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AA-100-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 14<sup>th</sup> OF JULY, 2026

ARBITRATION APPEAL No. 100 of 2024

*SMT. SAVITRI GOLHANI AND OTHERS*

*Versus*

*UNION OF INDIA AND OTHERS*

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Appearance:

Shri Akhilesh Kumar Jain - Advocate for the appellants.

Shri Satyam Agrawal- Advocate for the respondent No.2.  
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ORDER

The present appeal has been filed by the appellant under Section 37 of the Arbitration and Conciliation Act, 1996 (Hereinafter referred to as 'the Act of 1996' for the sake of brevity) being aggrieved by the order dated 14.03.2024 passed in MJC (AV) No. 62/2022 by 24th District Judge, Jabalpur, whereby the application filed by the appellant under Section 34 of the Act of 1996 has been rejected by the court and affirmed the award of the Commissioner (Arbitrator) dated 07.09.2016 passed in Revenue Case No. 1218/A-82/2015-16.

2. It is the case of the appellant before this Court in appeal under Section 37 of the Act of 1996 that despite an application under Section 3G(5) of the National Highway Act, 1956 (Hereinafter referred to as 'the Act of 1956' for the sake of brevity) demanding just compensation applying the principles of Act of 1956 as well as the Right to Fair Compensation and



Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the authority as also the arbitrator have failed to determine the appropriate compensation.

3. It is submitted by the learned counsel for the appellant that the arbitrator has assessed the compensation which is not according to the market value of the land. It has been assessed on applying the rate of the agriculture land while for adjoining land, the arbitrator has assessed the market value by applying the government guidelines of Urban Nagar Panchayt Land. It is submitted that to corroborate and substantiate his claim the appellant has produced the award passed by the arbitrator in different claim applications for the acquisition of the land, which is adjoining to the land of the appellant, however, the arbitrator without considering the merits of those cases has decided the application by holding that the facts of those cases are distinguishable. It is submitted that the award passed by the arbitrator is not on merit and it is not decided considering the documents, which were submitted alongwith the application under Section 3G(5) of the Act of 1956. Therefore, the award was required to be interfered with under Section 34 of the Act of 1996 by the Civil/Commercial Court, but the same has not been done. Therefore, this Court having jurisdiction under Section 37 of the Act of 1996, where the same parameters as of Section 34 of the Act of 1996 can be exercised can interfere and set aside the award. It is further prayed that the matter deserves to be remanded to the arbitrator to reconsider the claim of the appellant in the light of Section 34 (4) of the Act of 1996 as the just claim has been demanded on the basis of the documents, which have



skipped consideration of the arbitrator.

4. It is submitted that it would not be permissible for the Court under Sections 34 and 37 of the Act of 1996 to modify the award but it should certainly be open to the court exercising power under Section 34 of Act, 1996 to set aside the award by indicating reasons and remitting the matter to the arbitrator to reconsider the same in accordance with law. Therefore, on the basis of the aforesaid principle, it is prayed that the matter be considered and remanded to the arbitrator to reconsider the material available on record and pass just and fair compensation.

5. It is further submitted that the claims or components of compensation of the land acquired under the Act of 1956 were alive on or after 28.03.2008 or pending before any of the fora shall be entitled to seek addition of interest, solatium and interest on the solatium to their compensation claim.

6 . *Per contra*, learned counsel for the respondent has vehemently opposed the prayer on the ground that the scope of Section 34 and thereafter Section 37 of the Act of 1996 is very narrow and therefore, on the available facts and circumstances of the case, no interference is warranted. It is further submitted that the application under Section 34 of the Act of 1996 can be considered only on the parameters, which are available under Section 34 (2) of the Act of 1996, which provides that the award can be interfered with when it is against the public policy, which has been explained in the *Explanation* that any award which is in conflict with the public policy of India i.e. in contravention with the fundamental policy of Indian law. As the



award has been passed on the application of the appellant under Section 3G(5) of the Act of 1956 in which no ground has been raised in regard to payment of solatium, therefore, there was no occasion for the arbitrator to decide the compensation granting solatium in addition to compensation or interest thereon. That being so, when such claim has not been even demanded before the Civil/Commercial Court under Section 34 of the Act of 1996, there was no occasion for the court below to consider the case of the appellant to grant solatium. It is further submitted that the arbitrator has passed the award on the merit of the case and once the merit has been discussed and considered then there is no scope of interference under Section 34 and thereafter under Section 37 of the Act of 1996.

7. Learned counsel for the respondent has relied upon the judgment delivered by the Division Bench of Bombay High Court in the case of **Rishabhkumar vs. Secretary to the Government of India** reported in 2021 SCC OnLine Bom 4561 and Single Bench in the case of **Sumanbai Shantaram Bachchav vs. Arbitrator and Additional Commissioner, National Highway Authority of India & ors.- Arbitration Appeal (ST) No. 222121 of 2023** decided on 09.06.2025.

8. It is submitted that the Division Bench of the Bombay High Court in **Rishabhkumar (supra)** dealing with the question of modification of the award in the proceedings under Sections 34 and 37 of the Act of 1996, has held that it is impermissible for the Court to modify the award under the proceedings Sections 34 and 37 of the Act of 1996.

9. It is further submitted that it would be impermissible for the court to



award any statutory amount to which the land owner would be entitled consequent upon striking down of Section 3-J of the Act of 1956, if such amount has not been granted under the award.

10. It is submitted that the Single Bench of the Bombay High Court in **Sumanbai Shantaram Bachchav (supra)** has opined that the Arbitral Tribunal cannot be said to have erred in not granting solatium when it was not even in the frame of reference of the Arbitral Tribunal and Section 3-J was validly in existence on the statute book. It is further opined that had the original award been passed after **Union of India and another vs. Tarsem Singh and others** reported in (2019) 9 SCC 304 and had it been rejected for grant of solatium, there would have been a case to argue that the Arbitral Award was in conflict with the fundamental policy of Indian law governing land acquisition for national highways and the payment of solatium on the compensation payable, in view of the law declared by the Supreme Court, but as the original award under Section 3(G)(1) of the Act of 1956 has been passed prior to pronouncement of the judgment in the case of **Tarsem Singh (Supra)** i.e. on 03.05.2013, therefore, it cannot be said to be against the fundamental policy of Indian law governing land acquisition. Therefore, no interference is warranted.

11. It is further submitted that the scope of remand in case of Section 37 of the Act of 1996 is very limited and it can be remanded only when Section 34 application has been decided without consideration of merit, without service of notice to respondents and when one or more contesting parties have expired and their legal representatives have not been brought on



record. As in the present case in hand no such eventualities have been canvassed by the appellant, interference is not warranted to remand the matter. Learned counsel for the respondent has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Bombay Slum Redevelopment Corporation Private Limited vs. Samir Narain Bhojwani** reported in (2024) 7 SCC 218. and on the above such facts, it is submitted that the appeal deserves to be dismissed.

12. Heard learned counsel for the parties and perused the record.

13. The Hon'ble Apex Court in the case of **Union of India and another vs. Tarsem Singh and others** reported in (2019) 9 SCC 304 has held as under:-

"46. It is worthy of note that even in acquisitions that take place under the National Highways Act and the 1952 Act, the notification of 2015 under the new Acquisition Act of 2013 makes solatium and interest payable in cases covered by both Acts. In fact, with effect from 1-1-2015, Amendment Ordinance 9 of 2014 was promulgated amending the 2013 Act. Section 10 of the said Amendment Ordinance states as follows:

"10. In the principal Act, in Section 105—

(i) for sub-section (3), the following sub-section shall be substituted, namely—

'(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1-1-2015;'

(ii) sub-section (4) shall be omitted."

47. It is only when this Ordinance lapsed that the Notification dated 28-8-2015 was then made under Section 113 of the 2013 Act. This notification is important and states as follows:

"ministry of rural development  
order

New Delhi, 28-8-2015

S.O. 2368(E).—Whereas, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) (hereinafter referred to



as “the Rfctlarr Act”) came into effect from 1-1-2014;

And whereas, sub-section (3) of Section 105 of the Rfctlarr Act provided for issuing of notification to make the provisions of the Act relating to the determination of the compensation, rehabilitation and resettlement applicable to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR ACT Act;

And whereas, the notification envisaged under sub-section (3) of Section 105 of the RFCTLARR Act was not issued, and the RFCTLARR (Amendment) Ordinance, 2014 (9 of 2014) was promulgated on 31-12-2014, thereby, inter alia, amending Section 105 of the Rfctlarr Act to extend the provisions of the Act relating to the determination of the compensation and rehabilitation and resettlement to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act;

And whereas, the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was promulgated on 3-4-2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2014;

And whereas, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) was promulgated on 30-5-2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015);

And whereas, the replacement Bill relating to the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was referred to the Joint Committee of the Houses for examination and report and the same is pending with the Joint Committee;

And whereas, as per the provisions of Article 123 of the Constitution, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) shall lapse on the 31st day of August, 2015 and thereby placing the landowners at the disadvantageous position, resulting in denial of benefits of enhanced compensation and rehabilitation and resettlement to the cases of land acquisition under the 13 Acts specified in the Fourth Schedule to the RFCTLARR Act as extended to the landowners under the said Ordinance;

*And whereas, the Central Government considers it necessary to extend the benefits available to the landowners under the RFCTLARR Act to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule; and accordingly the Central Government keeping in view the aforesaid difficulties has decided to extend the beneficial advantage to the landowners and uniformly apply the beneficial provisions of the RFCTLARR Act, relating to the determination of compensation and rehabilitation and resettlement as were made applicable to cases of land acquisition under the said enactments in the interest of the landowners;*

Now, therefore, in exercise of the powers conferred by sub-



section (1) of Section 113 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:

1. (1) This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.

(2) It shall come into force with effect from the 1st day of September, 2015.

2. The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act.

[F. No. 13011/01/2014-LRD]

K.P. Krishnan, Addl. Secy.”

48. It is thus clear that the Ordinance as well as the notification have applied the principle contained in *Nagpur Improvement Trust* [*Nagpur Improvement Trust v. Vithal Rao*, (1973) 1 SCC 500], as the Central Government has considered it necessary to extend the benefits available to landowners generally under the 2013 Act to *similarly placed* landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, the National Highways Act being one of the aforesaid enactments. This being the case, it is clear that the Government has itself accepted that the principle of *Nagpur Improvement Trust* [*Nagpur Improvement Trust v. Vithal Rao*, (1973) 1 SCC 500] would apply to acquisitions which take place under the National Highways Act, and that solatium and interest would be payable under the 2013 Act to persons whose lands are acquired for the purpose of National Highways as they are similarly placed to those landowners whose lands have been acquired for other public purposes under the 2013 Act. This being the case, it is clear that even the Government is of the view that it is not possible to discriminate between landowners covered by the 2013 Act and landowners covered by the National Highways Act, when it comes to compensation to be paid for lands acquired under either of the enactments. The judgments delivered under the 1952 Act as well as the Defence of India Act, 1971, may, therefore, require a re-look in the light of this development. [The Defence of India Act, 1971, was a temporary statute which remained in force only during the period of operation of a proclamation of emergency and for a period of six months thereafter — vide Section 1(3) of the Act. As this Act has since expired, it is not included in the Fourth Schedule of the 2013 Act.] In any case, as has been pointed out



hereinabove, *Chajju Ram* [*Union of India v. Chajju Ram*, (2003) 5 SCC 568], has been referred to a larger Bench. In this view of the matter, we are of the view that the view of the Punjab and Haryana High Court [*Union of India v. Tarsem Singh*, 2018 SCC OnLine P&H 6036] · [*Jang Bahadur v. Union of India*, 2018 SCC OnLine P&H 6034] · [*Union of India v. Abhinav Cotspin Ltd.*, 2016 SCC OnLine P&H 19319] is correct, whereas the view of the Rajasthan High Court [*Banshilal Samariya v. Union of India*, 2005 SCC OnLine Raj 572 : 2005-06 Supp RLW 559] is not correct."

14. Thereafter, the Hon'ble Apex Court has again reviewed the said judgment in Review Petition (Civil) No. 2528/2025-National Highways Authority of India vs. Tarsem Singh and others and vide judgment dated 25.03.2026 has drawn conclusion, which reads as under:-

**"D. CONCLUSION AND DIRECTIONS**

14. Considering the facts and circumstances explained in the instant proceedings along with the various submissions placed on record and with a view to balancing the equities regarding delay and the entitlements of the landowners, we issue the following directions:

- (i) All landowners whose claims re: the quantum and/or components of compensation for their lands acquired under the NH Act were alive on or after 28.03.2008, i.e., they were pending before one of the prescribed fora, shall be entitled to seek addition of 'interest', 'solatium', and 'interest on the solatium' to their compensation claim;
- (ii) In the cases where compensation claims are alive on the aforesaid date, but the landowner has claimed 'interest', 'solatium', and 'interest on solatium' after 28.03.2008, no interest on both components shall be payable for the period of delay. Such landowner shall be entitled to 'interest' and 'interest on solatium' only from the date on which such claims were raised; and
- (iii) If the claims of the landowners stood concluded prior to 28.03.2008, with no further appeal, Writ Petition, Special Leave Petition, etc., then such landowners are not entitled to seek reopening, review, or modification of the said decision for the purpose of claiming 'solatium' or 'interest'."

15. From a reading the law laid down by the Hon'ble Apex Court in the original case of **Tarsem Singh (supra)** and thereafter in the review petition, the principle which has been demystified is that the land owners are entitled for solatium as Section 3-J of the Act of 1956 has been struck down



and declared *ultra vires*. The date of application of the notification as held by the Hon'ble Apex Court in paras 46 to 48 in the original case of **Tarsem Singh (Supra)** is to be determined by the arbitrator. The award as per the dictum can be awarded from the date when it was claimed by the appellant for the first time. However, it is also held in the review petition that all landowners whose claims re: the quantum and/or components of compensation for their lands acquired under the NH Act were alive on or after 28.03.2008, i.e., they were pending before one of the prescribed fora, shall be entitled to seek addition of 'interest', 'solatium', and 'interest on the solatium' to their compensation claim.

16. In the present case in hand it is not disputed that the original award was passed on 04.05.2013. At the relevant point of time, Section 3-J of the Act 1956 was very much in existence, however, same has been struck down vide judgment dated 19.09.2019. It is not disputed that when the said provision was struck down, the matter was pending adjudication, therefore, the direction issued by the Hon'ble Apex Court in the review petition is directly applicable in the case in hand as the claim of the appellant was alive and pending before the prescribed fora. The appellant was entitled for interest, solatium and interest on the solatium. That being so, now the facts of the case are required to be considered to see that whether in accordance with the principle of law laid down by the Hon'ble Apex Court in the cases discussed hereinabove the appellant is entitled for compensation in the available facts and circumstances of the case.

17. Learned counsel for the appellant has submitted that the



application under Section 3-G(5) of the Act of 1956 was filed before the arbitrator and the documents containing true market value/consideration price in respect of his land and land adjoining to the land of the petitioner was also filed, however, the arbitrator in its award in one paragraph has rejected the application on the ground that the facts of those cases are distinguishable, however, no merit has been discussed that whether such land is adjoining to the land of the appellant or not. The market value of adjoining land treating it to be urban land has been applied in the case of the adjoining land, however, in the case of appellant treating it to be agriculture land, the award has been passed without considering the merit of the case and only in a cursory manner. When the application to assail the said award has been filed under Section 34 of the Act of 1996, the Civil/Commercial Court has also rejected the said application holding that it is not falling within the parameters of Section 34 (2) of the Act of 1996 and the facts of cases in which awards have been passed in the context of adjoining land of appellant are distinguishable. Therefore, this Court finds apposite to deal with the provision of Section 34 of the Act and to see whether the case of the appellant falls within the parameters of Section 34 (2) of the Act of 1996 for setting aside the award and whether the case of the appellant can be remanded in the light of the judgment passed by the Apex Court passed in the case of **National Highways Authority of India vs. Sri. P. Nagaraju @ Cheluvaiah & Anr** reported in 2022 (15) SCC 1.

18. On bare perusal of the impugned award, it is found that the Civil/Commercial Court has also held that as the award passed in the cases of



land owners whose land was adjoining to the land of the appellant having distinguishable facts are not applicable in the case of appellant. The Court has not opined anything in regard to applicability of solatium and grant of just and fair compensation. The Hon'ble Apex Court in *Sri P. Nagaraju (supra)* has held as under:-

"41. Having taken note of the rival contentions and while examining the scope available under Section 34 of the 1996 Act in the backdrop of the precedents, what is also to be kept in perspective is the decision referred to in *NHAI v. Sayedabad Tea Co. Ltd.* [*NHAI v. Sayedabad Tea Co. Ltd.*, (2020) 15 SCC 161] In the said case, this Court while examining the question as to whether the landloser can seek the appointment of an arbitrator in terms of Section 11 of the 1996 Act, it was noted that such power would not be available in view of the provisions contained in Section 3-G(5) of the NH Act since the arbitrator is to be appointed by the Central Government to discharge its functions as per the provisions of the Arbitration and Conciliation Act.

42. Having taken note of the said decision, though it is seen that it was held so while considering the maintainability of petition under Section 11 of the 1996 Act to exclude the right of the landloser to seek the appointment of an arbitrator keeping in view the statutory provision in the NH Act, the larger perspective of such limited right to the landloser in the process of arbitration is also to be kept in view. Unlike the arbitration in a contractual matter where the parties from the very inception at the stage of entering into a contract would mutually agree to refer any future dispute to an arbitrator, at that very stage are aware that in the event of any dispute arising between the parties the contours of the right, remedy, and scope from the commencement of the arbitration up to the conclusion through the judicial process. The terms of arbitration and the rights and obligations will also be a part of the agreement and a reference to the same in the award will constitute sufficient reasons for sustaining the award in terms of Section 31(3) of the 1996 Act. Whereas, in the arbitration proceedings relating to the NH Act, the parties are not governed by an agreement to regulate the process of arbitration. However, in the process of determination of just and fair compensation, the provisions in Sections 26 to 28 of the RFCTLARR Act, 2013 will be the guiding factor. The requirement therein being adverted to, should be demonstrated in the award to satisfy that Sections 28(2) and 31(3) of the 1996 Act are complied with.

43. Therefore, what is also to be kept in perspective while noticing the validity or otherwise of an award regarding which the non-furnishing of reasons is contended as patent illegality is the reason assigned for determining just compensation in terms thereof. The situation which may arise in cases when a lesser compensation is



determined in the arbitration proceedings and the landloser is complaining of the award is also to be kept in perspective since the requirement of reasons to be given by the learned arbitrator in cases for determination of market value and compensation should indicate reasons since the same will have to be arrived at on a comparative analysis for which the reasons should be recorded and Sections 26 to 28 of the Rfctlarr Act will be relevant. Neither the landloser nor the exchequer should suffer in the matter of just and fair compensation. Hence the reasons under Section 31(3) are to be expected in that manner, the absence of which will call for interference under Section 34 of the 1996 Act.

44. Leaving aside the facts in the instant case for a while, if in a matter as against the determination of the market value by SLAO, the landloser had referred to the exemplar sale deeds and seeks higher compensation than prescribed in the guidance value, and in that circumstance, if no reasons are assigned by the learned arbitrator for such determination and either approves SLAO award or awards a lesser amount than the actual entitlement, in such circumstance the arbitration process which is thrust on the landloser should not be an impediment and limited interference should not be a reason to deny the just and fair compensation. In such cases while examining the award in the limited scope under Section 34 of the 1996 Act, the Court is required to take note as to whether the evidence available on record has been adverted to and has been taken note of by the arbitrator in determining the just compensation failing which it will fall foul of Section 31(3) and amount to patent illegality.

45. Therefore, while examining the award within the parameters permissible under Section 34 of the 1996 Act and while examining the determination of compensation as provided under Sections 26 and 28 of the Rfctlarr Act, 2013, the concept of just compensation for the acquired land should be kept in view while taking note of the award considering the sufficiency of the reasons given in the award for the ultimate conclusion. In such event an error if found, though it would not be possible for the Court entertaining the petition under Section 34 or for the appellate court under Section 37 of the 1996 Act to modify the award and alter the compensation as it was open to the Court in the reference proceedings under Section 18 of the old Land Acquisition Act or an appeal under Section 54 of that Act, it should certainly be open to the Court exercising power under Section 34 of the 1996 Act to set aside the award by indicating reasons and remitting the matter to the arbitrator to reconsider the same in accordance with law. The said exercise can be undertaken to the limited extent without entering into merits where it is seen that the arbitrator has on the face of the award not appropriately considered the material on record or has not recorded reasons for placing reliance on materials available on record in the background of requirement under the RFCTLARR Act, 2013."

19. What emerges from the principle laid down by the Hon'ble Apex



Court in the case of **Sri. P. Nagaraju (supra)** is that it would not be possible for the Court entertaining the petition under Section 34 or for the appellate court under Section 37 of the 1996 Act to modify the award and alter the compensation as it was open to the Court in the reference proceedings under Section 18 of the old Land Acquisition Act or an appeal under Section 54 of that Act, it should certainly be open to the Court exercising power under Section 34 of the 1996 Act to set aside the award by indicating reasons and remitting the matter to the arbitrator to reconsider the same in accordance with law. The said exercise can be undertaken to the limited extent without entering into merits where it is seen that the arbitrator has on the face of the award not appropriately considered the material on record or has not recorded reasons for placing reliance on materials available on record in the background of requirement under the RFCTLARR Act, 2013.

20. Undisputably, the arbitrator in its award under Section 3-G(5) of the Act of 1956 has not discussed merit of the case on the basis of the documents produced by the appellant. From bare perusal of the impugned order passed under Section 34 of the Act of 1996, it is found that the court has though dealt with limited jurisdiction of the court to not to interfere in the matters of compensation has found that the documents which have been filed are having distinguishable facts, however, those facts are also not mentioned touching the merit of the case. It is not disputed that the appellant is entitled for solatium as per the law laid down by the Hon'ble Apex Court on or after 28.03.2008, if the claim of the land owner is pending before any of the forum. Undisputably, the claim of the appellant was very much



pending before the forum i.e. under Section 34 of the Act of 1996 or before the arbitrator when such judgment in the case of **Tarsem Singh (supra)** (**Review Petition No. 2528/2025**) was pronounced. Therefore, the case of the appellant ought to have been considered for grant of solatium, but as it has not been done by the arbitrator as well as not considered by the Civil/Commercial Court under Section 34 of the Act of 1996 by remanding the matter to the arbitrator to reconsider the case in the light of the judgment passed by the Hon'ble Apex Court in the case of **Sri. P. Nagaraju (supra)**, this Court finds it appropriate to set aside the award and remand the matter to the arbitrator to reconsider the case in the light of the judgment passed in the case of **Sri. P. Nagaraju (supra)** as well as the judgment passed in the case of **Tarsem Singh (supra)** (**Review Petition No. 2528/2025**) pronounced on 25.03.2026.

21. The reliance, which has been placed by the learned counsel for the respondent upon the judgment and order passed by the Division Bench and Single Bench of the Bombay High Court, this Court in respectful agreement with those findings and the conclusion arrived at by the Bombay High Court found that the Bombay High Court has dealt with the jurisdiction of the Civil/Commercial Court under Section 34 of the Act of 1996 and thereafter of the High Court under Section 37 of the Act of 1996 and found that the award passed by the arbitrator cannot be modified in the proceedings under Sections 34 and 37 of the Act of 1996, but, as the Hon'ble Apex Court in the case of **Sri. P. Nagaraju (supra)** has held that as the arbitration under the Act of 1956 is statutory arbitration by an arbitrator appointed by the Central



Government in contrast with the adjudication of the dispute by an arbitrator appointed under Section 11 of the Act of 1996, if the merit of the case and the law laid down by the Hon'ble Apex Court has not been considered declaring section 3(J) of the act of 1956 *ultra vires* and solatium is applicable in the cases of the land owners whose claims are pending after 28.03.2008 then non-consideration of such issue goes to the root of the case which is against or in contravention with the fundamental policy of Indian law. Once Section 3-J of the Act of 1956 has been struck down and declared *ultra vires* and the applicability of the Act of 2013 has been appended and amended in the Schedule of the Act of 2013 then solatium is very much applicable to be granted to the appellant whose claims were pending when the judgment in the case of **Tarsem Singh (Review Petition)** has been pronounced by the Hon'ble Apex Court.

22. Section 34 (4) of the Act of 1996 provides power to the Tribunal to re-examine the award on an application submitted by the aggrieved person if on merits, the case has been left to be considered, therefore, in the considered opinion of this Court, the matter can be remanded to the arbitrator to reconsider the case of the appellant for award of solatium and interest thereon.

23. The Hon'ble Apex Court in the case of **Bombay Slum Redevelopment Corporation (supra)** has held that the matter can be remanded under Section 37 of the Act of 1996 when the application under Section 34 of the Act of 1996 is decided without consideration of the merit.

24. From perusal of the record, it is found that the Civil/Commercial



Court has not dealt with the applicability of the judgment pronounced by the Apex Court in the case of **Tarsem Singh (supra) (Review Petition)** as well as the awards which have been passed in the cases of land owners having adjoining land, this Court finds it appropriate to remand the matter to the arbitrator to consider the case on the question of just and fair compensation including the solatium on the basis of available record.

25. Accordingly, the order dated 07.09.2016 passed by the Commissioner (Arbitrator) in Revenue Case No. 1218/A-82/2015-16 and the order dated 14.03.2024 passed by 24th District Judge, Jabalpur in MJC (AV) No. 62/2022 are hereby set aside. The matter is remanded back to the Arbitrator to decide it afresh considering the available record and the applicability of the solatium and interest thereon. No further adjudication is warranted. The arbitrator shall pass award considering the available documents and record without getting influenced by this order within three months from the date of production of certified copy of this order.

26. Accordingly, Arbitration appeal is disposed of.

(DEEPAK KHOT)  
JUDGE

L.R.