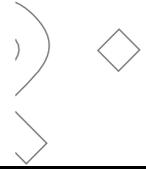




IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Arb. Case No. 36/2023 a/w Arb. Case
Nos.37, 38, 39 and 40/2023.
Decided on: 22nd March, 2023.



(1) Arb Case No. 36/2023

Ganga Ram & ors.Petitioners

Versus

Special Land Acquisition Officer & another
.... Respondents

(2) Arb Case No. 37/2023

Pushpa Devi & ors.Petitioners.

Versus

Special Land Acquisition Officer & another
.... Respondents

(3) Arb Case No. 38/2023

Mahant Ram & ors.Petitioners.

Versus

Special Land Acquisition Officer & another
.... Respondents

(4) Arb Case No. 39/2023

Prem Pal & anr.Petitioners.

Versus

Special Land Acquisition Officer & another
....Respondents

(5) Arb Case No. 40/2023

Suresh Kumar & ors.Petitioners.

Versus



Special Land Acquisition Officer & another
.... Respondents

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?

For the petitioner(s): Mr. Vikas Rathore, Advocate.

For the Respondents: Mr. B.N. Sharma, Addl. AG, Mr. R.P. Singh and Ms. Avni Kochhar, Dy. AGs, for respondent No. 1/State.
Mr. K.D. Shreedhar, Senior Advocate, with Ms. Shreya Chauhan, Advocate, for respondent No. 2/NHAI.

Sushil Kukreja, Judge *(Oral)*

With the consent of learned counsel for the parties, all these five petitions are being disposed of by a common order. In all these petitions, a prayer has been made by the petitioner(s) to extend the time for completion of the arbitral proceedings pending before the Divisional Commissioner, Mandi, District Mandi, exercising the powers of Arbitrator under Section 3 of the National Highways Act, 1956.

2. The arbitral disputes arise out of the land acquisition in District Bilaspur, H.P. for the purpose of construction of the National Highway, land for which has been acquired under the provisions of National Highways Act, 1956. The land of the petitioners has been acquired in these cases in terms of the following awards:

(a) Arbitration Case No. 36 of 2023	Award dated 31.5.2015	
(b) Arbitration Case No. 37 of 2023	Award dated 31.5.2015	
(c) Arbitration Case No. 38 of 2023	Award dated 31.5.2015)
(d) Arbitration Case No. 39 of 2023	Award dated 31.5.2015)
(e) Arbitration Case No. 40 of 2023	Award dated 31.5.2015)

3. Feeling aggrieved by the aforesaid Awards, the landowners have preferred Reference Petitions which are pending before the learned Arbitrator and non-adjudication of the arbitral proceedings within the statutory period has resulted in filing of the instant petitions.

4. The Reference Petitions against the Awards were filed by the land owners long back. The pleadings in all the above mentioned arbitral petitions are stated to have been completed by the parties before learned Arbitrator. However, the Award has not been announced by learned Arbitrator, i.e. the Arbitrator-cum-Divisional Commissioner, Mandi, District Mandi, H.P.

5. A perusal of aforesaid petitions shows that the proceedings therein were governed by the procedure, as contained in the Arbitration and Conciliation Act, 1996 before Section 29(A) thereof was amended by the Act No. 33 of 2019, w.e.f. 31.08.2019 as such the arbitration proceedings were to be decided within a period of one year from the date when learned Arbitral Tribunal entered upon the reference and

with the consent of the parties the same was extendable for a period not exceeding six months. Thereafter, the mandate of Arbitrator was mandatorily to terminate unless the Court either prior to or after the expiry of period specified, extended the period on the request of either of the parties. Now, in terms of the amendment which has been incorporated under Section 29(A) of the Act w.e.f. 31.08.2019, the period of one year for making the Award commences from the date of completion of the pleadings.

6. This Court has gone through the petitions as well as reply filed on behalf of respondent No.2 carefully and finds that the proceedings have been conducted by the learned Arbitrator in violation of statutory provisions, be it before amendment or after amendment, as contained in the Arbitration and Conciliation Act, 1996. This Court is of the view that when a statute envisages an authority, be it an Arbitrator, to do a particular act in a particular manner and in a prescribed time schedule, then the onus is upon the said authority/Arbitrator to perform the task entrusted to it within the time schedule prescribed in the statute. The delay, if any, has to be bonafide and explainable. However, in these petitions even after completion of the pleadings, the matters were adjourned by the learned

Arbitrator on one pretext or the other. This Court fails to understand as to how the Arbitrator with such a callous attitude can decide the arbitration proceedings knowing fully well that if the proceedings are not completed within the time stipulated in the Act, then unless the same is extended by a Court of Law, the mandate of the Arbitrator shall stand terminated.

7. However, at this stage, the Court is restraining from making any further observation in the case save and except that henceforth, if the Court finds the Arbitrator derelicting his duties, then it shall not hesitate to invoke its powers as enshrined in Section 29 (A) (6) of the 1996 Act, to terminate the mandate of the Arbitrator, de hors the fact that the Arbitrator happens to be appointed in terms of the notification issued by the Central Government under Section 3G (a) of the National Highways Act, 1956.

8. In view of the above discussion, the instant petitions are allowed and the Divisional Commissioner, Mandi, District Mandi, exercising the powers of Arbitrator under Section 3 of the National Highways Act, 1956 is directed to conclude the arbitral proceedings in case Nos. 1053/2017, 1052/2017, 1051,2017, 1050/2017 and 1049/2017, on or before **30th September, 2023.**

Petitions stand disposed of, so also the pending miscellaneous applications, if any.

(Sushil Kukreja)
Judge

22nd March, 2023
(CS)

