



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

947 ARBITRATION APPEAL NO. 20 OF 2024

National Highways Authority Of India Thru. Its Project Director Shivaji V.
Pawar

VERSUS

Kalpana Sudhir Bhalerao And Another

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WITH

**CIVIL APPLICATION NO. 12080 OF 2024
IN ARBA/20/2024**

National Highways Authority Of India Through Its Project Director Shivaji
V. Pawar

VERSUS

Kalpana Sudhir Bhalerao And Another

948 ARBITRATION APPEAL NO. 21 OF 2024

National Highways Authority Of India Thru. Its Project Director Shivaji V.
Pawar

VERSUS

Punjaram Ganpat Mali And Another

WITH

**CIVIL APPLICATION NO. 12081 OF 2024
IN ARBA/21/2024**

National Highways Authority Of India Through Its Project Director Shivaji
V. Pawar

VERSUS

Punjaram Ganpat Mali And Another

949 ARBITRATION APPEAL NO. 22 OF 2024

National Highways Authority Of India Thru. Its Project Director Shivaji V.
Pawar

VERSUS

Kadu Fatru Koli And Others

WITH
CIVIL APPLICATION NO. 12082 OF 2024
IN ARBA/22/2024

National Highways Authority Of India Thru. Its Project Director Shivaji V.
Pawar
VERSUS

Kadu Fatru Koli And Another

957 ARBITRATION APPEAL NO. 30 OF 2024

National Highways Authority Of India Thru. Its Project Director Shivaji V.
Pawar
VERSUS

Sukhdeo Onkar Bhawar And Another

WITH
CIVIL APPLICATION NO. 12098 OF 2024
IN ARBA/30/2024

National Highways Authority Of India Through Its Project Director Shivaji
V. Pawar
VERSUS

Sukhdeo Onkar Bhawar And Another

Mr. D. P. Madkar h/f Mr. D. S. Manorkar, Advocate for the appellant
Mr. Amol Patale, Advocate for respondent no.2.

CORAM : R. M. JOSHI, J.

DATE : 12th NOVEMBER, 2024

PER COURT :-

1. Learned counsel for the petitioner has drawn attention of the Court to the impugned award wherein according to him the learned Arbitrator has taken into consideration same instances post notification dated 11/11/2011. According to him in view of sub section 7A of Section 3-G in market value of the land on the date of publication of notification

shall be taken into consideration for the purpose of determining the amount of compensation. He submits that in view of the Rules 2019 of the National Highways (Manner of Depositing the amount by the Central Government, making requisite funds available to the Competent Authority for Acquisition of Land), Rules 2019, while challenging the enhance amount awarded by the Arbitrator, the deposit of the amount is not mandatory. He placed reliance on following judgments :

(i) Ram Awadh Vs. Competent Authority/ Spl. Land Acquisition Officer, BBK & anr in Case No. Land Acquisition No. 9689 of 2019, decided on 16.04.2019,

(ii) Associate Builders Vs. Delhi Development Authority in case No. Civil Appeal No. 10531 of 2014, decided on 25.11.2014,

(iii) NMTC Limited Vs. Vedanta Limited reported in (2019) 4 SCC 163,

(iv) National Highways Authority of India Vs. Hindustan Construction Company Limited reported in (2024) 6 SCC 809.

2. *Prima facie* perusal of the Rules 2019 indicates that where the amount determined by the Arbitrator under sub Section 7 of Section 3-G of the Act is in excess of the amount determined by the Competent Authority, the excess amount together with interest if any awarded by the Arbitrator shall be paid within 30 days unless such award has been further challenged by either of the aggrieved parties. The rule apparently prescribed that if there is no challenge to the award further, the claimant is entitled to receive the excess amount as determined by the Arbitrator

along with interest within 30 days of the communication of Arbitrator's award. This cannot be construed that the rule mandates about the petitioner not requiring any deposit if the award is challenged. The settled position of law that in case of any money decree, for the purpose of stay of execution thereof, either deposit or security for the recovery of such amount is mandatory. This Court, therefore, finds no reason to take any exception to the said settled position of law.

3. Having regard to the afore stated facts the petitioner has made out a case for stay of the impugned award subject to deposit of 50% of the amount determined by the Arbitrator within eight (08) weeks from today.

4. It is clarified that the above order is conditional order. In case the petitioner fails to deposit the amount within a period of 8 weeks, the order of stay shall stand vacated without further reference to the Court.

5. Issue notice to the respondents, returnable on 9th December, 2024. Mr. Amol Patale, learned counsel waives service of notice on behalf of respondent no.2.

(R. M. JOSHI, J.)

ssp