



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CIVIL APPLICATION NO. 4100 OF 2024 IN ARBA/37/2021
WITH
CIVIL APPLICATION NO. 4105 OF 2024 IN ARBA/38/2021
WITH
CIVIL APPLICATION NO. 12613 OF 2021 IN ARBA/38/2021
WITH
CIVIL APPLICATION NO. 12604 OF 2021 IN ARBA/37/2021
WITH
ARBITRATION APPEAL NO. 39 OF 2021
WITH
CIVIL APPLICATION NO. 12624 OF 2021 IN ARBA/39/2021

SHAILESH SHRIKANT MANIYAR THROUGH GPA YOGESH KRISHNAGOPAL
MALPANI
VERSUS
NATIONAL HIGHWAY AUTHORITY OF INDIA THROUGH ITS PROJECT
DIRECTOR

...
Advocate for Applicant : Mr. Ajit B. Kale
Advocate for for applicant in ARBA/37/21 : Mr. Rupesh Jaiswal
...

CORAM : ARUN R. PEDNEKER, J.
Dated : August 08, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. Civil Application Nos.4100/2024 and 4105/2024 are filed for withdrawal of amount.
3. By the present arbitration appeal under section 37 of the Arbitration and Conciliation Act, the National Highways Authority of India seeks challenge to the judgment and order passed by the learned Principal District Judge, Jalgaon on an application under section 34 of the Act filed for setting aside the award passed by the Arbitrator, whereby it is directed as under :-

ORDER

1. Application is partly allowed.
2. The clause No. 8 of impugned award is hereby set-aside

and learned Arbitrator shall resume the arbitral proceeding and decide the said left issue finally, in accordance with the law, within reasonable time by giving fair opportunity of hearing to both parties.

3. The rest of the contents of impugned award are kept intact.
4. In peculiar facts of the case, parties to bear their own costs.
5. Civil M.A. No. 160/2019 stands disposed of accordingly."

4. The learned counsel for the appellant submits that the Court under section 34 of the Act cannot remit the matter back to the Arbitrator for decision on partially modifying amount. Clause 8 of the award of Arbitrator indicates that both the parties shall abide by and execute the ratio of the decision of the Hon'ble Supreme Court in SLA (Civil) 15104/2014, as and when it is finally decided in respect of claim of statutory benefits under the Land Acquisition Act, 1894. There is no dispute that this SLP is decided in favour of claimants. The District Court under section 34 has remitted the matter back to the Arbitrator to conclude the claim of statutory benefits as mentioned in clause (8) in view the decision of the Hon'ble Supreme Court in SLA (Civi) 15104/2014.

5. In the present appeals, the appellant has deposited 75% amount under award along with accrued interest. The amount so deposited is without computation of what would be available under clause (8). In view of the same, I deem it appropriate to permit the applicants to withdraw 75% of the amount along with accrued interest thereon subject to undertaking to the satisfaction of the **Registrar Judicial of this Court**. Both the applications filed for withdrawal of amount stand disposed of accordingly.

(ARUN R. PEDNEKER, J.)