



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

932 ARBITRATION APPEAL NO. 16 OF 2024

**NATIONAL HIGHWAYS AUTHORITY OF INDIA THRU. ITS PROJECT
DIRECTOR SHIVAJI V. PAWAR**

VERSUS

BHASKAR ONKAR MALI AND ANOTHER

...

Advocate for Appellant : Mr. Manorkar Deepak Suresh

Advocate for Respondent / Competent Authority: Mr. Ravi R. Bangar

...

WITH

**CIVIL APPLICATION NO. 11647 OF 2024
IN ARBA/16/2024**

...

AND

...

933 ARBITRATION APPEAL NO. 17 OF 2024

**NATIONAL HIGHWAYS AUTHORITY OF INDIA THRU. ITS PROJECT
DIRECTOR SHIVAJI V. PAWAR**

VERSUS

GEETABI BABURAO MALI

...

Advocate for Appellant : Mr. Manorkar Deepak Suresh

Advocate for Respondent / Competent Authority: Mr. Ravi R. Bangar

...

WITH

**CIVIL APPLICATION NO. 11648 OF 2024
IN ARBA/17/2024**

...

AND

...

934 ARBITRATION APPEAL NO. 18 OF 2024

NATIONAL HIGHWAYS AUTHORITY OF INDIA THRU. PROJECT
DIRECTOR SHIVAJI V. PAWAR

VERSUS

HINDU UNDIVIDED FAMILY, SAMADHAN DEVRAM KOLI AND ANR.

...

Advocate for Appellant : Mr. Manorkar Deepak Suresh
Advocate for Respondent / Competent Authority: Mr. Ravi R. Bangar

...

WITH
CIVIL APPLICATION NO. 11650 OF 2024
IN ARBA/18/2024

...

AND

...

935 ARBITRATION APPEAL NO. 19 OF 2024
NATIONAL HIGHWAYS AUTHORITY OF INDIA THRU. ITS PROJECT
DIRECTOR SHIVAJI V. PAWAR

VERSUS

SAMARTH LIZARS AND RESTRAURANT PVT. LTD. AND OTHERS

...

Advocate for Appellant : Mr. Manorkar Deepak Suresh
Advocate for Respondent / Competent Authority: Mr. Ravi R. Bangar

...

WITH
CIVIL APPLICATION NO. 11652 OF 2024
IN ARBA/19/2024

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 22nd OCTOBER, 2024

PER COURT:

1. The learned counsel for the appellant has taken me through Section 3-H sub-clause (6) of the National Highways Act, 1956 to

contend that where the amount determined by the Arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by the Government, with the competent authority and the provisions of sub-section (2) to (4) shall apply to such deposit. The learned counsel further has also taken me through 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 wherein Rule 3 sub-clause (i) (b) provides 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 shall be made available to the Competent Authority for disbursal to the persons interested, within 30 days of the communication of Arbitrator's award, unless such Award has been further challenged by either of the aggrieved parties. The learned counsel for the appellants further submits that since the award is challenged under Section 34 of the Arbitration and Conciliation Act, 1996, the appellant is not required to deposit the excess amount with the competent authority as determined by the Arbitrator.

2. The learned counsel for the appellants relies upon the judgment in the case of **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**, at para no.16, to contend that the appellant is not required to deposit the amount. The learned counsel further relies upon the judgment in the case of **Associate Builders Vs. Delhi Development Authority in Case No.Civil Appeal No.10531 of 2014, decided on 25.11.2014**, at para no.13, wherein he contends that award can be challenged under Section 34 where the award passed is without reasons as to why enhancement is granted. The learned counsel further relies upon the judgment in the case of **NMTC Limited Vs. Vedanta Limited reported in [2019] 4 SCC 163**, so also, in the case of **National Highways Authority of India Vs. Hindustan Construction Company Limited reported in [2024] 6 SCC 809** and submits that the view taken in both matters also in conformity with the case of **Associate Builders Vs. Delhi Development Authority [supra]**.

3. Considering the law laid down in the case of **Ram Awadh Vs. Competent Authority / Spl. Land Acquisition Officer, BBK & anr [supra]**, wherein it is observed that in terms of Section 36 – enforcement (1) where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-

section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the court”.

4. Mr. D. S. Manorkar, learned counsel for the petitioners submits that the Arbitrator has taken into consideration the Sale Deeds, which are post notification and the same is barred under Section 3G; Sub-Section 7(a) of the National Highways Act, 1956.

5. Issue notice to the respondents, returnable on 09.12.2024. Mr. Ravi R. Bangar, learned counsel waives service of notice on behalf of Respondent No.2/3 / Competent Authority, in respective appeals.

6. I am informed that the executing proceedings are pending. In view of the same, execution proceedings are stayed subject to deposit of 50% excess amount as determined by the Arbitrator within a period of four (04) weeks.

7. List this matter for further consideration, on 09.12.2024.

[ARUN R. PEDNEKER, J.]