2026:HHC:14267
2026:HHC:14268

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Appeal No. : 3 & 7 of 2022

Decided on : 08.04.2026

Reserved on : 30.04.2026

Arb. Appeal No. 3 of 2022
Meenakshi ...Appellant

Versus

National Highways Authority of India ...Respondent

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Arb. Appeal No. 7 of 2022
Chaman Lal ...Appellant

Versus

National Highways Authority of India ...Respondent

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The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1] *Yes.*

Arb. Appeals No. 3 & 7 of 2022:

For the appellant (s) : Mr. Varun Rana, Advocate.

For the respondent(s): Ms. Shreya Chauhan, Advocate.

Virender Singh, Judge.

The above-titled Arbitration Appeals are being decided by this common judgment, as, both the appeals

[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

have arisen out of the judgment, dated 4th December, 2021, passed by the learned District Judge, Mandi.

2. By way of the judgment, dated 4th December, 2021, the learned District Judge has decided seven Arbitration Applications, which were filed, under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), while passing the following order:

> *"20. In view of the above, the present application(s) is allowed and an award dated 31.10.2017 passed by the learned Arbitrator is set-aside. However, this will not prevent any of the parties from applying for the extension of time, if otherwise legally admissible. Original order be placed in Arbitration Pet. No. 09 of 2018, [titled NHAI Vs. Renu Gulati] and authenticated copy thereof be placed in the other consolidated Arbitration petition(s). Memo of costs be prepared. The record of the learned Arbitrator along with a copy of this judgment be returned and the record of this Court, after due completion, be consigned to the record room."*

3. Brief facts, leading to the filing of the instant appeals, before this Court, may be summed up, as under:

4. The land and building of land holders in Muhal Thala, Tehsil Sundernagar, District Mandi, was acquired by Land Acquisition Officer (SLAU)-cum-Competent Authority, National Highways Authority of India, Bilaspur, for construction, building, maintaining and four laning of

National Highway-21 (Kiratpur to Nerchowk). After issuance of requisite notification, under Sections 3(A) and 3(D), other formalities, under Sections 3(1)(a), 3(c) and 3(d), were completed. The award was passed on 29th June, 2016, under Section 3(G) of the National Highways Act, 1956, by determining the value of the acquired land @ ₹ 60 lakh per bigha, irrespective of the classification and trees, however, the statutory benefits, like 12% additional amount, 30% solatium and interest @ 9% and 15%, as per the provisions of Land Acquisition Act, 1894, have not been granted.

5. Thereafter, reference was made by the present appellants, under Section 3(G)(5) of the National Highways Act to the Divisional Commissioner, Mandi (hereinafter referred to as 'the Arbitrator'), for enhancement of the compensation. Since, the post of Arbitrator remained vacant, as such, the matter was adjourned many times, due to this reason and on many occasions, on account of administrative exigencies.

6. According to the appellants, they prosecuted the proceedings sincerely and diligently, and, the learned

Arbitrator, after holding the inquiry, passed the common award, on 31st October, 2017 and enhanced the market value of the acquired land from ₹ 60 lakh per bigha to ₹ 81,39,120/- per bigha, alongwith all statutory benefits, like, solatium, interest, etc., under Land Acquisition Act, 1894, however, the full particulars of the same, have not been mentioned, in the award.

7. The National Highways Authority of India assailed the said award, by filing the objections, under Section 34 of the Act, before the learned District Judge. The learned District Judge, vide, judgment, dated 4th December, 2021, set aside the award, passed by the learned Arbitrator, on technical ground, that the proceedings continued after the expiry of one year, without the consent of the parties or without seeking an extension from the Court, as required under Section 29A of the Act.

8. The said findings of the learned District Judge have been assailed by way of the instant appeals, which have been filed, under Section 37 of the Act.

9. Highlighting the fact that the learned District Judge has mis-interpreted the provisions of Section 29A(3)

of the Act, by holding that the consent to extend the period of one year for further six months, can only be made with the written consent of the parties, according to the appellants, the provisions of Section 29A (3) of the Act, for extension of the period of arbitration proceedings have been provided with the main object to give fair deal to the parties, so that, the legitimate claim of the parties may not be defeated by laches, inaction or fault of the learned Arbitrator. It has been contended on behalf of the appellants that the delay, in the present case, in the completion of the proceedings, before the learned Arbitrator, has not been attributed to the appellants.

10. Similarly, the findings of the learned District Judge have also been assailed, on the ground, that the learned District Judge has committed grave error of law, by incorporating/reading the words 'consent in writing' in place of clear and unambiguous word 'consent', in Section 29A (3) of the Act. While passing the judgment, impugned herein, according to the learned counsel for the appellants, the learned District Judge has not considered the true object of Section 29A of the Act, as, it has nowhere been

provided in Section 29A of the Act that 'consent' should be in writing.

11. On the basis of the above facts, a prayer has been made to set aside the order passed by the learned District Judge and to restore the award passed by the learned Arbitrator.

12. As per the award passed by the learned Arbitrator, the Reference Petition, by appellant-Meenakshi was instituted on 7th May, 2016, whereas, appellant-Chaman Lal instituted the Reference Petition on 8th July, 2016, i.e., after 23rd October, 2015, when, the Arbitration and Conciliation Act was amended, by inserting Section 29A of the Act, by Act 3 of 2016, w.r.e.f. 23rd October, 2015.

13. Section 29A of the Act has been held to be procedural in nature and the same is also retrospective in nature, as held by Orissa High Court in **ARBP No. 28 of 2020,** titled as **M/s SARA International Pvt. Ltd. versus South Eastern Railways & Another**. Relevant para-18 of the judgment, is reproduced, as under:

> *"18. Further, the contentions of the both the parties reveal that the learned Arbitral Tribunal*

> *on 30.11.2019 recorded consent of the learned counsel for the respective parties that the proceedings of the Tribunal will be governed under the amended provisions of Section 29A in 2019 Amendment Act and therefore the period for making the award can be reckoned from 27.08.2019 i.e. the date when the pleadings were completed. However, the opposite parties are now disputing such consent stating that no oral or written consent was given on their behalf to agree to the said proposition. The said denial of the opposite parties cannot make any difference for three reasons. Firstly, the learned counsel who was duly authorized on their behalf to plead the proceedings before the Tribunal has actually consented to the same and even if it is accepted, this being a consent in law, could not bind the opposite parties that they were not governed by the Amendment Act of 2019, the issue has to be decided as per applicable law. Secondly, the Arbitral Tribunal proceeded beyond one year from the date of entering upon the reference i.e. after 02.02.2020, even it is assumed that undeniable fact is that the opposite parties participated in the proceedings on 02.02.2020, 03.03.2019 and 04.03.2020 without raising any objection with regard to termination of the mandate of the Tribunal. The opposite parties even filed their affidavits before the Arbitral Tribunal, on 18.03.2020 for being treated as examination in chief. Their conduct thus shows that they acquiesced in such consent. Thirdly, the amendment in Section 29 A vide the Amendment Act, 2019 being procedural in nature in any case has to be read as retrospective in nature."*
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> *(self emphasis supplied)*

14. The time limit for adjudication of the arbitral award has been laid down in Section 29A of the Act. The relevant provisions of Section 29A of the Act, are reproduced, as under:

*"**29A. Time limit for arbitral award. —** (1) The award in matters other than international commercial arbitration shall be made by the arbitral tribunal within a period of twelve months from the date of completion of pleadings under sub-section (4) of section 23.*

Provided that the award in the matter of international commercial arbitration may be made as expeditiously as possible and endeavor may be made to dispose of the matter within a period of twelve months from the date of completion of pleadings under sub-section (4) of section 23.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3), the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five per cent. for each month of such delay:

Provided further that where an application under sub-section (5) is pending, the mandate of the arbitrator shall continue till the disposal of the said application:

Provided also that the arbitrator shall be given an opportunity of being heard before the fees is reduced.

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party."

15. The bare perusal of the above provisions shows that the award has to be made within a period of twelve months, from the date, the arbitral Tribunal enters upon the reference and as per Section 29A (3) of the Act, the parties may, by consent, extend the period specified in

sub-section (1) for making award for a further period not exceeding six months.

16. The learned District Judge, in the judgment, impugned herein, has adopted a hyper-technical approach, while holding that the 'consent', as used by the Legislature, in its wisdom, in Section 29A (3) of the Act, *has to be express and after being aware of the statutory provision*.

17. While holding so, the learned District Judge has also relied upon the fact that the National Highways Authority of India has challenged the award, on the basis of delay in pronouncement and according to the learned District Judge, the same demonstrates that the National Highways Authority of India has not consented to the extension of time.

18. If, the facts and circumstances of the present case, are seen in the light of the decision of the Hon'ble Supreme Court in **Inder Sain Mittal versus Housing Board, Haryana and others,** reported in **AIR 2002 SC 1157,** then, the said findings of the learned District Judge do not sustain in the judicial scrutiny by this Court.

Relevant para 13, of the judgment, is reproduced, as under:

> *"13. In the case on hand, it cannot be said that continuance of the proceedings and rendering of awards therein by the Arbitrator after his transfer was in disregard of any provision of law much less mandatory one but, at the highest, in breach of agreement. Therefore, by their conduct by participating in the arbitration proceedings without any protest the parties would be deemed to have waived their right to challenge validity of the proceedings and the awards, consequently, the objections taken to this effect did not merit any consideration and the High Court was not justified in allowing the same and setting aside the award."*
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> *(self emphasis supplied)*

19. In the case in hand, there is nothing on record to the effect that any protest was lodged by the National Highways Authority of India, after expiry of the period of one year, from the date, when the learned Arbitrator entered upon the reference. This material aspect of the case, i.e. participation of the National Highways Authority of India in the proceedings before the learned Arbitrator, has not been considered by the learned District Judge, while passing the judgment, impugned herein.

20. Appellant-Meenakshi has instituted the reference on 7th May, 2016 and in case of appellant-Chaman Lal, reference was instituted on 8th July, 2016 and

the award was passed by the learned Arbitrator on 31st October, 2017. Meaning thereby, the learned Arbitrator has passed the award within the period, as provided under Section 29A (1) and (3).

21. Thus, the learned District Judge has erred in holding that the time has not been extended, with the consent of the parties, whereas, it is amply clear, in this case, that the National Highways Authority of India has participated in the proceedings, before the learned Arbitrator, without any protest. The conduct of the National Highways Authority of India demonstrates their consent to extend the time, as per Section 29A (3) of the Act. Moreover, the award, in the present case, has been passed, within the time frame, as prescribed under Section 29A(1) and (3) of the Act. Thus, the learned District Judge has fallen into an error by holding that the award cannot be passed within the time, as provided under Section 29A (1) and (3) of the Act.

22. Consequently, the award, dated 31st October, 2017, is held to be passed, by the learned Arbitrator, within the time frame, as per Section 29A (1) and (3) of the

Act and there is no legal requirement, under Section 29A (3) of the Act that the consent of the party has to be express or the same should be in writing.

23. Resultantly, the impugned judgment passed by the learned District Judge is not sustainable. Accordingly, both the appeals are allowed; judgment, dated 4th December, 2021, passed by the learned District Judge, in Arbitration Petitions No. 7 of 2018 and 4 of 2018, is set aside and the matter is remanded back to the learned District Judge with a request to decide the objections, filed under Section 34 of the Act, on merit, in accordance with law.

24. Pending miscellaneous applications, if any, are also disposed of accordingly.

25. Parties, through their counsel, are directed to appear before the learned District Judge on 25th May, 2026.

26. Send down the record.

(Virender Singh)
Judge

April 30, 2026
(rajni)