

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

F.M.A.T. (ARBAWARD)/3/2024

National Highway Authority of India

Vs.

Sayedabad Tea Company Ltd. & Anr.

With

CAN 1 of 2024

With

F.M.A.T. (ARBAWARD)/1/2025

Sayedabad Tea Company Ltd. & Anr.

Vs.

The Project Director, NHAI Director & Anr.

With

CAN 1 of 2025

For the Appellant in

F.M.A.T. (ARBAWARD)/3/2024

& for the respondent in

F.M.A.T. (ARBAWARD)/1/2025 : Ms. Supriya Singh

For the Tea Company

: Mr. Bikramaditya Ghosh

Mr. Sitesh Kumar Gupta

Mr. Ved Rai

Mr. Mayank Bhandari

Mr. Vivek Saha

For the State

: Mr. Nabankur Paul

Heard & Judgment on

: November 19, 2025

Debangsu Basak, J.:-

1. Two appeals are taken up for analogous hearing as they emanate out of the same impugned order passed by the learned Single Judge under Section 34 of the Arbitration and Conciliation Act, 1996.

2. **F.M.A.T. (ARBAWARD)/3/2024** is at the behest of the National Highways of India (NHAI) while **F.M.A.T. (ARBAWARD)/1/2025** is at the behest of the Sayedabad Tea Company Ltd. & Anr. (STCL).
3. In the appeal of STCL, there is an issue of limitation involved. Learned advocate appearing for the NHAI opposes the application for condonation of delay. According to her, the delay is not appropriately and adequately explained.
4. We perused the application for condonation of delay. We find that the delay sought to be explained by stating that the STCL was awaiting the decision on other matters.
5. With respect, the explanation offered by STCL appears to be thin. We, however, are supposed to be lenient while considering an explanation for condonation of delay.
6. On such parameters, we accept the explanation as sufficient and condone the delay in making and filing the appeal.
7. NHAI initiated proceedings for acquisition. Acquisition proceeding was for the purpose of construction of National Highways.
8. Acquisition proceeding of NHAI is governed under the provision of the National Highways Act, 1956.

9. STCL claims to be a lessee, perpetual at that, under the State in respect of the tea estate. A portion of the tea estate of STCL was acquired for the purpose of construction of National Highways in acquisition proceeding initiated by NHAI. STCL applied before the Arbitrator with regard to the compensation receivable.
10. Learned Arbitrator proceeded to award compensation for the tea trees, other trees and the bushes on the portion of the acquired land. Arbitrator also proceeded to award 40% of the value of the land involved.
11. Parties before us join issue with regard to the quantum of compensation receivable by STCL on account of acquisition of land.
12. Section 3G (2) of the Act of 1956 provides for the quantum of compensation receivable by the land losers. It seeks to classify two categories of land losers. One category is the owner of the land and the other category is persons other than who are the owners of the land,
13. In the present case, STCL is claiming perpetual lease. It is not the owner of the land on its own admission.
14. Arbitrator proceeded to award 40% of the value of the land as compensation of STCL. Under Section 3G (2) of the Act of 1956 the amount of compensation that a land loser in the category of a person other

than the land owner is entitled to receive is pegged at 10% of the value of the land.

15. The contention of STCL that it is entitled to 75% on the strength of ratio of **Inder Parshad vs. Union of India & Ors., (1994) 5 SCC 239** remains. In either perspective, the award cannot be sustained.

16. In our view the award is in the teeth of the provisions of the Act of 1956 which the Arbitrator failed to take into consideration. The Court exercising powers under Section 34 of the Act of 1956 failed to appreciate that the Arbitrator did not apply provisions of the Act of 1956 which is mandatory. Both the award and the impugned order are non-speaking as why 40% and not any other percentage of the land value was taken into consideration. Both the award and the impugned order did not deal with Section 3G (2) of the Act of 1956.

17. In such circumstances, since both the award as also the impugned order passed under Section 34 of the Act of 1956 are against a declared public policy enunciated in the Act of 1956, we deem it appropriate to set aside the impugned order as also the award for a fresh decision by the Arbitrator in accordance with law.

18. F.M.A.T. (ARBAWARD)/3/2024 and F.M.A.T. (ARBAWARD)/1/2025

along with the connected applications in both the appeals are disposed of
without any order as to costs.

(Debangsu Basak, J.)

19. I agree

S.D.

(Md. Shabbar Rashidi, J.)