

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO.12185 OF 2024
IN
ARBITRATION APPEAL (ST) NO.32193 OF 2023**

Machindra Pandurang AvhadApplicant
Versus
The Competent Authority
(Land Acquisition), Nashik & Anr.Respondents

**AND
INTERIM APPLICATION NO.12170 OF 2024
IN
ARBITRATION APPEAL (ST) NO.32188 OF 2023**

Sudam Namdev JaibhaveApplicant
Versus
The Competent Authority
(Land Acquisition), Nashik & Anr.Respondents

**AND
INTERIM APPLICATION NO.12183 OF 2024
IN
ARBITRATION APPEAL (ST) NO.32195 OF 2023**

Yeshwant Namdev JaibhaveApplicant
Versus
The Competent Authority
(Land Acquisition), Nashik & Anr.Respondents

**AND
INTERIM APPLICATION NO.12186 OF 2024
IN
ARBITRATION APPEAL (ST) NO.32191 OF 2023**

Gajendra Ramnath JaibhaveApplicant
Versus
The Competent Authority
(Land Acquisition), Nashik & Anr.Respondents

**INTERIM APPLICATION NO.12452 OF 2024
IN
ARBITRATION APPEAL (ST) NO.32184 OF 2023**

Somnath Tukaram Avhad
Versus

....Applicant

The Competent Authority
(Land Acquisition), Nashik & Anr.

....Respondents

Mr. Vivek Vijay Salunke a/w. *Anusha Pradhan, for Applicant/Appellant.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 23, 2026

ORDER :

1. The captioned Interim Applications seek restoration of the Appeals. For the reasons set out in the Applications, the Appeals are hereby restored. The captioned Interim Applications are hereby *disposed of*.

2. Learned Counsel for the Appellant fairly states that the conclusions drawn by this Court in a bunch of arbitration appeals led by *Arbitration Appeal (St) No.22121 of 2023*¹, which were disposed of by a Judgment dated June 9, 2025, squarely cover the captioned Appeals.

3. For felicity, Para 37 of the said Judgement is extracted below :-

1 Sumanbai Shantaram Bachchav v. Arbitrator & Additional Commissioner National Highway Authority Of India & Ors. – ARA (St)/22121/2023 & other connected Appeals.

Summary of Findings:

For ease of reference, my conclusions are summarised thus:

*A) Solatium is indeed payable on compensation computed under the Highways Act for land acquisition after 1997 and before 2015 in view of the law declared in **Tarsem Singh**;*

B) The acquisition covered in these proceedings having been effected in 2008, solatium is indeed payable on the compensation amount due to the Petitioners;

C) The Learned Arbitral Tribunal has examined all available evidence on the computation of the compensation amount payable and has returned a finding on the compensation payable, significantly enhancing the amount awarded in the Original Award. The challenge to this element of the Arbitral Award has failed before the Learned District Court, and no fault can be found with that facet of the Arbitral Award or the Impugned Judgement – indeed, in this Court, the Petitioners have only pressed their contentions on the facet of solatium;

D) The Learned Arbitral Tribunal cannot be said to have erred in not granting the solatium so payable – the facet of solatium was not even in the frame of reference of the Learned Arbitral Tribunal since at all times relevant to the arbitration, Section 3J was validly in existence on the statute book;

*E) Had the Original Award been passed after **Tarsem Singh**, and had it rejected the grant of solatium, there would have been a case to argue that the Arbitral Award was in conflict with the fundamental policy of Indian law governing land acquisition for national highways and the payment of solatium on the compensation payable, in view of the law declared by the Supreme Court. However, that is not the case – the Original Award and every arbitral award constituting the Arbitral Award except one (in ARA 26 of 2024) was passed before **Tarsem Singh**;*

F) The Impugned Judgement could not have granted something that was not in the factual or legal matrix on which the Arbitral Award had been

passed since that would have amounted to impermissible modification of the Arbitral Award;

G) This Court, being the Section 37 Court, too cannot go outside the frame of reference in its jurisdiction which is an appellate jurisdiction over the Section 34 Court's decisions. Any step to do so would constitute writing a new component into the Arbitral Award i.e. a modification by way of new insertions into the Arbitral Award;

H) The Petitioners are free to seek enforcement of their statutory entitlement to solatium in such manner as advised; and

I) It is hoped the NHAI will resolve the issue of its obligation to pay solatium to the land-loser Petitioners without further wasteful expenditure of public resources in more litigation. The only reason the NHAI is not being directed to pay the solatium in these proceedings, is the inherent limitation of jurisdiction of this Court under Section 37 of the Arbitration Act.

4. Learned Counsel for the Appellants submits that in terms of Para 37(H) of the Judgement, the Appellants may be granted liberty to seek enforcement of their statutory entitlement to solatium in such manner as advised and that the Appellants intend to file a Writ Petition under Article 226 of the Constitution of India. He also draws my attention to the Judgement by a Learned Division Bench of this Court dated May 9, 2025² dealing with an identical situation where reliefs have been granted, with the following observations:

10. If we were to relegate the Petitioners to the remedy of Section 37, the Appeal Court, being bound by the decision in

2 Kisanlal Bairudas Jain v. Union of India & Ors. – WP/9608/2023 & other connected Petitions

Rishabhkumar (supra), would have no option but to dismiss such appeals by declining to modify the arbitral award. This would be futile. Such a remedy can hardly be called an efficacious one. Accordingly, we reject the unfortunate contention that these Petitions should not be entertained because the Petitioners have an alternative remedy under Section 37 of the said Act.

12. There is no serious dispute regarding the facts or applicable law in these matters. The PDJ has held that the Petitioners are entitled to the benefits in terms of Tarsem Singh (Supra). The NHAI offered such benefits from the date of the judgment. The so-called alternative remedy is ineffective. There is no benefit in relegating the Petitioners to avail themselves of such an alternative remedy, thus depriving them of the benefits to which they are entitled.

5. In view of the aforesaid, the Appeals are hereby finally ***disposed of*** as withdrawn with liberty to file appropriate proceedings, including writ petitions as above, as advised.

6. 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.]