

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT JAMMU**

Reserved on: 11.12.2025
Pronounced on: 12.02.2026
Uploaded on: 13.02.2026
*Whether operative part or
full judgment is
pronounced:* **Full**

**AA No.5/2025
CM Nos.3391/2025, 3972/2025, 6887/2025,
7045/2025,1898/2025, 1899/2025, 1900/2025,
7229/2025, 7230/2025 & 7469/2025**

c/w

**AA No.4/2025
CM Nos.3392/2025, 3969/2025, 6498/2025,
4268/2025,6886/2025, 7044/2025, 1895/2025,
1896/2025, 1897/2025, 7074/2025, 7076/2025,
7468/2025 & 2747/2025**

**WP(C) No.82/2024
CM Nos.153/2024, 4921/2024 & 7479/2025**

THE HIGHWAYS AUTHORITY OF INDIA
THROUGH ITS PROJECT DIRECTOR
BHARAT BHUSHAN

...PETITIONER(S)/APPELLANT(S)

*Through: - Mr. Gagan Basotra, Sr. Advocate, with
Mr. Pawan Kumar Hans, Advocate.*

Vs.

RANO DEVI & OTHERS
UNION OF INDIA & OTHERS

...RESPONDENT(S)

*Through: - Mr. R. S. Thakur, Sr. Advocate, with Mr.
Vasharan Thakur, Advocate.
Mr. Aseem Kr. Sawhney, Sr. Advocate,
with Mr. Anil Kumar & Ms. Tehseena
Bukhari, Advocate.
Mr. Rajnish Raina, Sr. Advocate, with Mr.
Rishu Rajeshwar, Mr. Om Goswami & Mr.*

Prabhat Sangotra, Advocates – for R41 & 188 (in AA No.4 & 5 of 2025) and with Mr. Abid Khan, Advocate – for R-3, 33 & 87 (in AA Nos.4 &/ 2025)
Mr. Sunil Sethi, Sr. Advocate with Mr. Paras Gupta, Advocate.
Ms. Monika Kohli, Sr. AAG, with Ms. Sagira Jafar, Advocate.
Mr. O. P. Thakur, Sr. Advocate, with Ms. Anandita Thakur, Advocate.
Mr. Parveen Kapahi, Advocate.
Mr. Vinod Kotwal, Advocate.
Mr. Ajaz Chowdhary, Advocate.
Mr. Mohammad Latif Malik, Advocate, with Ms. Bandhan Panotra, Advocate.
Mr. G. S. Thakur, Advocate.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT

AA No.4/2025

AA No.5/2025

1) The issues involved in the instant appeals filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short “the Act of 1996”), are akin and analogous to each other.

2) In AA No.4/2025, the National Highways Authority of India (appellant herein) has challenged order dated 10.02.2025 (for short “the impugned order”) passed by the Court of learned Principal District Judge, Reasi (hereinafter for short “the court below”), in File No.**04/2023** titled “**NHAI vs. Rano Devi & Ors.**” whereby the application filed by the appellant herein under Section 34 of the Act of 1996

seeking setting aside of the arbitral award dated 26.08.2023 has been dismissed.

3) In AA No.5/2025, the National Highways Authority of India (appellant herein) has challenged order dated 10.02.2025 (for short “the impugned order”) passed by the Court of learned Principal District Judge, Reasi (hereinafter for short “the court below”), in File No.03/2023 titled “**NHAI vs. Rano Devi & Ors.**” whereby application of the appellant herein filed under Section 34 of the Act of 1996 seeking consequential setting aside of the arbitral award dated 26.08.2023 has been dismissed.

FACTS:

AA No.4/2025: Brief Facts:

- (i) The land measuring 181 Kanals and 11 Marlas (local), situated at Village Kundrorian Tehsil Katra District Reasi, belonging to the respondents herein and other landowners, came to be acquired for construction of Delhi-Ludhiana-Amritsar-Katra Expressway and Notifications under Sections 3A and 3D of the National Highways Act, 1956 (for short, “the Act of 1956”) were issued, resulting in vesting of the land in the Central Government free from all encumbrances.

- (ii) The Competent Authority for Land Acquisition (CALA) under the Act of 1956, after considering the objections filed pursuant to notice dated 09.07.2022, passed an award dated 09.05.2022 under Section 3G(1) of the Act of 1956, determining the compensation of the land at the rate of Rs.59,79,263/ per local kanal for rural areas and Rs.75,35,000/ per local kanal (commercial) for urban areas.
- (iii) Aggrieved of the said determination by the CALA, the appellant invoked arbitration under Section 3G(5) of the Act of 1956, while challenging the same, primarily, on the grounds that the CALA had passed the award without informing the appellant having taken into consideration the selective sale deeds which comprised of small pieces of land (less than 01 Kanal) and had taken wrong average sale price, while pleading further that the CALA recommended payment of compensation at commercial rates for agriculture land ignoring the fact that the conversion of land from agricultural to commercial was without prior permission of the Government.
- (iv) The Divisional Commissioner, Jammu, being the Statutory Arbitrator under the Act of 1956, after

hearing the parties and examining the material on record, passed an arbitral award dated 26.08.2023, whereby the market value of the land was re-assessed and reduced to Rs.56,62,466/ per local kanal, while referring to Section 26 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the Act of 2013”), observed that the CALA has followed the provision of the Act of 1956 as also the comprehensive guidelines dated 18.12.2017 issued by the Ministry of Road Transport and Highway (MoRTH), however, observed that the average sale price from the sale deeds mentioned in the award comes to Rs.56,62,466/ per local kanal, which was required to be considered by the CALA as market value. The Arbitrator, however, rejected the other pleas raised by the appellant and consequently, the Arbitrator set aside the award passed by the CALA dated 05.09.2022 and its corrigendum dated 18.12.2022 to the limited extent with direction to the CALA to pass fresh order by considering the market value at Rs.56,62,466/ per local kanal.

- (v) Consequent to the passing of aforesaid award by the Arbitrator, the CALA passed a revised award dated 01.09.2023.
- (vi) The appellant herein aggrieved of the same filed an application under Section 34 of the Act of 1996 before the Court of Principal District Judge, Reasi, seeking setting aside of the arbitral award, primarily, on the premise that the arbitral award was vague, perverse and based on incorrect findings of law, hence void; that the market rate of the land in question had been fixed without considering the provisions of the Act of 2013; that the award was passed on hypothesis, surmises and conjectures; that the Arbitrator simply reduced the average cost per kanal of the land by reducing the number of sale deeds in the original award and added few sale deeds which were not considered by CALA in the original award and that the impugned was arbitrary and in conflict with the public policy.
- (vii) After considering the relevant provisions of the Act of 1956, the Act of 2013 as also the law regarding the issue at hand, inasmuch as the scope of interference

provided under Section 34 of the Act of 1996, as also the grounds urged by the appellant herein, the court below dismissed the application vide order dated 10.02.2025, while observing that the compensation awarded had been passed after determination of fair market value of the acquired land by the Arbitrator and that the sale deeds relied upon were duly compared with the acquired land and that the question of similarity was a pure question of fact duly examined in the correct perspective with findings neither perverse nor unreasonable and that the market value of the land in question was determined in accordance with the procedure prescribed for assessment of adjoining lands and that the Act of 2013 does not mandate consideration of sale deeds relating only to larger plots and that although the acquired land adjoins Katra town and an express finding on the multiplier would have been desirable, the Arbitrator had impliedly accepted the multiplier of two applied by the CALA for a rural area which was never questioned or argued by the appellant herein and that the revised award dated 01.09.2023 passed by the CALA pursuant to the directions of the

Arbitrator constituted an arbitral award and that in absence of any allegation of corruption, bias or illegality, the award was not against public policy and did not, as such, warrant interference, leading to the dismissal of the application filed by the appellant herein under Section 34 of the Act of 1996.

AA No.5/2025: Brief Facts:

- i) Land measuring 236 Kanals 4 Marlas, situated at Village Kundrorian, Tehsil Katra, District Reasi, belonging to the respondents herein and other landowners, came to be acquired for construction of the Delhi–Ludhiana–Amritsar–Katra Expressway and in this regard Notifications under Sections 3A and 3D of the National Highways Act, 1956 (for short, “the Act of 1956) were issued, resulting in vesting of the land in the Central Government free from all encumbrances.
- ii) The Competent Authority for Land Acquisition (CALA) under the Act of 1956, after considering the objections filed pursuant to a notice issued in this regard, passed an award dated 06.09.2022 under Section 3G(1) of the Act of 1956, thereby determining the compensation at the rate of Rs.59,79,263/- per local kanal and the

total compensation payable was worked at Rs.584,32,65,707.00/-.

iii) Aggrieved by the aforesaid determination, the appellant invoked arbitration under Section 3G(5) of the Act of 1956, while challenging the same primarily, on the grounds that the CALA had passed the award without informing the appellant having taken into consideration the selective sale deeds comprising of small pieces of land (less than 01 kanal) and had taken wrong average sale price and that the CALA recommended payment of compensation at commercial rates for agriculture land ignoring the fact that the conversion of land from agricultural to commercial was without prior permission of the Government.

iv) The Statutory Authority under the Act of 1956, i.e. Divisional Commissioner, Jammu, after hearing the parties and examining the material on record, passed an arbitral award dated 26.08.2023, whereby the market value was reassessed and reduced to Rs. 56,62,466/- per local kanal, while referring to Section 26 of the Act of 2013, observed that the CALA has followed the provisions of the Act of 1956 as also the

comprehensive guidelines dated 18.12.2017 (supra), however, observed that the average sale price from the sale deeds mentioned in the award was required to be considered by the CALA as market value. Consequently, the Arbitrator set aside the award passed by the CALA dated 06.09.2022 and its corrigendum dated 18.12.2022 to the limited extent with direction to the CALA to pass fresh order by considering the market value at Rs.56,62,466/ per local kanal.

- v) Consequent to the passing of aforesaid awarded by the Arbitrator, the CALA passed a revised award dated 01.09.2023.
- vi) Aggrieved of the revised award (supra), the appellant herein filed an application under Section 34 of the Act before the Principal District Judge, Reasi, seeking setting aside of the arbitral award on similar and identical grounds referred to above and after considering the relevant provisions of the Acts of 1956 & 2013 as also the law regarding the issue at hand and the scope of interference provided under Section 34 of the Act of 1996 as also the grounds urged by the

appellant herein, the said court below dismissed the said application vide order dated 10.02.2025.

4) The grounds of challenge urged in AA No.5/2025 and referred hereinabove being similar and identical to those urged in AA No.4/2025, are not, for the sake of brevity, being re-stated herein in order to avoid repetition.

5) Order dated 10.02.2025 passed by the court below is the subject matter of challenge in the present appeals filed by the appellant herein under Section 37 of the Act of 1996 and is impugned, *inter-alia*, on the following grounds that the court below failed to exercise jurisdiction within the limited scope of Section 34 of the Act of 1996, by erroneously upholding the arbitral award, being perverse, illegal, and contrary to the substantive provisions of the Act of 2013 read with the Act of 1956, and that the Arbitrator relied upon irrelevant and extraneous material collected by CALA, without affording the appellant herein any effective opportunity to lead evidence and instead adopted a whimsical and arbitrary procedure in violation of settled principles of arbitration and natural justice, while further urging that the court below misapplied Section 26(1)(b) of the Act of 2013 by approving reliance on sale deeds of small plots for determination of compensation for irrigated and

non-irrigated land, despite statutory and notified distinctions in rates, thereby committed an error going to the root of the matter, contending further that the court below impermissibly imported considerations of future potential and principles under the repealed Land Acquisition Act, 1894, ignoring the statutory scheme of the Act of 2013, which already accounts for such factors through multiplier and solatium, while additionally urging that grave prejudice came to be suffered by the appellant herein due to denial of opportunity to establish differential land rates and non-consideration of binding precedents relied upon, resulting in miscarriage of justice warranting appellate interference by this Court.

Heard learned counsels for the parties and perused the record.

6) Mr. Gagan Basotra, Senior Advocate, appearing for the appellant herein, while making his submissions in line and tune with the case/s set up in the appeals in hand, would vehemently argue that the arbitral award as also the impugned orders are vitiated by serious illegality and irregularity, as the Arbitrator relied upon sale deeds of small pieces of land while determining compensation for large tracts of land and failed to properly classify the land

in question as irrigated, non-irrigated or otherwise, and also ignored applicable valuation guidelines. Mr. Basotra would further contend that the award passed by the Arbitrator is in violation of principles of natural justice, and that the court below as well erred in upholding the award in question without appreciating these infirmities.

7) On the contrary, the appearing counsels for the respondents herein, while opposing the submissions of Mr. Basotra, supported the award in question as also the impugned orders and would submit that the Arbitrator has passed the reasoned award after considering the entire record, while insisting that the scope of interference under Section 37 of the Act of 1996 is extremely limited and does not permit re-appreciation of evidence or substitution of the Court's view for that of the Arbitrator, contending further that the appellant herein participated throughout the arbitral proceedings as also before the court below and raised all pleas available to it and, thus, cannot be now permitted to seek a second evaluation of facts under the guise of perversity or patent illegality.

8) Before proceeding to advert to the merits of the rival contentions of the appearing counsels for the parties as also

the issues involved in the case/s, it is deemed necessary and appropriate to delineate the scope and ambit of an appeal under Section 37 of the Act of 1996, which reads as follows:

37. Appealable orders. - (1) An appeal shall lie from the following orders (and from no others) to the Court authorized by law to hear appeals from original decrees of the Court passing the order, namely:-

- (a) refusing to refer the parties to arbitration under section 8;
- (b) granting or refusing to grant any measure under section 9;
- (c) setting aside or refusing to set aside an arbitral award under section 34

(2) Appeal shall also lie to a court from an order of the arbitral tribunal-

- (a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or
- (b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

9) A reference hereunder to the law laid down by the Apex Court qua the ambit and scope of Section 37 supra is also deemed appropriate and imperative.

The Apex Court in case titled **Konkan Railway Corporation Limited Vs. Chenab Bridge Project Undertaking** reported in 2023 INSC 742, has held as under:-

"14..... At the outset, we may state that the jurisdiction of the Court under Section 37 of the Act, as clarified by this Court in *MMTC Ltd. Vs. Vedanta Ltd.*, is akin to the jurisdiction of the Court under Section 34 of the Act. Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act.

15. Therefore, the scope of jurisdiction under Section 34 and Section 37 of the Act is not akin to normal appellate jurisdiction. It is well-settled that courts ought not to interfere with the arbitral award in a casual and cavalier manner. The mere possibility of an alternative view on facts or interpretation of the contract does not entitle courts to reverse the findings of the Arbitral Tribunal. In *Dyna Technologies Private Limited Crompton Greaves Limited* (2019) 20 SCC 1, this Court held:

"24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.

25. Moreover, umpteen number of judgments of this Court have categorically held that the

courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The courts need to be cautious and should defer to the view taken by the Arbitral Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Section 34 of the Arbitration Act."

The Apex Court further in the case titled **Haryana Tourism Limited v. M/s Kandhari Beverages Ltd.** reported in 2022 LiveLaw (SC) 38, has held as under:

"8. As per settled position of law laid down by this Court in a catena of decisions, an award can be set aside only if the award is against the public policy of India. The award can be set aside under Sections 34/37 of the Arbitration Act, if the award is found to be contrary to, (a) fundamental policy of Indian Law; or (b) the interest of India; or (c) justice or morality; or (d) if it is patently illegal....."

The Apex Court has also in the case titled **Bombay Slum Redevelopment Corporation Private Limited vs Samir Narain Bhojwani** reported in 2024 INSC 478 observed as under:

*15. We need not dwell on the limited scope of the interference in the petition under Section 34 of the Arbitration Act. That position is very well settled. However, as far as the appeal under Section 37(1)(c) of the Arbitration Act is concerned, in the case of **MMTC Limited v. Vedanta Limited**, in paragraph 14, this Court held thus:*

"14. As far as interference with an order made under Section 34, as per

Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section 34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings."

(emphasis added)

In another decision of this Court in the case of UHL. Power Company Limited v. State of Himachal Pradesh, in paragraph 16, it was held thus:

"16. As it is, the jurisdiction conferred on courts under Section 34 of the Arbitration Act is fairly narrow, when it comes to the scope of an appeal under Section 37 of the Arbitration Act, the jurisdiction of an appellate court in examining an order, setting aside or refusing to set all the more aside an award, is circumscribed. In MMTC Ltd. v. Vedanta Ltd. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163: (2019) 2 SCC (Civ) 293], the reasons for vesting such a limited jurisdiction on the High Court in exercise of powers under Section 34 of the Arbitration Act have been explained in the following words: (SCC pp. 16667, para 11)

"11. As far as Section 34 is concerned, the position is well settled by now that the Court does not sit in appeal over the arbitral award and may interfere on merits on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award

is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the "fundamental policy of Indian law" would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and *Wednesbury* [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1948) 1 KB 223 (CA)] reasonableness. Furthermore, "patent illegality itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract."

(emphasis added)

In the decision of this Court in the case of *Konkan Railway Corporation Limited u. Chenab Bridge Project Undertaking* 3, in paragraph 18, it was held thus:

"18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in *MMTC Ltd. v. Vedanta Ltd.* [*MMTC Ltd. v. Vedanta Ltd.*, (2019) 4 SCC 163: (2019) 2 SCC (Civ) 293]. is akin to the jurisdiction of the court under Section 34 of the Act. [Id, SCC p. 167, para 14:"14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that

the exercise of power by the court under Section 34 has not exceeded the scope of the provision."]
Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds. challenge under Section 34 of the Act."

(emphasis added)

What emanates from a closer reading of the aforesaid provision and position of law, is that the Appellate Court under Section 37 supra cannot re-appreciate the evidence, re-evaluate factual findings or substitute its own view merely because another view is possible and that the errors of fact or erroneous appreciation of evidence by the Arbitrator would not constitute valid grounds for interference, unless such errors go to the root of the matter and fall within the narrow category of patent illegality or contravention of fundamental policy of Indian law.

10) From the above, thus, it can safely be concluded that Section 37 of the Act of 1996 provides a limited statutory right of appeal only against orders expressly enumerated therein and does not *per se* confer a general or unrestricted right of appeal against all orders arising out of arbitral proceedings and that an appeal under Section 37 is not a continuation of arbitral proceedings nor does it partake the character of a regular first appeal and, therefore, the

Appellate Court under Section 37 of the Act of 1996 would not sit as a court of correction over the arbitral award as its jurisdiction is supervisory and not appellate in the conventional sense being essentially endorsed by the legislative intent underlying Section 37 read with Section 5 of the Act of 1996, to ensure minimal judicial interference in the arbitral matters and to preserve the finality of arbitral awards.

It is also pertinent to note here that having regard to the aforesaid position and principles of law that where an appeal under Section 37 of the Act of 1996 is directed against an order passed under Section 34 of the said Act, the scope of scrutiny becomes even more circumscribed requiring the Appellate Court to examine only whether the court exercising jurisdiction under Section 34 of the Act of 1996 has remained within the statutory confines provided by the said Section, without independently reassessing the arbitral award on merits.

It would also be significant to mention here that even the grounds of public policy and patent illegality enumerated under Section 34 of the Act of 1996 are to be construed narrowly, in that, the Appellate Court, while exercising jurisdiction under Section 37 of the Act of 1996,

is concerned not with whether it would have arrived at a different conclusion, but with whether the court under Section 34 of the Act of 1996 has applied the correct legal tests and exercised its discretion judiciously. In fact, interference would be warranted only where the Court under Section 34 of the Act of 1996 has acted either in excess of jurisdiction, ignored settled principles of law or rendered a decision that is manifestly perverse.

It is also relevant to mention here that, in essence, an appeal under Section 37 of the Act of 1996 is not a second opportunity provided to a party to assail the arbitral award on merits. Rather it is a limited remedy designed to correct jurisdictional or legal errors committed by a Court exercising power under Section 34 of the Act of 1996 and not to provide a forum for rehearing or re-adjudication of the arbitral dispute.

11) Keeping in mind the aforesaid position and principles of law and reverting back to the case/s in hand, perusal of the arbitral award dated 26.08.2023 tends to show that the Arbitrator has considered the sale deeds relied upon by the CALA, examined the average rates and thereafter reassessed the market value and has, in fact, reduced the compensation determined by the CALA, which by itself

belies the contention of the appellant herein that award is based on irrelevant or extraneous considerations. The plea of the appellant herein that the sale deeds of small parcels of land in questions were impermissibly relied upon is a matter which squarely falls within the domain of appreciation of evidence and a closer examination of the record reveals that the Arbitrator has recorded reasons for adopting the methodology used, having regard to the location, surrounding development and potential of the acquired land in question.

12) The next contention of the appellant herein regarding denial of opportunity by the court/forums below is also found to be any without any substance, in that, the record available on the files reflect that the appellant herein has duly participated in the arbitral proceedings, filed pleadings and submissions and raised objections to the valuation methodology and, therefore, in this view of the matter, mere dissatisfaction with the outcome by the court/forums below cannot be equated or by any sense of imagination said to be violation of the principles of natural justice.

13) Further examination and perusal of the record tends to show that the court below has meticulously examined

each ground urged by the appellant herein in the application filed under Section 34 of the Act of 1996 and has rightly held that none of the grounds fall within the grounds enumerated in the said Section, being patent illegality or public policy. Even before this Court the appellant herein has failed to specifically plead or demonstrate as to what particular perversity, illegality or jurisdictional error has been committed by the court below. Instead, perusal of the impugned orders reflect correct appreciation of the law laid down by the Apex Court by the court below in the matter and the impugned orders are found to be well-reasoned and in tune and consonance with law, without there being any perversity, illegality or jurisdictional error warranting interference under Section 37 of the Act of 1996 in the instant appeals by this Court on account of mere omnibus or vague assertions that the impugned orders suffer from perversity or illegality, without pinpointing the precise error or else demonstrating how the statutory limits of Section 34 of the Act of 1996 have been transgressed and, therefore, in absence of any specific pleadings disclosing the precise perversity or illegality alleged, the instant appeals under Section 37 of the Act of 1996 cannot be sustained on such general or

unsubstantiated assertions and, thus, the instant appeals, in essence, cannot, but said to be, an attempt to secure a re-appreciation of facts and evidence, which is impermissible in law.

14) For what has been observed, considered and analyzed hereinabove, the instant appeals are found to be devoid of any merit and are, accordingly, dismissed, as a consequence whereof, orders dated 10.02.2025 passed by the learned Principal District Judge, Reasi, dismissing the application(s) under Section 34 of the Act of 1996 filed by the appellant herein, are upheld.

15) The record be sent back.

CM Nos.3392/2025, 3969/2025, 6498/2025, 6886/2025, 1895/2025, 1896/2025, 1897/2025, 7074/2025, 7076/2025, 7468/2025 & 2747/2025 in AA No.4/2024

Having regard to the issues involved in the instant applications, the determination of the same is left open to be adjudicated upon by the appropriate court/forums and in this regard the parties shall be free to approach the concerned court/forums.

CM Nos.3972/2025, 6887/2025, 7045/ 2025,1898/2025, 1899/2025, 1900/2025, 7229/2025, 7230/2025 & 7469/2025 in AA No.5/2025:

Having regard to the issues involved in the instant applications, the determination of the same is left open to

be adjudicated upon by the appropriate court/forums and in this regard the parties shall be free to approach the concerned court/forums.

WP(c) No. 82/2024

1) The petitioner, in the instant petition filed under Article 226 of the Constitution of India, seeks enforcement of a statutory award dated 01.09.2023 passed under Section 3G(1) of the National Highways Act, 1956 (for short Act of 1956), revised pursuant to arbitral award dated 26.08.2023 under Section 3G(5) of the Act of 1956, besides seeking a direction against the respondents to disburse compensation together with all statutory components and interest in respect of land measuring 03 Kanals 06 Marlas covered under Khasra No.213-min situated at Village Kundrorian, District Reasi, having acquired title through registered sale deeds in the year 2013 and since then reflected in the relevant revenue records, which land has been acquired by the respondents for the National Highway project being Construction, Maintenance and Operation of Delhi-Ludhiana-Amritsar-Katra Expressway notified under Sections 3A and 3D of the Act of 1956 culminating into the acquisition of the land in question along with other adjoining land.

2) An award dated 05.09.2022 came to be passed by the Competent Authority (CALA) in terms of Section 3G(1) of the Act of 1956 wherein the rate of the land in question was fixed at Rs.59,79,2631/- per local kanal in rural areas. Aggrieved whereof, the executing agency, namely the National Highways Authority of India (for short "NHAI"), respondents 1 to 3 herein, assailed the said award before the Arbitrator being the Divisional Commissioner, Jammu, in terms of Section 3G(5) of the Act of 1956, whereupon, the said Arbitrator in terms of arbitral award dated 26.08.2023, reduced the rate of land in question to Rs. 56,62,4661/- per local kanal of land and directed revision of the award by the CALA, in furtherance whereof, the CALA passed a revised award dated 01.09.2023, pertaining to various landowners including the petitioner herein mentioned in the apportionment statement and the compensation payable towards the acquired land duly quantified.

3) The grievance projected by the petitioner in the instant petition is that despite the revised award dated 01.09.2023 having attained finality for not having been thrown challenge to by the respondents herein, the compensation qua the said land has not been deposited nor disbursed in favour of the petitioner in clear violation of Section 3H of

the Act of 1956 and the National Highways (Manner of Depositing the Amount by the Central Government; Making Requisite Funds Available to the Competent Authority for Acquisition of Land) Rules, 2019 (for short 'the Rules of 2019).

4) **Reply** to the petition has been filed by the respondents, wherein the petition is being opposed on the premise that respondent 3 herein vide letter dated 27.12.2023 intimated the Competent Authority/ respondent No.4 herein about the revised award under Section 3G of the Act of 1956 and the deposition of the compensation “**under protest**” and that it is respondent who has to raise the demand of award after furnishing details of the landholders/beneficiaries on the Bhoomi Rashi e-Portal of the Ministry of Road Transport and Highways and that the arbitral award dated 26.08.2023 and revised award dated 01.09.2023 has been challenged under Section 34 of the Act of 1996 before the Court of Principal District Judge, Reasi.

5) **Respondent No.4** has also filed reply to the petition, wherein, after giving the factual background, it is stated that the application under Section 34 of the Act of 1996 filed by the respondent 3-NHAI stands dismissed by the

Court of Principal District Judge, Reasi, vide judgment and order dated 10.02.2025 and that consequently the respondent 4 has initiated the process of disbursement of the compensation amount to the land owners and has, vide letter dated 17.03.2025, requested the Sub Divisional Magistrate, Katra, to submit the account details of all the land owners.

6) During the pendency of the instant petition, respondent 3 & 4 have filed a supplementary affidavit, wherein it has been stated that after dismissal of the application under Section 34 of the Act of 1996 by the Court of Principal District Judge, Reasi, vide judgment and order dated 10.02.2025, respondent 3-NHA1 has, vide communication dated 23.03.2025, asked the respondent 4 to de-notify the land mentioned therein in the said communication, which includes the land of the petitioner herein as well, for the reasons stated therein.

Heard learned counsel for the parties and perused record of the case.

7) Before advertng to the merits of the case at hand, it would be advantageous to refer hereunder to the provisions of Section 3G and 3H of the Act of 1956:

3G.Determination of amount payable as compensation.—(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government—

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking

possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

3H. Deposit and payment of amount.—(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent, per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6)Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of subsections (2) to (4) shall apply to such deposit.

What emanates from the plain reading of Section 3G supra is that the same constitutes a self-contained statutory mechanism for determination of amount payable as compensation for land acquired under the Act. Sub-section (1) of the said Section mandates that where land is acquired, the amount payable shall be determined by the Competent Authority having due regard to the factors specified therein including the market value of the land on the date of publication of the notification under Section 3A and in the event of disagreement with such determination, sub-section (5) provides a statutory right to seek reference to arbitration, whereupon the Arbitrator appointed by the Central Government is empowered to adjudicate upon the quantum of compensation and the determination made by the Arbitrator under Section 3G (5) attains the status of a statutory adjudication becoming binding upon the parties, subject only to challenge on the limited grounds available under the Act of 1996.

Thus, what emerges from the above is that the scheme of Section 3G ensures a balance between expeditious acquisition of land for public purposes and fair, just and reasonable compensation to the landowners/ holders, while consciously restricting judicial interference beyond the statutory framework. It also emanates from the above that the statutory obligation under Section 3H of the Act casts a duty upon the Central Government to deposit the amount determined under Section 3G while sub-section (2) obligates the Competent Authority to disburse the amount of compensation to the persons entitled. The Rules of 2019 (supra) as well operationalize this mandate by prescribing the mode and manner in which the compensation funds are to be made available and disbursed.

8) As record tends to show that since the respondent 3-NHAI was availing the statutory remedy of Section 34, as provided for in Section 3G of the said Act, therefore, the respondents cannot be said to have breached the provisions of the Act so far as the same relate to deposition of the compensation or payment thereof. Since now the said remedy under Section 34 availed by respondent 3 herein and the appeals thereafter filed under Section 37 of the Act of 1996 by the said respondent 3 herein stand dismissed

above, therefore, the respondent 3-NHAI is bound to compensate the petitioner qua the land in question. However, the plea which now requires consideration raised by the respondent No.3-NHAI is regarding de-notification/de-scoping of a portion of the acquired land, record available on the file reveals that during the pendency of proceedings, the executing agency referred to subsequent project realignment on account of overlapping of the railway tunnel with the Expressway alignment and addressed communications *inter se* seeking de-notification of certain parcels of land on the ground that the same had become infructuous for the project.

The aforesaid plea urged by the respondents, however, is unacceptable while relying upon subsequent communication as it is aimed at to defeat the petitioner's accrued right of receiving compensation for the land in question, for the reason that there is no provision in the Act of 1956 providing for de-notifying of the land for which acquisition proceedings under the Act of 1956 have been initiated and the same had already culminated into vesting of land in the Central Government under Section 3D of the Act of 1956 and permitting the respondents to withhold payment of compensation to the petitioner herein on the

strength of a proposed or contemplated de-notification would result in grave prejudice to the petitioner herein and, in essence, would amount to allowing the respondents to enjoy the benefit of acquisition without bearing its statutory burden. In law, such a course is impermissible and contrary to the scheme of the Act of 1956 as well as the constitutional provisions contained in Article 300A.

9) In view of the aforesaid analysis, the only inescapable conclusion that could be drawn is that the denial of compensation to the petitioner herein by the respondents herein qua land in question, after having vested in the Central Government, is illegal and violative of the Act of 1956 as also infringement of Article 300A of the Constitution, in that, the petitioner herein has established a clear legal right qua the land in question and receipt of compensation thereof and the respondents herein having failed to discharge a corresponding statutory duty in this regard.

10) For what has been observed, considered and analyzed hereinabove, the instant petition succeeds and as a consequence whereof, the respondents herein are directed to disburse the amount of compensation in favour of the

petitioner herein qua the land measuring 03 kanals 06 marlas under Khasra No.213-min situated at Village Kundrorian District Reasi, within a period of two months from the date a certified copy of this judgment is served upon the respondents herein, failing which the compensation amount shall be payable with interest @12% per annum from the date of award till its final realization.

(Javed Iqbal Wani)
Judge

Srinagar

12.02.2026

“Bhat Altaf-Secretary”

Whether the **Judgment** is speaking: **Yes**
Whether the **judgment** is reportable: **Yes**

