

(2024) 03 SHI CK 0005
In the High Court Of Himachal Pradesh
Case No : Arbitration Case No.252 Of 2024

Oma Nand Alias Om Chand & Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 01-03-2024

Acts Referred:

National Highways Act, 1956 — Section 3, 3G(a), 29A

Citation : (2024) 03 SHI CK 0005

Hon'ble Judges : Sushil Kukreja, J

Bench : Single Bench

Advocate : Suhani Gautam, Rajinder Thakur, Sneha Bhimta, Shreya Chauhan, Anup Rattan, B.N. Sharma

Final Decision : Disposed Of

Judgement

Sushil Kukreja, J

1. Notice. Mr. Rajinder Thakur, Central Government Standing Counsel, Ms. Sneha Bhimta, Advocate vice Ms. Shreya Chauhan, Advocate and Mr. B.N. Sharma, learned Additional Advocate General, appear and waive service of notice on behalf of respondents No.1, 2, 3 & 4 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 Arbitration Reference Petition No.1528/17, pending before the learned Divisional Commissioner, Mandi Division, Mandi, 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 Mandi, 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 lands of the petitioners have been acquired in the present case and respondent No.4 had passed an Award No.46, dated 21.03.2017.

4. Feeling aggrieved by the aforesaid Award, the landowners have preferred Arbitration Reference Petition No.1528/17, which is pending before the Divisional Commissioner, Mandi Division, Mandi, H.P., 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, Mandi, District Mandi, H.P.

6. This Court has gone through the order sheets appended with the petition 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. Needless to mention here 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 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 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, Mandi Division, Mandi, 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 Arbitration Reference Petition No.1528/17, on or before 31st August, 2024.

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