

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO. 70 OF 2024

Prashant Vasant Koregaonkar & Ors. ...Appellants

Versus

Competent Authority Through Deputy Collector & Anr. ...Respondents

WITH

ARBITRATION APPEAL NO. 60 OF 2024

Ashwashilp Agriculture Pvt. Ltd ...Appellant

Versus

Competent Authority Through Deputy Collector & Anr. ...Respondents

WITH

ARBITRATION APPEAL NO. 65 OF 2024

Rajendra M. Developers & D Builders Pvt. Ltd. ...Appellant
Through Its Director Jitendra Manohardas Thakker

Versus

Competent Authority Through Deputy Collector (LA) & Anr. ...Respondents

WITH

ARBITRATION APPEAL NO. 63 OF 2024

Ganga Developers And Godavari Developers ...Appellant
(A.O.P.)Through Its Member Jitendra Manohardas Thakker

Competent Authority Through Deputy Collector (LA) & Anr. ...Respondents

WITH

ARBITRATION APPEAL NO. 59 OF 2024

Kanaji Raghavji Thakkar (Deceased) Thr. LRS. Smt. ...Appellant
Lalita Kanji Thakker

Versus

Competent Authority Through Deputy Collector ...Respondents
(LA) & Anr.

WITH

ARBITRATION APPEAL NO. 61 OF 2024

Jitendra Manohardas Thakker And Ors. ...Appellants

Versus

Competent Authority Through Deputy Collector ...Respondents
(LA) & Anr.

WITH

ARBITRATION APPEAL NO. 62 OF 2024

Kavita Kanji Thakkar @ Mrs. Kavita Chintan ...Appellant
Thakkar

Versus

Competent Authority Through Deputy Collector ...Respondents
(LA) Nashik & Anr.

WITH

ARBITRATION APPEAL NO. 64 OF 2024

Chetan Giridharlal Bataviya ...Appellant

Versus

Competent Authority Through Deputy Collector ...Respondent
(LA) Nashik & Anr.

Mr. Pradeep J. Thorat *a/w Ms. Aditi S. Naikare a/w Aniesh S. Jadhav ,
for the Appellant.*
Mr. A. R. Patil, *Addl. G. P. for the State/ Respondents.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE: APRIL 27 , 2026

Oral Judgement:

1. This bunch of Appeals invoke Section 37 of the Arbitration and Conciliation Act, 1996 (*“the Act”*) to impugn arbitral awards in connection with the acquisition effected for purposes of constructing National Highways under the National Highways Act, 1956 (*“Highways Act”*).
2. The facts of Arbitration Appeal No. 70 of 2024 would be instructive for dealing with the contentions across these appeals. Therefore, reference to dates is adopted on the basis of the dates obtaining in Arbitration Appeal No.70 of 2024 which is marked as the lead matter.
3. The core issue that arises for consideration in all these Appeals is whether this court, in the facts of this case, would have the ability to direct the correction of a computation of compensation statutorily payable to the Appellants in respect of solatium of 30% under the Land Acquisition Act, 1894 (*“1894 Act”*).
4. Originally, Section 3G and Section 3J of the National Highways Act, 1956 (*“Highways Act”*) excluded the provisions governing solatium as contained in the 1894 Act in computation of compensation under the Highways Act.

5. In the facts of this case, the notification for the land acquisition was Notification No. 2250 issued on September 3, 2009. By this date, the Punjab and Haryana High Court had struck down Section 3J and 3G of the National Highways Act, 1956 as being arbitrary and violative of Article 14 of the Constitution of India inasmuch as these provisions denied the statutory benefit of solatium and interest envisaged in Section 23 and Section 28 of the 1894 Act, solely because the acquisition was for highways. This decision was pronounced on March 28, 2008 in *Golden Iron and Steel*¹, nearly a year and half before the notification in question.

6. Thereafter, the Supreme Court, in the case of *Sunita Mehra*², rendered a decision on August 11, 2016, using March 28, 2008, as a cut-off date for consideration of solatium in relation to land acquisitions under the Highways Act. This date was chosen because that is the the date on which the Punjab and Haryana High Court declared the law in *Golden Iron and Steel*. It was stated that matters which had attained closure by that date could not be reopened, but all acquisitions after March 28, 2008 would be entitled to solatium.

1 *Golden Iron and Steel Forging v. Union of India and Ors.*- 2008 SCC OnLine P&H Court 498

2 *Sunita Mehra and Anr. v. Union of India and Ors.*- (2019) 17 SCC 672

7. Thereafter, the Supreme Court had occasion to consider the law again in the case of *Tarsem Singh*³ by which time the 1894 Act had been replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“**2013 Act**”), and ruled that solatium would be payable in respect of land acquisitions under the Highways Act, even when applying the 2013 Act.

8. The facts of this case fall squarely under the 1894 Act and what is noteworthy is that the acquisition itself was notified after the law was declared in *Golden Iron and Steel* and indeed well before the decision in *Sunita Mehra*.

9. On earlier occasions, I had asked the Appellants to demonstrate that they had indeed raised the issue of solatium right at the stage of their reference before the Arbitral Tribunal and to show that they did not raise it for the first time under Section 34 of the Act, which led to the impugned order.

10. Today, Learned Advocate on behalf of the Appellants tendered across the bar a compilation to include the relevant references in each of the matters, to indicate that indeed the issue of solatium was raised right at the stage of the reference to arbitration and therefore the Learned Arbitral Tribunal squarely had this issue before it for adjudication of the same. Arbitral award in the instant case, was passed on January 6, 2018 by which date, the law declared

3 *Union of India and Anr. v. Tarsem Singh and Ors.*– (2019) 9 SCC 304

in ***Sunita Mehra*** was quite clearly laid down, specifically taking the cut-off date of March 28, 2008. The acquisitions in the instant case having been initiated only on September 3, 2009, this matter was squarely covered by the law declared in ***Sunita Mehra***. Therefore, the Arbitral Award is in conflict with the law declared by the Supreme Court.

11. Thereafter, it is also seen that even at the Section 34 stage, the ground of solatium was indeed raised, but was rejected by the Learned District Judge on the premise that allowing solatium would constitute a modification of the arbitral award which was, in his opinion, impermissible. The law both on modification of arbitral awards as well as the applicability of solatium in the cases of National Highways is now crystallized and well declared. In ***Gayatri Balasamy***⁴, the Supreme Court has specifically held that the modification of an arbitral award would be restricted to computational, clerical or typographical errors. In the case at hand, there is no dispute at all on the valuation of the land. There is no controversy about the classification of the land or the applicability of market value. The sole controversy is about computation of the compensation payable, which, in terms of the law declared in ***Sunita Mehra*** entailed a simple computation of 30% of the value of compensation already arrived at.

4 *Gayatri Balasamy v. ISG Novasoft Technologies Ltd. - (2025) 7 SCC 1*

12. Therefore, this is a case which would come within the ambit of rectifying computational errors, there being no other element of the arbitral award that would undergo a change by reason of the application of judgement in ***Sunita Mehra*** and computing the 30% solatium, which is an integral part of the compensation. The following extracts from ***Gayatri Balasamy*** are relevant:

V. Court can modify the award despite Sections 33 and 34(4)

47. Section 33 of the 1996 Act (Annexure A) empowers an arbitrator, upon request, to correct and/or re-interpret the arbitral award, on limited grounds. This includes the correction of computational, clerical or typographical errors, as well as giving interpretation on a specific point or a part of the award, when mutually agreed upon by the parties. Section 33(3) enables the Tribunal to suo motu correct any errors within thirty days of delivering the award. Section 33(4) grants wider powers. It permits the arbitral tribunal, upon compliance with specified manner of request, to make an additional award on claims presented before the arbitral proceedings but omitted from the arbitral award.

48. Section 33(7) states that Section 31 (Annexure A) shall apply where correction, interpretation or any addition is made to the arbitral award. Section 31 deals with form and content requirements for arbitral where correction, interpretation or any addition is made to the arbitral awards. Consequently, an order passed by the arbitral tribunal under Section 33 amounts to an arbitral award. Under Section 34(3), where a request is made under Section 33, the limitation period for filing an application to set aside the award commences from the date on which the arbitral tribunal disposes of the Section 33 request.

49. Notwithstanding Section 33, we affirm that a Court reviewing an Award under Section 34 possesses the authority to rectify computational, clerical, or typographical errors, as well as other manifest errors, provided that such modification does not

necessitate a merits-based evaluation. There are certain powers inherent to the Court, even when not explicitly granted by the legislature. *The scope of these inherent powers depends on the nature of the provision, whether it pertains to appellate, reference, or limited jurisdiction as in the case of Section 34. The powers are intrinsically connected as they are part and parcel of the jurisdiction* exercised by the Court.

[Emphasis Supplied]

13. I must also mention that before the Constitution Bench that rendered the judgement in ***Gayatri Balasamy***, a wider argument was made by some of the parties in the context of the Highways Act and it was argued that Section 34 should be widely interpreted to permit modification of arbitral awards passed under the Highways Act in view of such arbitration being statutory in nature. That contention was repelled by the Supreme Court in ***Gayatri Balasamy*** in the following terms:

71. It has been argued that Section 34 should be expansively interpreted to permit modification of awards under the NHAI Act. In particular, it is suggested that courts should be allowed to modify the quantum of compensation awarded, as the Act involves statutory arbitration. This argument is, however, untenable. The jurisdiction conferred under Section 34 does not distinguish between statutory and non-statutory arbitration in terms of the scope of courts' power of review. Hence, this argument stands rejected.

[Emphasis Supplied]

14. Therefore, Arbitral Awards passed under the Highways Act, 1956 has been given treatment on par with Arbitral Awards in any other arbitration proceedings. Seen in this light, the question to ask is whether there was an error in the Arbitral Award that necessitated correction of a computational error. If the answer is in the affirmative, such error is capable of correction by the Section 34 Court. Likewise, it is trite law that the jurisdiction of the Section 37 Court is co-extensive with the jurisdiction of the Section 34 Court. Therefore, the core question that arises is whether there would be a resort to rectification of only a computational error when one applies the computation of solatium bearing in mind the law declared by the Supreme Court in ***Sunita Mehra*** and ***Tarsem Singh***.

15. It is imperative that I also discuss another matter before me on an earlier occasion in the case of ***Sumanbai Bachchav***⁵, which too had raised the issue of solatium but had a differently nuanced factual matrix. In that case, in exercise of jurisdiction under Section 37 of the Act, I had refused to interfere. The reasons for not interfering in that case can be essentially discerned from the following paragraphs:

23. *I am unable to agree. Indeed, Mr. Punjabi is right in pointing out that even the NHAI has acknowledged that solatium is payable. The process for doing so is not*

5 *Sumanbai Shantaram Bachchav v. Arbitrator & Additional Commissioner National Highway Authority Of India & Ors - Judgement dated June 9, 2025 in a bunch of Section 37 Petitions led by Arbitration Appeal (ST) No. 22121 of 2023*

through the jurisdiction under Section 34 of the Act. I am duty-bound to abide by the ruling of the Learned Division Bench in Rishabhkumar, which has also been passed after Sarjuprasad. In fact, Rishabhkumar has noticed Sarjuprasad and has not adopted that approach. On the contrary, it has held that the Section 34 Court did not have the power to effect the enhancement of compensation by way of solatium.

24. *I am in respectful agreement with the reasoning in Rishabhkumar. The Section 34 jurisdiction is not one in which this entitlement (indeed a valid and legal entitlement) can be executed. That apart, in sharp contrast with these two cases, in the instant case, there is no incumbent direction to pay solatium that forms part of the Impugned Judgement. What is sought here is a declaration that the Section 34 Court was wrong in not adopting the approach adopted in Sarjuprasad. The Learned District Court, Nashik could not have adopted such an approach since the issue had been squarely dealt with in Rishabhkumar.*

25. *It is also noteworthy that the law declared in Rishabhkumar about the lack of power for the Section 34 Court to modify arbitral awards, is consistent with the law now declared in Gayatri Balasamy by a five-judge Constitution Bench of the Supreme Court.*

26. *It would also be seen from the Original Award and the Arbitral Award, that each was rendered when Section 3J of the Highways Act was validly in existence on the statute book i.e. when nothing contained in the Acquisition Act applied to computing compensation under the Highways Act. Therefore, the challenge to the Original Award (in 2008) in the arbitration under Section 3G of the Highways Act, had not been on the basis that solatium was applicable, but was wrongly denied. The Arbitral Award (made in 2019 but before Tarsem Singh) did not had no reason to consider the facet of solatium. Tarsem Singh declared the law later (on September 19, 2019) and effaced Section 3J of the Highways Act, thereby explicitly entitling land-losers to solatium in all land acquisition matters initiated under the Highways Act*

after Section 3J was introduced and before the 2013 Acquisition Act was made applicable to acquisition for highways.

[Emphasis Supplied]

16. In ***Sumanbai Bachchav***, the issue of solatium was not at all raised in the arbitral proceedings. In sharp contrast, in the instant case, the issue of solatium far from being left out at both forums (the arbitration and the Section 34 Court), was in fact tabled in each forum. At the time of the original award, during the land acquisition, the law as declared in ***Golden Iron and Steel*** ought to have been applied by the Acquisition Officer to compute solatium. Indeed, the element of solatium formed the subject matter of the grounds on which the reference was made to the Arbitral Tribunal, and yet the Arbitral Tribunal did not deal with the same.

17. Therefore, when Section 34 Court was presented with the error on the part of the Arbitral Tribunal in not granting solatium, as reflected in the grounds taken up in the Section 34 Petition, it failed to correct the same. Therefore, it is clear that the error in denial of solatium was squarely a point in issue before the Learned Arbitral Tribunal.

18. The jurisdiction of the Section 37 Court is co-extensive and co-terminus with the powers of the Section 34 Court. In view of the law, declared in ***Gayatri Balasamy***, the denial of an additional 30% amount of compensation towards

solatium is purely computational in this case since the Appellants embrace each and every other facet of the Impugned Order and the Arbitral Award at this stage. All that is sought is to compute the solatium, which according to the law declared by the Supreme Court at the relevant time (this acquisition being after March 28, 2008) can be said to fall in the realm of a computational error.

19. On earlier occasions, each time this matter came up, advocates appearing for the Respondents would submit that the Court should defer the hearing because yet another review of ***Tarsem Singh*** had been initiated and was pending in the Supreme Court. It is now apparent that such review has been considered and a detailed and reasoned order has been passed by the Supreme Court as to why the review could not be entertained. In this judgement,⁶ the following extracts are noteworthy:

5.4. *As stated earlier, similar challenges were made before other High Courts as well, resulting in two noteworthy decisions:*

(i) *Judgement dated 28.03.2008 passed by a Division Bench of the High Court of Punjab and Haryana, titled Golden Iron and Steel Forging v. Union of India*; and

(ii) *Order dated 04.03.2011 passed by a learned Single Judge of the High Court of Judicature at Madras, titled T. Chakrapani v. Union of India.*

6 *National Highways Authority of India v. Tarsem Singh - 2026 SCC Online SC 481*

5.5. These decisions assume significance for the reason that, rather than striking down Section 3-J of the NH Act in its entirety, the High Courts adopted a calibrated approach. While preserving the distinct acquisition framework under the NH Act, they held the statutory scheme to be unconstitutional to the limited extent that it denied land-losers the benefit of 'solatium' and 'interest'. In effect, Sections 3-G and 3-J of the NH Act were read down to align with the compensatory principles embodied in Section 23(1-A) and Section 23(2) of the 1894 Act. The result was that, notwithstanding the separate statutory regime, landowners under the NH Act were also held entitled to 'solatium' and 'interest' on parity with acquisitions under the 1894 Act. These decisions, along with similar pronouncements by other High Courts, were subsequently carried in appeal before this Court.

5.6. While the aforesaid appeals were pending consideration, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (2013 Act) came into force with effect from 01.01.2014, replacing the 1894 Act. Thereafter, by way of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 (2014 Ordinance), the compensation framework under the 2013 Act was extended to acquisitions under the NH Act, with effect from 01.01.2015. Although the said Ordinance subsequently lapsed, the Union of India, in exercise of its powers under Section 113 read with Section 105 of the 2013 Act, issued a notification dated 28.08.2015, thereby continuing the applicability of the compensation provisions of the 2013 Act to acquisitions under the NH Act.

5.7. The net effect of this entire rigamarole was that a distinct class of land-losers came to be excluded from the benefit of 'solatium and 'interest'. To be specific, the acquisitions undertaken under the NH Act during the interregnum, namely, after the insertion of Section 3-J in 1997 and till the beneficial compensation regime of the 2013 Act was made applicable to the NH Act w.e.f. 01.01.2015, remained outside the fold of entitlement to 'solatium' and 'interest'.

This resulted in an anomalous situation, where similarly situated landowners, differing only in the timing or statutory route of acquisition, were subjected to materially unequal compensatory frameworks.

5.9. *Similarly, in Sunita Mehra v. Union of India, a two-Judge Bench of this Court, disposed of the NHAI's appeals against other comparable judgements of the High Court of Punjab and Haryana, with the directions that the benefit of 'solatium' and 'interest' shall be available to land-losers in all such cases where the proceedings for computation of compensation were pending as on 28.03.2008. In doing so, this Court clarified that while future acquisitions would be covered by the 2013 Act and its benefits, those cases which had been decided prior to the said date and, thus, stood concluded ought not to be reopened.* Here, it may be noted for clarity that *this cut-off date was derived from the date on which the judgement in Golden Iron and Steel (supra) was pronounced by the High Court of Punjab and Haryana.*

5.10. *Following the aforesaid developments, the NHAI chose to withdraw its appeals pending before this Court in which the judgement of the High Court of Punjab and Haryana in Golden Iron and Steel (supra) was under challenge.*

5.11. *It is in this backdrop that a two-Judge Bench of this Court, including one of us (Surya Kant, J., as he then was), in Tarsem Singh-I held that the benefit of 'solatium' and 'interest' must be extended to landowners even in respect of acquisitions made during the period between 1997, when Section 3-J was introduced into the NH Act, and 2015, when the compensation scheme of the 2013 Act was made applicable to the acquisitions under the NH Act. With this in mind, Section 3-J was declared unconstitutional to the extent that it denied solatium and interest, and landowners were held entitled to such benefits in terms of Section 23(1-A) and Section 23(2), along with interest under the proviso to Section 28 of the 1894 Act.*

[Emphasis Supplied]

20. Having analysed this history, the Supreme Court specifically concluded as follows:

D. CONCLUSION AND DIRECTIONS

14. Considering the facts and circumstances explained in the instant proceedings along with the various submissions placed on record and with a view to balancing the equities regarding delay and the entitlements of the landowners, we issue the following directions:

i) All landowners whose claims re: the quantum and/or components of compensation for their lands acquired under the NH Act were alive on or after 28.03.2008, i.e., they were pending before one of the prescribed fora, shall be entitled to seek addition of 'interest', 'solatium', and 'interest on the solatium' to their compensation claim;

(ii) In the cases where compensation claims are alive on the aforesaid date, but the landowner has claimed 'interest', 'solatium', and 'interest on solatium' after 28.03.2008, no interest on both components shall be payable for the period of delay. Such landowner shall be entitled to 'interest' and 'interest on solatium' only from the date on which such claims were raised; and

(iii) If the claims of the landowners stood concluded prior to 28.03.2008, with no further appeal, Writ Petition, Special Leave Petition, etc., then such landowners are not entitled to seek reopening, review, or modification of the said decision for the purpose of claiming 'solatium' or 'interest'.

[Emphasis Supplied]

21. The indisputable position in the instant case is that the acquisition of the Appellants' land falls squarely in the domain of matters which were not even born as of March 28, 2008. The compensation that was payable was after

that date because the very notification was issued after that date and therefore the Appellants were entitled to solatium in terms of the law declared in ***Golden Iron and Steel*** and ***Sunita Mehra***. This facet of the matter ought to have been gone into by the Learned Arbitral Tribunal and by the Section 34 Court. That not having been done, the correction of this mistake falls within the domain of the Section 37 Court. Evidently, there is no outstanding challenge or dispute to the Arbitral Award. The law declared by the Supreme Court renders the computation of the solatium as imperative. Such computation is merely computation of 30% of the value of the compensation. The error in the Arbitral Award is clearly a computational error. Correcting this error would not undermine or impact any other component of the Arbitral Award. Therefore, the mere computation of the 30% amount payable on the compensation awarded for the land acquisition in question, in my opinion, in the facts of this case, falls within the ambit of a computational error.

22. No adjudication of any facet is necessary. The correction is computational and has to be applied to the accepted compensation amount. Simply put, the application of 30% of solatium on the amounts awarded in the arbitral award would need to be added to these arbitral awards, without disturbing any other facet of the Arbitral Award. Therefore, in reliance upon the law declared in ***Gayatri Balasamy***, such modification is hereby effected.

23. For completeness, I must state that the earlier decision in ***Sumanbai Bachchav*** significantly relied upon the view taken by a Division Bench of this court in ***Rishabhkumar***⁷, which had been rendered on November 26, 2021. In that matter there seems to be no reference to ***Golden Iron and Steel***. Nevertheless, a decision by a Division Bench of one High Court need not bind the Division Bench of another High Court and would be merely of persuasive value. That apart, the law declared in ***Sunita Mehra*** too does not appear to have been placed before the Court. Be that as it may, all these decisions have run their course and eventually, the law as it now stands, in view of the latest review order passed by the Supreme Court makes it clear that solatium would simply have to be paid on the compensation amount. More importantly, the factual matrix in ***Sumanbai Bachchav*** was different since the issue of solatium was never a point in issue in the arbitration and it was introduced for the first time in the Section 34 proceedings seeking enforcement of a statutory entitlement in that jurisdiction. In sharp contrast, in the instant case, the issue was raised at every stage of the matter and it was clearly open to the Section 34 Court to correct the patent illegality. Indeed, ***Gayatri Balasamy*** now being available as the declared law, this Court in the Section 37 jurisdiction can do what the Section 34 Court failed to do.

⁷ *Rishabhkumar Jejani v. Secretary to the Government of India, Ministry of Road Transport and Highways* - (2022), 1 Bom CR 659

24. It would only be appropriate to effect the computational error that calls out for correction. Therefore, all the captioned Appeals are *disposed of* with a simple modification that solatium at the rate of 30% on the compensation amounts, in terms of Section 23(2) of the Land Acquisition Act, 1894 would need to be computed and paid as being applicable for the land acquisitions in question.

25. With the aforesaid directions, all the captioned Appeals are allowed in the aforesaid terms and finally disposed of. The computation of solatium and payment of the same shall be effected within a period of twelve weeks from the upload of this judgement on the Court's website.

26. 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.]