

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 8222 OF 2025
IN
ARBITRATION APPEAL (ST) NO. 395 OF 2025

Salim Alikhan Khoja & Ors. ...Applicants

In The Matter Between

Dedicated Freight Corridor Corporation Of India ...Appellant
Ltd. Through Chief General Manager-North

Versus

Salim Alikhan Khoja & Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 8221 OF 2025
WITH
INTERIM APPLICATION NO. 9072 OF 2025
IN
ARBITRATION APPEAL (ST) NO. 395 OF 2025

Mr. Nitin V. Gangal, a/w *Prapti Karkera & Namita Mestry*, for the
Applicants in IA/8222/25 & 8221/25.

Mr. Pradya Bansode, for *Appellant.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JULY 21, 2025

ORDER :

1. This is a challenge under Section 37 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) to a judgement passed by the Section

34 Court in connection with land acquisition effected by the Respondent- Dedicated Freight Corridor Corporation Of India Ltd.

2. Based on a praecipe seeking circulation filed on behalf of the Appellant, the matter was listed before this Bench and was heard on March 5, 2025. As a condition for condoning delay, the Appellant was directed to deposit the differential awarded compensation amount being challenged, with the Registry of this Court no later than April 8, 2025. Consequently, the delay was condoned and the amount has been deposited.

3. The Respondent has now moved an Application seeking withdrawal of the amount deposited by the Appellant in the Court. Meanwhile, the Registry has moved a file note before me pointing to Chapter I; Rule 2 (I)((a)(i) of the Bombay Appellate Side Rules, 1960 to indicate that the amount stated in the Appeal for purposes of Court fees and jurisdiction was Rs.~5.67 crores. Consequently, based on the value indicated by the Appellant in the Appeal, in the view of the Registry, the matter pertains to the jurisdiction of the Learned Division Bench since only matters where the valuation is Rs.2 crore or less would fall within the jurisdiction of the Single Bench. In these circumstances, the

recommendation of the Registry is that the matter must be moved to the jurisdiction of the Learned Division Bench.

4. On April 9, 2025 Learned Counsel for the Respondent drew my attention to a judgement of a Division Bench of this Court at Goa dealing with Section 39 of the Arbitration Act of 1940, which contains language identical to the language in Section 37 of the Act. A plain reading of the judgement of the Learned Division Bench would indicate that a judicial view has been taken in the matter that the jurisdiction would still lie before Single Judge Bench and not necessarily before the Division Bench.

5. Meanwhile, another set of cross challenges also filed under Section 37 challenging an order passed under Section 34, in the very same land acquisition for the very same project, where the very same issues were involved in the arbitration conducted under the Railways Act, was already listed before the Learned Division Bench of this Court. The Learned Division Bench has considered the cross challenges and has disposed of the cross challenges by orders dated June 13, 2025, upholding the validity of the order passed by the Section 34 Court. It is common ground that the said challenge pertains to the very same acquisition and the issues involved in both proceedings are identical.

6. Put differently, the issues sought to be raised in this Appeal filed on behalf of Dedicated Freight Corridor Corporation Of India Ltd. would be covered by the decision of the Learned Division Bench. It is also noteworthy that the land losers were represented by the very same Counsel who had drawn my attention to the decision of the Goa Bench.

7. Therefore, there is no point in considering the implications of the decision of the Learned Division Bench to interpret the Appellate Side Rules on whether the matter ought to be placed before a Single Bench or a Division Bench.

8. The Registry is directed to place this matter before the Learned Division Bench at the earliest preferably within a period of one week from the date upload of this order, so that the matter could be placed before the accurate Bench having jurisdiction in the matter without getting into determining the pecuniary jurisdiction of the Single Bench. The question of reconciling the interpretation by the Learned Division Bench of Goa with the view of the Registry is not necessary to be taken up since the Learned Division Bench has already dealt with and disposed of other connected matters, in line with the view of the Registry.

9. The Registry shall place the issue before the Hon'ble The Chief Justice for appropriate directions so that issues from such conflicting interpretations do not rise again in future.

10. Meanwhile, it has already been noted by me that at least 59 Appeals filed under Section 37 of the Act are pending before the Learned Division Bench on the basis of the interpretation of the Registry of this Court.

11. In these circumstances, it is inappropriate for this matter to be heard any further by this Bench. Registry to have this matter placed before the Learned Division Bench as indicated above.

12. Liberty to the Respondent to mention the matter before the Learned Division Bench for an appropriate consideration of the request for withdrawal, particularly taking into account that with a challenge on the basis of very same issues raised by this Appellant has already been repelled by the Learned Division Bench.

13. Learned Counsel for the Appellant submits that if there are any other appeals handled by the same Advocate on record connected with the very same acquisition those would also be identified and brought to the attention of the Learned Division Bench, so that an

expeditious disposal of all connected matters could take place at the earliest.

14. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]