(2023) 06 SHI CK 0011

In the High Court Of Himachal Pradesh

Case No : Arbitration Case No. 2, 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15 Of 2023

Ram Lal And Others — APPELLANT

Vs

National Highways Authority Of India & Anr — RESPONDENT

Date of Decision : 13-06-2023

Acts Referred:

National Highways Act, 1956 — Section 3A, 3G(5), 3G(7)(a)
Arbitration And Conciliation Act, 1996 — Section 11, 28(1)(a), 28(2), 28(3), 31(3), 34, 34(2A), 37
Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 26, 27, 28
Land Acquisition Act, 1894 — Section 18, 54

Citation : (2023) 06 SHI CK 0011

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Devyani Sharma, Anirudh Sharma, Shreya Chauhan, B.N. Sharma

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. All these Arbitration Appeals No. 2, 3, 4, 5, 6, 7, 8, 10, 12, 13, 14 and 15 of 2023 were heard and are being decided together as these arise from a common judgment passed by learned District Judge, Mandi. Additionally common questions of facts and law are also involved in all these appeals. The chronology and details of the matters included here are as under:-

Sr.

No.

Arbitration Appeal Number

Title

Particulars of the petition before the District Judge, Mandi.

Particulars of the case before the Arbitrator.

1.

2 of 2023.

Ram Lal vs. NHAI & Anr.

Arb. 2022.

Pet.

No.

18

of

Arb. Case No. 708 of 2015.

2.

3 of 2023

Fulla Devi & Anr.

vs. NHAI

Arb. 2022.

Pet.

No.

19

of

Arb. Case No. 712 of 2015.

3.

4 of 2023.

Amar Chand vs. NHAI & Anr.

Arb. 2022.

Pet.

No.

15

of

Arb. Case No. 711 of 2015.

4.

5 of 2023

Sunder Lal vs. NHAI & Anr.

Arb. Pet. No. 9 of 2022

Arb. Case No. 710 of 2015.

5.

6 of 2023

Kamal Kumar NHAI & Anr.

vs.

Arb. 2022.

Pet.

No.

16

of

Arb. Case No. 709 of 2015.

6.

7 of 2023

Mangat Ram vs. NHAI

Arb. 2022.

Pet.

No.

13

of

Arb. Case No. 834 of 2015.

7.

8 of 2023

Nand Lal vs. NHAI & Anr.

Arb. 2022.

Pet.

No.

14

of

Arb. Case No. 713 of 2015.

8.

10 of 2023

Gangi Devi & Ors. vs. NHAI & Anr.

Arb. 2022

Pet.

No.

17

of

Arb. Case No. 705 of 2015.

9.

12 of 2023

Vidya Sagar vs. NHAI & Anr.

Arb. Pet. No. 5 of 2022.

Arb. Case No. 707 of 2015.

10.

13 of 2023

Shiv Ram & Ors. vs. NHAI & Anr.

Arb. Pet. No. 6 of 2022.

Arb. Case No. 832 of 2015.

11.

14 of 2023.

Nikku (deceased) through LRs. vs. NHAI & Anr.

Arb. Pet. No. 4 of 2022.

Arb. Case No. 744 of 2015.

12.

15 of 2023

Vidya Sagar vs. NHAI & Anr.

Arb. Pet. No. 12 of 2022.

Arb. Case No. 706 of 2015.

2. The lands of appellants have been acquired in revenue estate Alsu, Tehsil Sundernagar, District Mandi, H.P., for building, four Laning etc., maintenance, management and operation of NH-21 (Bilaspur-Nerchowk Section). Notification under Section 3A of the National Highways Act, 1956 (for short "NH Act") was issued on 21st April, 2012. The competent authority assessed market value of the acquired land of appellants at Rs. 31 lakhs per bigha irrespective of classification and nature of the land.

3. The appellants having remained dissatisfied with the compensation offered by the competent authority, approached the Arbitrator under Section 3G(5) of the NH Act individually. They claimed compensation @ of Rs. One Crore per bigha. Reliance was placed by them on an exemplar sale transaction Ex. Px. Appellants also challenged the potentiality assessed by the competent authority and claimed parity with the adjoining revenue estate Dehar, where competent authority had offered compensation @ Rs.35 lakh per bigha and on such basis, in alternative appellants claimed the compensation at the same rate as awarded for the land in revenue estate Dehar. Benefits in terms of judgment passed by Hon'ble Supreme Court in the case of Union of India vs. Tarsem Singh reported in (2019)9 SCC 304 were also sought.

4. Learned Arbitrator vide common award dated 29.06.2019 declined any enhancement in the compensation payable to the appellants, however, he ordered payment of solatium @30% and interest at the rate of 9% per annum thereon in favour of the appellants. Learned Arbitrator declined to countenance sale transaction Ex. Px simply on the ground that it pertained to a period which was more than one year later than the issuance of notification under Section 3-A of the Act. As regards the claim of appellants seeking parity with the treatment given to landowners of revenue estate Dehar, learned Arbitrator declined such claim also on the ground that the potential value of the land in revenue estate Dehar was better than the revenue estate Alsu for firstly, it was at a distance of 1-2 kilometers from Village Alsu and secondly it was more proximate to the industrial township of Barmana.

5. Appellants individually preferred objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "A & C Act") before the learned District Judge, Mandi. Their objections have been rejected by common judgment dated 31.08.2022 passed by learned District Judge, Mandi. The reason for not considering Ex. Px as piece of evidence, as assigned by learned Arbitrator, was affirmed. Similarly, the reason for distinguishing the potential value of revenue estate Alsu with that of revenue estate Dehar were also held to be borne from the record. Further, learned District Judge, Mandi, declined to interfere with the award passed by learned Arbitrator on the ground that Section 34 of the A& C Act provided limited scope for interference and the appellants had not been able to make out a case within the well-defined contours of restrictive jurisdiction under the aforesaid provisions. Without recording any specific finding as to the

eligibility of appellants for the benefits in terms of judgment passed by the Hon'ble Supreme Court in Tarsem Singh's case (supra), learned District Judge showed his inability to interfere with the award passed by learned Arbitrator based on the dictum that the Court while adjudicating objections under Section 34 of the A&C Act cannot substitute or modify the award.

6. I have heard learned counsel for the parties and have also gone through the record carefully.

7. On facts there appears to be no dispute between the parties. Appellants were seeking enhancement of compensation by relying only on one sale transaction Ex. Px which admittedly had taken place on 5th September, 2013, whereas notification under Section 3A of the NH Act had been issued way back on 21st April, 2012. The land sold by way of Ex. Px was only four biswas and its sale price was Rs.18 lakhs i.e. Rs.4,50,000/- per biswa. Basing their claim on such sale transaction, the appellants had claimed compensation @ Rs. One crore per bigha. It is also not in dispute that appellants had relied upon testimony of Shri Janardan in support of their claim, whose evidence by way of affidavit was placed on record of learned Arbitrator as Ex.PW1/A. In addition, reliance was also placed on the statement of Smt. Kamla Devi recorded before the learned Arbitrator, who was the seller of sale deed Ex. Px. According to this witness, the land measuring 4 biswas was sold by her to Divya Manav Jyoti Anathalaya Trust, Dehar, for total consideration of Rs.18,00,000/-, which included the value of structure on the sold land to the tune of Rs.4,56,480/-. Such value of the structure sold vide Ex. Px is also evident from the valuation report annexed with the sale deed Ex.Px. It is also evident from the record that the learned Arbitrator while declining to enhance the compensation for land in revenue estate Alsu so as to draw parity with the compensation for land in revenue estate Dehar, had taken two factors into consideration (1) that there was a distance of 1-2 kilometers between Alsu and Dehar and (2) Village Dehar was more developed and proximate to the industrial township of Barmana.

8. To hold that exemplar sale transaction in no case should be subsequent to the date of issuance of notification under Section 3A of the NH Act may not be a correct proposition having applicability in all circumstances. Though, the learned District Judge, Mandi, while affirmed that Ex. Px could not be looked into being much later in time to the issuance of notification under Section 3-A of the NH Act, placed reliance on an extract quoted from judgment passed by Hon'ble Supreme Court in the case of National Highways Authority of India vs. P. Nagaraju alias Cheluvaiah and Anr., 2022 SCC OnLine SC 864. But it appears that the entire import of the judgment was not correctly appreciated. In P. Nagaraju's case (supra), the Hon'ble Supreme Court has observed as under:-

"35. In that view, the question that would arise for consideration in the case on hand is as to whether the award passed by the learned Arbitrator would stand vitiated merely because the guideline dated 28.03.2016 which is marginally subsequent in point of time is reckoned, when the acquisition notification under

Section 3A of NH Act was prior to the same i.e. on 01.02.2016. As already noted, Section 3G(7)(a) of NH Act provides for determination of the market value on the date of publication of the acquisition notification under Section 3A. In a normal circumstance, for the determination of the market value, the rate prevailing prior to the date of the notification shall be the basis more particularly when the determination is made based on sale exemplars, as otherwise there is a likelihood of manipulation with escalated price being dishonestly indicated in the subsequent transactions. While taking note of the documents relied on for the purpose of determination of the market value, the existence of appropriate documents in the facts of each case would also become relevant. In circumstances where a document which is proximal to the date of acquisition is not available, it would be open to rely on a document which is much prior in point of time and if the time gap is more, determination could be made by providing for reasonable escalation depending on the area wherein the acquired property is situate and nature of property. Similarly, in a circumstance where no document which is prior to the date of the acquisition notification is available and the exemplars are subsequent to the date of acquisition notification, the value therein could be noted and reasonable de- escalation be considered to determine the appropriate value. Needless to mention that no strait-jacket formula can be applicable to all cases with arithmetical precision in the matter of determination of compensation."

9. Even in General Manager, Oil and Natural Gas Corporation Limited vs. Rameshbhai Jivanbhai Patel and another, (2008)14 SCC 745, the Hon'ble Supreme Court has held as under:-

"16. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more.

The percentage of standard increase becomes unreliable. Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may."

Thus, the exemplar sale transaction, which was subsequent in time to the issuance of notification under Section 3A of the NH Act could not have been discarded outrightly without considering its relevance at the touchstone of principle enunciated and caution contemplated as per the dictum in P. Nagararu and ONGC Ltd. (supra).

10. Thus, the absolute rejection of the exemplar sale transaction Ext PX by learned Arbitrator and learned District Judge is not a correct proposition keeping in view the facts of the case. As noticed above, there was no other exampler sale transaction available on record, which could be said to be proximate to the date of issuance of notification under Section 3A of the NH Act. The competent authority had assessed the market value of the acquired land in Village Alsu on the basis of prevalent circle rates only. In such circumstances, there was no bar either for learned Arbitrator or learned District Judge to have considered the implication of Ex. Px vis-a-vis the claim of enhancement of the appellants after due assessment of its genuineness, purpose, de-escalation of land value etc. relevant factor.

11. The award passed by learned Arbitrator further reveals that he had declined to grant parity to the potentiality of the acquired land in Village Alsu with that of Village Dehar on the ground that the distance between two villages was 1-2 kilometers and Village Dehar in addition to being more developed also was proximate to industrial township of Barmana. The award is totally silent about the reasons or material on which such assumption was drawn by learned Arbitrator. The award on this account was completely non-speaking. Learned District Judge also affirmed the same findings by holding it to be based on available material. However, no such material or evidence was specified in the impugned judgment. It being so, the rights of appellants can definitely be said to have been prejudiced.

12. No doubt, the scope of interference with the award of Arbitrator under Section 34 of the A&C Act is limited. The Court, while adjudicating upon objections under Section 34 of the A& C Act, cannot exercise appellate

jurisdiction. It cannot reweigh and reassess the findings of fact or the material taken into consideration for arriving at such findings by learned Arbitrator. Nonetheless, the arbitral awards always are not invincible. If the arbitral award is found to be suffering from the patent illegality it can surely be interfered with. The term “patent illegality” has been analysed and expounded by the Hon'ble Supreme Court in various judgments out of which more relevant to the context of facts in hand are being gainfully extracted as under:

13. In Associate Builders vs. Delhi Development Authority, (2015)3 SCC 49, it was held as under:-

“42. In the 1996 Act, this principle is substituted by the 'patent illegality' principle which, in turn, contains three sub heads -

42.1 (a) A contravention of the substantive law of India would result in the death knell of an arbitral award. This must be understood in the sense that such illegality must go to the root of the matter and cannot be of a trivial nature. This again is a really a contravention of Section 28(1)(a) of the Act, which reads as under:

"28. Rules applicable to substance of dispute.-(1) Where the place of arbitration is situated in India,-

(a) in an arbitration other than an international commercial arbitration, the arbitral tribunal shall decide the dispute submitted to arbitration in accordance with the substantive law for the time being in force in India;"

42.2. (b) A contravention of the Arbitration Act itself would be regarded as a patent illegality- for example if an arbitrator gives no reasons for an award in contravention of section 31(3) of the Act, such award will be liable to be set aside.

42.3 (c) Equally, the third sub-head of patent illegality is really a contravention of Section 28 (3) of the Arbitration Act, which reads as under:

"28. Rules applicable to substance of dispute.- (1)-(2) * * *

(3) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction."

This last contravention must be understood with a caveat. An arbitral tribunal must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground. Construction of the terms of a contract is primarily for an arbitrator to decide unless the arbitrator construes the contract in such a way that it could be said to be something that no fair minded or reasonable person could do.

14. In Ssangyong Engineering and Construction Company Limited vs. National

Highways Authority of India (NHAI), (2019)15 SCC 131, it has been held as under:-

"37. Insofar as domestic awards made in India are concerned, an additional ground is now available under sub-section (2A), added by the Amendment Act, 2015, to Section 34. Here, there must be patent illegality appearing on the face of the award, which refers to such illegality as goes to the root of the matter but which does not amount to mere erroneous application of the law. In short, what is not subsumed within "the fundamental policy of Indian law", namely, the contravention of a statute not linked to public policy or public interest, cannot be brought in by the backdoor when it comes to setting aside an award on the ground of patent illegality.

38. Secondly, it is also made clear that re-appreciation of evidence, which is what an appellate court is permitted to do, cannot be permitted under the ground of patent illegality appearing on the face of the award.

39. To elucidate, para 42.1 of Associate Builders, {(2015)3 SCC 49}, namely, a mere contravention of the substantive law of India, by itself, is no longer a ground available to set aside an arbitral award. Para 42.2 of Associate Builders {(2015)3 SCC 49}, however, would remain, for if an arbitrator gives no reasons for an award and contravenes Section 31(3) of the 1996 Act, that would certainly amount to a patent illegality on the face of the award.

40. The change made in Section 28(3) by the Amendment Act really follows what is stated in paragraphs 42.3 to 45 in Associate Builders {(2015)3 SCC 49}, namely, that the construction of the terms of a contract is primarily for an arbitrator to decide, unless the arbitrator construes the contract in a manner that no fair-minded or reasonable person would; in short, that the arbitrator's view is not even a possible view to take. Also, if the arbitrator wanders outside the contract and deals with matters not allotted to him, he commits an error of jurisdiction. This ground of challenge will now fall within the new ground added under Section 34(2A).

41. What is important to note is that a decision which is perverse, as understood in paragraphs 31 and 32 of Associate Builders (supra), while no longer being a ground for challenge under "public policy of India", would certainly amount to a patent illegality appearing on the face of the award. Thus, a finding based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside on the ground of patent illegality. Additionally, a finding based on documents taken behind the back of the parties by the arbitrator would also qualify as a decision based on no evidence inasmuch as such decision is not based on evidence led by the parties, and therefore, would also have to be characterised as perverse."

15. In Delhi Airport Metro Express Private Limited. vs. Delhi Metro Rail Corporation Limited (2022)1 SCC 131, it has been held as under:-

“25. Patent illegality should be illegality which goes to the root of the matter. In other words, every error of law committed by the Arbitral Tribunal would not fall within the expression ‘patent illegality’. Likewise, erroneous application of law cannot be categorised as patent illegality. In addition, contravention of law not linked to public policy or public interest is beyond the scope of the expression ‘patent illegality’. What is prohibited is for courts to re-appreciate evidence to conclude that the award suffers from patent illegality appearing on the face of the award, as courts do not sit in appeal against the arbitral award. The permissible grounds for interference with a domestic award under Section 34(2-A) on the ground of patent illegality is when the arbitrator takes a view which is not even a possible one, or interprets a clause in the contract in such a manner which no fair-minded or reasonable person would, or if the arbitrator commits an error of jurisdiction by wandering outside the contract and dealing with matters not allotted to them. An arbitral award stating no reasons for its findings would make itself susceptible to challenge on this account. The conclusions of the arbitrator which are based on no evidence or have been arrived at by ignoring vital evidence are perverse and can be set aside on the ground of patent illegality. Also, consideration of documents which are not supplied to the other party is a facet of perversity falling within the expression “patent illegality”.”

16. It also not be out of place to notice here the exposition made by Hon'ble Supreme Court in P. Nagaraju's case (supra) distinction has been drawn between the arbitrations which evolve as a result of terms of contract between the parties on one hand and the arbitrations which result not from any agreement between the parties but from the statutory provisions like 3G(5) of NH Act on the other. It has been observed that the arbitrations germinating from Section 3 G (5) of NH Act is in a way supernumerary to the reference under Section 18 of the Land Acquisition Act 1894. The arbitrator appointed in terms of Section 3G (5) of the NH Act is vested with the jurisdiction to assess the market value of the acquired land. He is bound to assess such market value on objective assessment of the material. In this manner, the scope of interference by the Court under Section 34 of the A&C Act, though restrictive, has to be evaluated in above context. It has also been held that the market value of the land is to be assessed from the view point of proposed seller and not of the proposed purchaser. Reference can be made to following extracts from P. Nagaraju's case (supra):-

“26. Having taken note of the rival contentions and while examining the scope available under Section 34 of Act 1996 in the backdrop of the precedents, what is also to be kept in perspective is the decision referred to in the case of NHAI vs. Sayedabad Tea Company Ltd. (2020) 15 SCC 16. In the said case, this Court while examining the question as to whether the land loser can seek the appointment of an Arbitrator in terms of Section 11 of Act, 1996, it was noted that such power would not be available in view of the provisions contained in Section 3G(5) of NH Act since Arbitrator is to be appointed by the Central Government to discharge its functions as per the provisions of the Arbitration and Conciliation Act. Having taken note of the said decision, though it is seen that it was held so while considering the maintainability of petition under Section 11 of the Act, 1996 to exclude the right of the land loser to seek the appointment of an Arbitrator keeping in view the statutory provision in the NH Act, the larger perspective of such limited right to the land loser in the process of arbitration is also to be kept in view. Unlike the arbitration in a contractual matter where the parties from the very inception at the stage of entering into a contract would mutually agree to refer any future dispute to an arbitrator, at that very stage are aware that in the event of any dispute arising between the parties the contours of the right, remedy, and scope from the commencement of the arbitration up to the conclusion through the judicial process. The terms of arbitration and the rights and obligations will also be a part of the agreement and a reference to the same in the award will constitute sufficient reasons for sustaining the award in terms of Section 31(3) of Act, 1996. Whereas, in the arbitration proceedings relating to NH Act, the parties are not governed by an agreement to regulate the process of arbitration. However, in the process of determination of just and fair compensation, the provisions in Section 26 to 28 of RFCTLARR Act, 2013 will be the guiding factor. The requirement therein being adverted to, should be demonstrated in the award to satisfy that Section 28(2) and 31(3) of Act, 1996 is complied. Therefore, what is also to be kept in perspective while noticing the validity or otherwise of an award regarding which the non-furnishing of reasons is contended as patent illegality is the reason assigned for determining just compensation in terms thereof. The situation which may arise in cases when a lesser compensation is determined in the arbitration proceedings and the land loser is complaining of the award is also to be kept in perspective since the requirement of reasons to be given by the learned Arbitrator in cases for determination of market value and compensation should indicate reasons since the same will have to be arrived at on a comparative analysis for which the reasons should be recorded and Section 26 to 28 of RFCTLARR Act will be relevant. Neither the land loser nor the exchequer should suffer in the matter of just and fair compensation. Hence the reasons under Section 31(3) is to be expected in that manner, the absence of which will call for interference under Section 34 of Act, 1996.

27. Leaving aside the facts in the instant case for a while, if in a matter as against the determination of the market value by the SLAO, the land loser had referred to the exemplar sale deeds and seeks higher compensation than prescribed in the guidance value, and in that circumstance, if no reasons are assigned by the learned Arbitrator for such determination and either approves the SLAO award or awards a lesser amount than the actual entitlement, in such circumstance the arbitration process which is thrust on the land loser should not be an impediment and limited interference should not be a reason to deny the just and fair compensation. In such cases while examining the award in the limited scope under Section 34 of Act, 1996, the Court is required to take note as to whether the evidence available on record has been adverted to and has been taken note by the Arbitrator in determining the just compensation failing which it

will fall foul of Section 31(3) and amount to patent illegality. Therefore, while examining the award within the parameters permissible under Section 34 of Act, 1996 and while examining the determination of compensation as provided under Sections 26 and 28 of the RFCTLARR Act, 2013, the concept of just compensation for the acquired land should be kept in view while taking note of the award considering the sufficiency of the reasons given in the award for the ultimate conclusion. In such event an error if found, though it would not be possible for the Court entertaining the petition under Section 34 or for the appellate court under Section 37 of Act 1996 to modify the award and alter the compensation as it was open to the court in the reference proceedings under Section 18 of the old Land Acquisition Act or an appeal under Section 54 of that act, it should certainly be open to the court exercising power under Section 34 of Act, 1996 to set aside the award by indicating reasons and remitting the matter to the Arbitrator to reconsider the same in accordance with law. The said exercise can be undertaken to the limited extent without entering into merits where it is seen that the Arbitrator has on the face of the award not appropriately considered the material on record or has not recorded reasons for placing reliance on materials available on record in the background of requirement under RFCTLARR Act, 2013."

17. In P. Nagaraju's case (supra) Hon'ble Supreme Court has specifically held that the dictum of Tarsem Singh's case (supra) was applicable to the acquisition under NH Act. Even the guiding parameters under Sections 26 to 28 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (for short " 2013 Act") have been held to be applicable under Section 3G(7)(a) of NH Act.

18. Analysing the facts of instant cases against the above noticed exposition, it can certainly be said that the award passed by learned Arbitrator suffered from patent illegality inasmuch as it had completely rejected a piece of evidence from being consideration and secondly its findings while drawing distinction between potentiality of acquired land of revenue estate Alsu and Village Dehar was either on the personal knowledge of the learned Arbitrator or his assumption, for no material or evidence had been made basis for such findings. Additionally, the learned Arbitrator had not made his objective assessment as to the market value of land by considering the parameters prescribed under Sections 26 to 28 of the 2013 Act. The dictum in Tarsem Singh also required attention.

19. Thus, the award passed by learned Arbitrator required interference by learned District Judge, Mandi, being patently illegal. Accordingly, the common judgment dated 31.08.2022 passed by learned District Judge and award dated 29.06.2019 passed by the learned Arbitrator are set aside. The matters are remanded to learned Arbitrator to decide the applications of appellants for enhancement of compensation afresh strictly in accordance with law. Appeals are accordingly disposed of.