

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

212

FAO No.7967 of 2016 (O&M)

Date of Decision: 31st May, 2023

Vikramjit Singh

...Appellant

Versus

National Highway Authority of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Naresh Kaushal, Advocate for the appellant.
Mr. Ish Puneet Singh, Advocate for respondent No.1.
Mr. Charanpreet Singh, AAG, Punjab.

AVNEESH JHINGAN, J. (Oral)

1. The land loser is in appeal before this Court under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the 1996 Act'). The appeal is accompanied by an application for condonation of delay of 906 days.
2. The brief facts are that land of village Kalyanpur, District Roopnagar was acquired under The National Highways Act, 1956 (for brief 'the 1956 Act') for widening of NH-21. On 04.12.2009 notification under Section 3-D of the 1956 Act was issued. The competent authority on 22.03.2010 determined the compensation. The arbitration proceedings initiated at the instance of the land owner culminated in award dated 12.11.2011. The arbitrator enhanced the compensation to Rs.50,000 per marla, solatium at the rate of 30%, compensation for severance of land of Rs.3 lacs were awarded along with interest at the rate of 9% and further an interest @ 18% in case payment is not made within fifteen days. The objections filed by the National Highways Authority of India (NHAI) under Section 34 of the 1996 Act were dismissed on 30.11.2013. The appeal filed by the NHAI was dismissed by this Court on 15.01.2016.
3. The prayer made in the present appeal is for modifying the award

dated 12.11.2011 passed by the Arbitrator and order dated 30.11.2013 passed by the Additional District Judge Roopnagar (the order dismissing the objections of NHAI has been wrongly written as award in the prayer).

4. The counsel for the respondent raises a preliminary issue that appeal under Section 37 of the 1996 Act is not maintainable as no objections under Section 34 of the 1996 Act were filed by the land owner. Further it is contended that the objections of the NHAI were dismissed and the decision has attained finality with the dismissal of the FAO filed by the NHAI.

5. Learned counsel for the appellant submits that the appeal is of the land loser and it should be entertained.

6. Section 37 of 1996 Act is reproduced below:-

“37. Appealable orders.-(1)[Notwithstanding anything contained in any other law for the time being in force, an appeal] shall lie from the following orders (and from no others) to the Court authorised 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) An 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.”

7. Section 37 of the 1996 Act deals with appealable orders. Section 37(1) has three sub clauses. As per sub clause (a), the appeal shall lie against an order refusing to refer the matter to arbitration under Section 8 of the 1996 Act. Under clause (b) relief granted or refused under Section 9 of the 1996 Act is appealable. The appeal lies under Sub-clause (c) against a decision under Section 34 of the 1996 Act setting aside or refusing to set aside the arbitral award.

7. It is an undisputed fact that the appellant-applicant has not filed objections under Section 34 of the 1996 Act. The decision of dismissal of objections filed by the NHAI has attained finality with the dismissal of appeal of NHAI by this Court. More-over, the appellant is not aggrieved of dismissal of objections of NHAI

8. The appeal before this Court is a statutory remedy. The remedy of appeal is a creature of statute, it is neither an inherent nor a natural right attached to litigation. The counsel for appellant has not made out a case as to which order under Section 34 of 1996 Act is being challenged. The appeal under Section 37 is not maintainable in the facts and circumstance of the present case.

9 Dismissed.

10 As the main petition is dismissed on merits being not maintainable, the application for condonation of delay is also disposed of accordingly.

31st May, 2023
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes