Award dated 05.12.2017. According to the objector, the compensation awarded is inadequate and the market value of the acquired land ought to have been assessed at a higher rate along with annuity and other statutory benefits. The objector has claimed that the acquired land possessed higher commercial potential due to its location and surrounding developments. The objector has further alleged that the relevant factors were not properly considered

while assessing the compensation and that the Award passed by the learned Arbitrator is liable to be interfered with.

27 Basically, the objector is aggrieved by the compensation awarded by the Competent Authority, which was upheld by the learned Arbitrator vide Award dated 05.12.2017. According to the objector, the compensation awarded is grossly inadequate and the market value of the acquired land ought to have been assessed at a higher rate, keeping in view the alleged commercial potential and advantageous location of the acquired land. The respondents, however, have contested the said objections by submitting that the compensation was correctly assessed by the Competent Authority as per the prevailing market value and the learned Arbitrator, after considering the material available on record, rightly declined any enhancement of compensation.

28. The Hon'ble Supreme Court of India in the case of ***Project Director, National Highways Authority of India Vs. M.Hakeem and another (2021) 9 SCC 1*** wherein the Hon'ble Supreme Court while dealing with the powers of the District Court in a suit filed under Section 34 of the Act, in paragraphs No. 42 and 48 has held as under:

“42. It can therefore be said that this question has now been settled finally by at least 3 decisions of this Court. Even otherwise, to state that the judicial trend appears to favour an interpretation that would read into Section 34 a power to modify, revise or vary the award would be to ignore the previous law contained in the 1940 Act; as also to ignore the fact that the 1996 Act was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985

which, as has been pointed out in Redfern and Hunter on International Arbitration, 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 is co-terminus 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 Act, 1996.

Xxxx

48. *Quite obviously if one were to include the power to modify an award in Section 34, one would be crossing the Lakshman Rekha and doing what, according to the justice of a case, ought to be done. In interpreting a statutory provision, a Judge must put himself in the shoes of*

Parliament and then ask whether Parliament intended this result. Parliament very clearly intended that no power of modification of an award exists in Section 34 of the Arbitration Act, 1996.

It is only for Parliament to amend the aforesaid provision in the light of the experience of the courts in the working of the Arbitration Act, 1996, and bring it in line with other legislation the world over.”

29. Further, the Hon’ble Supreme Court in ***Gayathri Balaswamy v. M/s ISG Novasoft Technologies Limited (Civil Appeal No.(s) 6178-6179/2025)***, has observed at conclusion (f) has observed as under:

“(f) Hakeem (supra) is not per incuriam insofar as it held that a Section 34 Court cannot modify the award and will be read with the only exception made in this judgment now. On the principle of actus curiae neminem gravabit (act of Court shall prejudice no one) computation, clerical and typographical errors or other errors of similar nature is permissible to be

corrected by the Section 34 Court, in terms of the holding above.”

30. The Hon’ble Supreme Court in the case of ***Oil and Natural Gas Corporation Ltd., Vs. Saw Pipes Ltd.***, reported in ***AIR 2003 Supreme Court Cases 2629***, has held as under:

“31. Therefore, in our view, the phrase “public policy of India” used in Section 34 in context is required to be given a wider meaning. It can be stated that the concept of public policy connotes some matter which concerns public good and the public interest. What is for public good or in public interest or what would be injurious or harmful to the public good or public interest has varied from time to time. However, the award which is, on the face of it, patently in violation of statutory provisions cannot be said to be in public interest. Such award/judgment/decision is likely to adversely affect the administration of justice. Hence, in our view in addition to narrower meaning given to the term “public policy” in Renusagar case¹⁰ it is required to be held that the award could be set aside if it is patently illegal. The result would be — award could be set aside if it is contrary to:

(a) fundamental policy of Indian law; or

(b) the interest of India; or

(c) justice or morality, or [pic](d) in addition, if it is patently illegal.

Illegality must go to the root of the matter and if the illegality is of trivial nature it cannot be held that award is against the public policy. Award could also be set aside if it is so unfair and unreasonable that it shocks the conscience of the court. Such award is opposed to public policy and is required to be adjudged void.”

31. The Hon'ble Supreme Court in *Mcdermott International INC Vs Burn Standard Co. Ltd., and Others* reported in (2006) 11 Supreme Court Cases 181 has held in paragraphs no. 52 and 59 as under:

“52. The 1996 Act makes provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness. Intervention of the court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc. The court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So, scheme of the provision aims at keeping the supervisory role of the court at minimum level and this can be justified as parties to the agreement make a conscious decision to exclude the court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it.

Xxxx

59. Such patent illegality, however, must go to the root of the matter. The public policy violation, indisputably, should be so unfair and unreasonable as to shock the conscience of the court. Where the Arbitrator, however, has gone contrary to or beyond the expressed law of the contract or granted relief in the matter not in dispute would come within the purview of Section 34 of the Act. However, we would consider the applicability of the aforementioned principles while noticing the merit of the matter.”

32. The Hon'ble Supreme Court observed that:

“The Court cannot correct the errors of Arbitrator. It can only quash the award leaving the parties free to begin the arbitration again if it is so desired”. The Arbitral Award can be set aside, which is contrary to:

- (a) fundamental policy of Indian law; or*
- (b) the interest of India; or*
- (c) justice or morality; or*
- (d) in addition, if it is patently illegal.”*

33. The Hon’ble Supreme Court in ***S.V.Samudram Vs. State of Karnataka and another reported in (2024) 3 SCC 623***, has observed as under:

“Any Court under Section 34 of the 1996 Act would have no jurisdiction to modify the arbitral award, which at best, given the same to be in conflict with the grounds specified under Section 34 of the 1996 Act would be wholly unsustainable in law.

It is also observed that,

Any attempt to ‘modify an award’ under Section 34 would amount to ‘crossing the Lakshman Rekha’.

34. In ***Gayatri Balaswamy (supra)*** the Hon’ble Supreme Court in detail observed as under:

“(a) The Courts exercising power under Section 34 and Courts hearing appeals thereunder have no power to ‘modify’ an award;

(b) The power to modify is not a lesser power to that of the power to set aside, as the two operate in separate spheres and are not of the same genus.

(c) The inherent power under Section 151 C.P.C. cannot be used to modify awards as it will be contrary to the express power mentioned in Section 34. Similarly, there is no scope for applying the doctrine of implied power to modify awards.

(d) Article 141 of the Constitution of India will not be exercised by this Court to modify awards passed by arbitrators

as it is well settled that the Article 142 power cannot be used to give a go by to the substantive statutory provision.

(e) Interest awarded also cannot be modified in exercise of powers of setting aside and the course of action under Section 34(4) will have to be adopted as discussed in the judgment.”

35. It is being reiterated at the cost of repetition that the scope of interference by this Court under Section 34 of the Arbitration and Conciliation Act, 1996 is very limited. In the present case, the grievance of the objector is primarily with regard to the quantum of compensation awarded by the Competent Authority, which was upheld by the learned Arbitrator vide Arbitral Award dated 05.12.2017. According to the objector, the compensation awarded for the acquired land is inadequate and the market value of the acquired land ought to have been assessed at a higher rate along with annuity and other statutory benefits. The objector has challenged the Arbitral Award mainly on the grounds that the acquired land possessed higher commercial potential due to its advantageous location and surrounding developments, that the relevant provisions of law were not properly considered, that the assessment of compensation was not made correctly and that the learned Arbitrator failed to appreciate the relevant factors while passing the Award. It has further been alleged that the Award dated 05.12.2017 is not a speaking Award and does not contain proper reasons. However, the respondents have contested the said objections by submitting that the compensation was correctly assessed by the Competent Authority and that the learned Arbitrator, after considering

the pleadings, evidence and submissions of both the parties, rightly declined any enhancement of compensation.

33. The Hon'ble Karnataka High Court in case titled ***The National Highways Authority of India v. Iravva Misc. First Appeal No.105456 of 2025 decided on 09.07.2026***, has held that:

“Court has no jurisdiction to modify the Award under Section 34 of the Act. It has been held that the Principle and law is very clear that the District Court has the power either to confirm or set aside the award of the Arbitrator and remand the matter to the Arbitrator. However, in the case on hand the trial Court has modified the award of the Arbitrator passed under Section 34 of the Act, which is not sustainable in law.”

36. The facts of the case are similar to the case in hand. Even in the case titled as ***The National Highways v. Iravva (referred supra)***, land of the respondents was acquired by the appellant for a four lane project of NHAI at Devagiri-Yellapur village. The Award was passed by the competent authority. The claimants were aggrieved with the rates fixed for acquisition, claimants filed petition which was referred to Arbitrator, who awarded compensation accordingly. NHAI filed arbitration which was disposed of confirming the Award of the Arbitrator. Review petition was also filed and Trial Court modified the Award of the Arbitrator which was challenged in the appeal filed before the Hon'ble Karnatka High Court.

37. Even in the case in hand, the land of the objector was acquired for a public purpose under the provisions of the National Highways Act, 1956. The Competent Authority assessed the compensation for the acquired land and the objector, being dissatisfied

with the amount so awarded, invoked the provisions of Section 3G(5) of the National Highways Act, 1956 before the learned Arbitrator seeking enhancement of compensation. The learned Arbitrator, vide Arbitral Award dated 05.12.2017, after considering the pleadings, evidence and submissions of both the parties, upheld the compensation assessed by the Competent Authority and declined the claim for further enhancement. The objector, being aggrieved by the said Arbitral Award, has filed the present objections under Section 34 of the Arbitration and Conciliation Act, 1996, primarily contending that the compensation awarded is inadequate and that higher compensation ought to have been awarded along with other statutory benefits.

38. Learned counsel for the objector has strongly argued that the learned Arbitrator has wrongly awarded higher compensation to landowners having larger land and lesser compensation to those having smaller land, even though similar area of land was acquired. It was submitted that such classification is arbitrary and discriminatory and the compensation should have been awarded uniformly. This contention of learned counsel for the objector is without merit. It is the sole discretion and wisdom of the learned Arbitrator, to adopt the criteria, appropriate for determining the compensation. This Court, while exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996, cannot interfere with that criteria adopted by the Arbitrator unless the Award suffers from any ground specified under Section 34 of the Act. In the case in hand the criteria adopted by the learned Arbitrator cannot be

categorized as arbitrary, irrational or against any grounds mentioned under Section 34 of the Act.

39. The Award dated 05.12.2017 has been carefully perused. It is evident from the record that due notice was served upon all the parties and the proceedings were conducted after providing due opportunity of hearing to both sides. The parties filed their respective pleadings and the issues were duly framed by the learned Arbitrator. In order to substantiate their claim, the petitioners/objector led oral as well as documentary evidence. The petitioners examined Rakesh Kumar as PW-1, Mahavir as PW-2, Kamal as PW-3, Jagbir Singh as PW-4, Ved Parkash as PW-5, Suresh Kumar as PW-6, Urmila as PW-7, Ramphal as PW-8, Rajender Kumar as PW-9, Geetika as PW-10, Satbir Singh as PW-11, Sandeep Jain as PW-12, Veena Rani as PW-13, Surender Kumar as PW-14, Rakesh Kumar as PW-15, Hari Mohan as PW-16, Sandeep Jain as PW-17, Vinod Kumar as PW-18, Manoj as PW-19, Ram Kishan as PW-20, Ashok Kumar as PW-21 and Tara Chand as PW-22, and thereafter the evidence of the petitioners was closed. In documentary evidence, the petitioners placed on record various documents including site plans, copies of Aks Shajra, jamabandies, notices, photographs, valuation reports, mutation entries, sale deeds, decree sheets, award copies, authority letters, partnership deeds, house tax bills, objections, notifications and other relevant documents. The said documents were exhibited on record as Ex.P-1 to Ex.P-119 and certain documents were also tendered as Mark documents. The petitioners also examined witnesses in support of their claim, who

reiterated their stand taken in their pleadings and were cross-examined at length by the counsel for the respondents. PW-10 Geetika produced valuation reports along with site plans regarding the constructions raised on the acquired land, whereas PW-19 Manoj Kumar deposed regarding photographs of the acquired land.

40 On behalf of the respondents, Sh. Prem Chand, Manager (Technical), Office of Project Director, Project Implementation Unit, National Highways Authority of India, Rohtak, appeared as RW-1 and tendered his affidavit RW-1/A. He denied the suggestions regarding inadequacy of compensation, location of the acquired land and alleged denial of opportunity to the petitioners before passing of the Award. Thereafter, the evidence of the respondents was closed. After considering the pleadings, oral as well as documentary evidence and submissions of both the parties, the learned Arbitrator passed the Award dated 05.12.2017.

41 Perusal of the award reveals that no ground under Section 34 is made out showing that any provision thereof was violated by the learned Arbitrator. Evidence was aptly appreciated by the Arbitrator. Arguments were heard and cited in the Award. Opportunity was granted to cross-examine the witness. The only grievance of the objector is that the compensation awarded for her acquired land is on the lower side. According to the objector, the compensation should have been assessed at a higher rate of Rs.5.00 crores per acre instead of the rate awarded by the Competent Authority and upheld by the learned Arbitrator. However,

enhancement of compensation is not a ground for interference under Section 34 of the Arbitration and Conciliation Act, 1996. The objector has failed to show any violation of principles of natural justice, public policy or any other ground mentioned under Section 34 of the Act. It is also settled law that this Court cannot re-appreciate the evidence or substitute its own view in place of the findings recorded by the learned Arbitrator. Therefore, no ground is made out for interference with the Arbitral Award dated 05.12.2017. Accordingly, the present objections are **dismissed**. The arbitral record along with a copy of this judgment be sent back. The file be consigned to the record room after due compliance.

Announced in open Court.
Date of Order: 11.08.2026
Vijay Chraipotra, S.G.II

Jasmine Sharma
Additional District Judge, Hisar
UID NO. HR00188

Certified that all 26 pages of the judgment have been checked and signed by me.

Announced in open Court.
Date of Order: 11.08.2026
Vijay Chraipotra, S.G.II

Jasmine Sharma
Additional District Judge, Hisar
UID NO. HR00188

Jasmine Sharma,
Additional District Judge,
Hisar, UID no.HR00188

Present: Mr. Gaurav Beniwal, Advocate for the applicant.
Mr. R.K.Soni, Advocate for Lrs of Ram Kishan.
Mr. Mehtab Singh Poonia, Advocate for the
respondents no. 1 and 2
Mr. Narender Kumar, Government Pleader on behalf of
respondent no. 3.

Arguments heard.

2. Vide separate detailed judgment of even date, the present
petition stands dismissed. Original Award file alongwith a copy of
judgment be sent back. Petition file be consigned to the record room after
due compliance.

Announced in open Court.
Date of Order: 11.08.2026
Vijay Chraipotra, S.G.II

Jasmine Sharma
Additional District Judge, Hisar
UID NO. HR00188

Jasmine Sharma,
Additional District Judge,
Hisar, UID no.HR00188