



2026:CGHC:18302-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Arbitration Appeal No. 26 of 2025

**1 - Anand Khedia S/o S/o Late Radheshyam Khedia Aged About 53 Years
R/o A-30, Rama Life City, Sakri, Tahsil- Takhatpur, District- Bilaspur (C.G.)**

**2 - Murli Khedia S/o Late Radheshyam Khedia Aged About 50 Years R/o A-
30, Rama Life City, Sakri, Tahsil Takhatpur, District Bilaspur (C.G.)**

**3 - Vinod Khedia S/o S/o Late Radheshyam Khedia Aged About 48 Years
R/o A-30, Rama Life City, Sakri, Tahsil Takhatpur, District Bilaspur (C.G.)**

**4 - Balmukund Khedia S/o S/o Late Radheshyam Khedia Aged About 45
Years R/o A-30, Rama Life City, Sakri, Tahsil Takhatpur, District Bilaspur
(C.G.)**

**5 - Vyenkateshwar Khedia S/o Late Radheshyam Khedia Aged About 45
Years R/o A-30, Rama Life City, Sakri, Tahsil Takhatpur, District Bilaspur
(C.G.)**

... Appellants

versus

1 - Commissioner Cum Arbitrator Bilaspur Divison Bilaspur, District Bilaspur (C.G.)

2 - Competent Authority Land-Acquisition And Sub-Divisional Officer (Revenue) Bilaspur Tahsil And District Bilaspur (C.G.)

3 - Project Director National Highways Authorites Of India, Project Operation Unit Abhilasha Parisar, New Bus Stand Bilaspur, Tahsil And District Bilaspur (C.G.)

... Respondents

For Appellants : Mr. Ratnesh Kumar Agrawal, Advocate

For Respondents No. : Mr. Amit Buxy, Dy. G.A.

1 and 2

For Respondent No. 3 : Mr. Dhiraj Kumar Wankhede, Advocate

DB- Hon'ble Shri Justice Sanjay K. Agrawal

Hon'ble Shri Justice Sachin Singh Rajput

Judgment On Board

22.04.2026

Sanjay K. Agrawal, J.

1. Feeling aggrieved and dissatisfied with the order dated 21/10/2025 (Annexure A/1) passed by the 2nd Additional District Judge (Commercial Court), District Judge Level, District Bilaspur in Miscellaneous Judicial Case No. 577/2021 whereby the application filed by the appellants herein under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred as "the Act of

1996”) has been rejected finding no merit, this appeal under Section 37 of the Act of 1996 read with Section 13 of the Commercial Courts Act, 2015 (hereinafter, referred as “the Act of 2015”) has been preferred by the appellants.

2. The challenge in the present appeal has been made on the following factual backdrop :-

(i) Appellants’ land was compulsorily acquired under the provisions of National Highways Act, 1956 (hereinafter, referred as “the Act of 1956”) and subsequently, on 01/06/2018, award was passed by the competent authority i.e. Land Acquisition and Sub-Divisional Officer (Revenue), Bilaspur i.e. respondent No. 2 herein vide Annexure A/3.

(ii) Thereafter, being aggrieved with the impugned award dated 01/06/2018 (Annexure A/3), the appellants herein preferred an application under Section 11 of the Act of 1996 (Amended Act 2013) read with Section 3G(7) of the Act of 1956 (Annexure A/4) seeking enhancement of amount of compensation, which stood dismissed by the Statutory Arbitrator/Commissioner, Bilaspur Division i.e. respondent No. 1 herein by order dated 13/09/2021 (Annexure A/9) holding that no ground warranting interference in the award passed by the respondent No. 2 has been made out.

(iii) Pursuant thereof, the appellants then preferred application under Section 34 of the Act of 1996 (Annexure A/10) before the District Judge, Bilaspur on 22/11/2021 which was entertained by the said Court on 01/12/2021 and notices were issued to the respondents, and ultimately, on 07/02/2024, in light of the notification dated 20/12/2023 issued by the State Government through the Law and Legislative Affairs Department, it was held that since the value of the present dispute falls in between ten lakhs to fifty lakhs, therefore, learned 2nd Additional District Judge, Commercial Court (District Judge Level), Bilaspur will have the jurisdiction to take cognizance of the matter.

(iv) Finally, vide impugned order dated 21/10/2025 (Annexure A/1), the 2nd Additional District Judge, Commercial Court (District Judge Level), Bilaspur rejected the application filed by the appellants under Section 34 of the Act of 1996 thereby, affirming the order passed by the Statutory Arbitrator, Commissioner, Bilaspur Division against which this appeal has been preferred.

3. Mr. Ratnesh Kumar Agrawal, learned counsel for the appellants, would submit that the learned District Judge, before whom the application under Section 34 of the Act of 1996 was preferred, could not have transferred the matter to the 2nd Additional District

Judge, Commercial Court (District Judge Level) by order dated 07/02/2014 as it is not a commercial dispute under Section 2(1)(c) of the Act of 2015 and no notification under Section 2(1)(c)(xxii) of the Act of 2015 has been issued by the Central Government (Ministry of Road Transport and Highways) covering the property acquired under the provisions of the Act of 1956, therefore, the impugned order dated 21/10/2025 (Annexure A/1) be set aside and matter be transferred to the Principal District Judge, Bilaspur for hearing and disposal in accordance with law.

4. Mr. Dhiraj Kumar Wankhede, learned counsel for respondent No. 3, would also submit that in absence of any notification issued by the Central Government under Section 2(1)(c)(xxii) covering arbitration dispute governed by the provisions of the Act of 2015, the impugned order (Annexure A/1) is liable to be set aside and the competent authority for dealing with the application under Section 34 of the Act of 1996 would be Principal District Judge, Bilaspur.
5. We have heard learned counsel for the parties, considered their submissions made herein-above and went through the record with utmost circumspection.
6. The short question involved for consideration in this appeal is, “whether the award passed by the Statutory Arbitrator under

Section 3G(7) of the Act of 1956 can be questioned through an application under Section 34 of the Act of 1996 ? If yes, which would be the competent Court to hear and decide the said application ?”

7. In order to consider the plea raised at the Bar, it would firstly be appropriate to notice the provisions contained under the National Highways Act, 1956. The Act of 1956, being a complete code in itself, provides for a grievance redressal mechanism. Sections 3G (5), (6) and (7) of the Act of 1956 directly relates to calculation of compensation related grievances and state as under :-

“3G. Determination of amount payable as compensation.

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(1) to (4) XXX XXX

(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

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(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 any, consequences of 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.”

8. As per Section 3G(5) of the Act of 1956, if the amount determined by the competent authority 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. In the instant case, the Commissioner, Bilaspur Division has been appointed to be Statutory Arbitrator for resolving the dispute under Section 3G(5) of the Act of 1956. Sub-section (6) of Section 3G clearly mentions that subject to the provisions of the Act of 1956, the provisions of the Act of 1996 shall apply to every arbitration under the Act of 1956. Meaning thereby, that the order passed by the Statutory Arbitrator can be made subject matter of proceeding under Section 34 of the Act of 1996. There is nothing in the scheme of Section 3G of the Act of 1956 to exclude the application of Section 34 of the Act of 1956 vis-a-vis the award of the Statutory Arbitrator passed under Section 3G(5) of the Act of

1956. As such, it is apparently vividly clear that the award by the Statutory Arbitrator can be questioned before the Court of competent jurisdiction under Section 34 of the Act of 1996, like any other award by an Arbitrator. The first point is answered accordingly.

9. Coming to the second point, the order dated 13/09/2021 (Annexure A/9) passed by the Statutory Arbitrator, Commissioner, Bilaspur Division under Section 3G(7) of the Act of 1956 was challenged by way of application under Section 34 of the Act of 1996 before the District Judge, Bilaspur, however, by order dated 07/02/2024, in light of the notification dated 20/12/2023 issued by the State Government through the Law and Legislative Affairs Department, the District Judge transferred the matter to the 2nd Additional District Judge, Commercial Court (District Judge Level) for hearing and disposal in accordance with law holding that the matter at hand is a commercial dispute and therefore, Commercial Court would be competent to resolve the said dispute.

10. At this stage, it would be appropriate to notice the object of the Commercial Courts Act, 2015 as well as the provisions contained thereunder. The Act of 2015 is an act to provide for the constitution of Commercial Courts, Commercial Division and Commercial

Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto. Section 2(1)(c) of the Act of 2015 defines commercial dispute, which states as under :-

“2. Definitions. - (1) In this Act, unless the context otherwise requires, -

(a) XXX

(b) XXX

(c) “commercial dispute” means a dispute arising out of -

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(x) management and consultancy agreements;

(xi) joint venture agreements;

(xii) shareholders agreements;

(xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;

(xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;

(xx) insurance and re-insurance;

(xxi) contracts of agency relating to any of the above; and

(xxii) such other commercial disputes as may be notified by the Central Government.”

11. Further, Section 3 of the Act of 2015 provides for constitution of Commercial Courts. Section 6 of the Act of 2015 speaks about the jurisdiction of Commercial Court and states that the Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a specified value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

12. A matter will fall under the jurisdiction of the Commercial Court or the Commercial Division of the High Court on the following two factors :-

(i) it shall be a commercial dispute within the meaning of Section 2(1)(c) of the Act of 2015; and

(ii) such commercial disputes are of a specified value as per Section 2(i) of the Act of 2015.

13. Thus, from the scheme of the Act of 2015, it is apparent that only a commercial dispute can be tried by a commercial Court. For a dispute to qualify as commercial dispute, it must fall within one of the clauses of Section 2(1)(c) of the Act of 2015. A dispute will not become a commercial dispute merely because it is an arbitration matter and jurisdiction in respect with an arbitration matter has been dealt with separately under Sections 10 and 15(2) of the Act of 2015. Every application filed under Section 34 of the Act of 1996 cannot be transferred to the Commercial Court under Section 15(2) of the Act of 2015 and only such applications will be required to be transferred, which are relating to a commercial dispute of a specified value covered under Section 2(1)(c) read with Section 2(i) of the Act of 2015.

14. Admittedly, the dispute involved in this matter is not covered by Section 2(1)(c) clauses (i) to (xxii) of the Act of 2015. Clause (xxii) of Section 2(1)(c) of the Act of 2015 enables the Central Government to include any other dispute in the definition of 'commercial dispute' by notification. In the instant case, this Court passed the following order on 21/04/2026 :-

“Mr. Ramakant Mishra, learned Deputy Solicitor General is requested to obtain instructions from the Central

Government as to whether any notification under Section 2(1)(c)(xxii) of the Commercial Courts Act, 2015 has been issued. He is further requested to seek instructions on whether disputes arising out of land acquisition for the purpose of construction of highways have been notified as commercial disputes by the Central Government.”

15. Today when the matter is taken up for hearing, Mr. Ramakant Mishra, learned Deputy Solicitor General of India, has produced the e-mail in which the Central Government has sent him the following information :-

“1. No notification under Section 2(1)(c)(xxii) of the Commercial Courts Act, 2015 has been issued by the Ministry of Road Transport & Highways.

2. Further, disputes arising out of land acquisition for the purpose of construction of National Highways have not been notified as commercial disputes by the Ministry of Road Transport & Highways.”

16. In view of the aforesaid information provided by the Central Government through learned Deputy Solicitor General of India which has been brought on record, we have no hesitation in holding that the dispute raised by the appellants firstly before the Statutory Arbitrator and then before the District Judge under Section 34 of the Act of 1996 is not a ‘commercial dispute’ within the meaning of Section 2(1)(c) read with Section 2(i) of the Act of 2015 as a dispute arising out of land acquisition for the purpose of construction of National Highways under the provisions of the Act

of 1956 has not been notified by the Central Government as commercial dispute under Section 2(1)(c) of the Act of 2015 and therefore, learned District Judge erred in transferring the application filed by the appellants under Section 34 of the Act of 1996 to the Court of 2nd Additional District Judge, Commercial Court (District Judge Level).

17. The Supreme Court, in the matter of **Ambalal Sarabhai Enterprise Limited v. KS Infraspace LLP Limited and Anr.**¹, has clearly held that a matter will be under the jurisdiction of Commercial Court only if it is a commercial dispute within the meaning of Section 2(1)(c) of the Act of 2015 and such commercial disputes are of specified value as per Section 2(i) of the Act of 2015.
18. The High Court of Uttaranchal, in the matter of **Richa Bisht and Others v. Union of India and Others**², as well as the High Court of Allahabad, in the matter of **Tulsarani and Another. v. Union of India and Others**³, have taken a similar view which we have taken above and as such, we are in agreement with the view so taken by the High Courts of Uttaranchal and Allahabad, as the appellants' land has compulsorily been acquired under the provisions of the Act of 1956 for the purpose of construction of National Highway,

1 (2020) 15 SCC 585

2 2020 SCC Online Utt 1386

3 2022 SCC Online All 693

therefore, the dispute arising out of land acquisition for such purpose cannot be treated as 'commercial dispute' under Section 2(1)(c) of the Act of 2015.

19. It is made clear that though notification dated 20/12/2023 issued by the State Government through the Law and Legislative Affairs Department includes arbitration cases but by virtue of Section 10 of the Act of 2015, where the subject-matter of an arbitration is a commercial dispute of a specified value and nature as prescribed therein, only then the said arbitration case would come within the jurisdiction of Commercial Court. It is clarified accordingly.
20. In view of the aforesaid legal discussion and analysis, the final impugned order dated 21/10/2025 (Annexure A/1) passed by the 2nd Additional District Judge, Commercial Court (District Judge Level), Bilaspur rejecting the application filed by the appellants under Section 34 of the Act of 1996 as well as the order dated 07/02/2024 passed by the District Judge, Bilaspur refusing to entertain the application filed by the appellants under Section 34 of the Act of 1996 and transferring the matter to the Commercial Court (District Judge Level) in light of the notification dated 20/12/2023 issued by the State Government through the Law and Legislative Affairs Department, both are hereby set aside. Matter is

remitted to the Court of Principal District Judge, Bilaspur for hearing and disposal in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the matter.

21. Accordingly, this appeal is allowed to the extent indicated herein-above. No cost(s).

**Sd/-
(Sanjay K. Agrawal)
Judge**

**Sd/-
(Sachin Singh Rajput)
Judge**

Harneet