

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Arb. Case No. 303 of 2024****Date of Decision: 27.02.2024**

Chander Prabha (deceased) through LRs ...Petitioners

Versus

LAC & Anr. ...Respondents

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge

Whether approved for reporting?¹

For the petitioners : Ms. Shashi Kiran, Advocate.

For the Respondents : Mr. Anup Rattan, Advocate
General with Mr. B.N. Sharma,
Additional Advocate General, for
respondent No. 1/State.

Ms. Shreya Chauhan, Advocate,
for respondent No.2/NHAI.

Sushil Kukreja, Judge (Oral)

Notice. Mr. B.N. Sharma, learned Additional
Advocate General and Ms. Shreya Chauhan, Advocate,

1 Whether reporters of Local Papers may be allowed to see the judgment?

appear and waive service of notice on behalf of respondents No.1 & 2, respectively.

2. In the present petition, a prayer has been made by the petitioners to extend the time for completion of the arbitral proceedings in Reference Petition No. 188/2017, pending before the learned Divisional Commissioner-cum-Arbitrator, Shimla, District Shimla, H.P., exercising the powers of Arbitrator under Section 3 of the National Highways Act, 1956.

3. The arbitral dispute has arisen out of the land acquisition in District Solan, 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.

4. Feeling dissatisfied with the Award, the landowners have preferred Reference Petition No. 188/2017, before the learned Divisional Commissioner-cum-Arbitrator, Shimla, and non-adjudication of the arbitral proceedings within the statutory period has resulted in filing of the instant petition.

5. The Reference Petition against the Award was filed by the land owners long back. According to the petitioners, repeated adjournments were granted by the learned Arbitrator without caring for the time period and mandate under Section 29A of the Act, which resulted in unnecessary delay in the announcement of the award by the learned Arbitrator, i.e. the Divisional Commissioner, Shimla, District Shimla, H.P.

6. This Court has gone through the material available on record carefully and finds that the proceedings have been conducted by the learned Arbitrator in violation of statutory provisions, 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 the present petition even after completion of the

pleadings, the matter was adjourned and on 02.08.2023, the learned Arbitrator has closed the proceedings since the time limit for arbitral proceedings to pass an award had elapsed.

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 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 petition is allowed and the Divisional Commissioner-cum-Arbitrator, Shimla, District Shimla, H.P., exercising the powers of Arbitrator under Section 3 of the National Highways Act, 1956 is directed to conclude the arbitral proceedings and to pass the arbitral award in Reference Petition No. 188/17, on or before **26th August, 2024.**

Petition stands disposed of, so also the pending miscellaneous applications, if any.

February 27, 2024
(raman)

(Sushil Kukreja)
Judge

High Court of J.P.