



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 1805/2023

1. Akha Ram S/o Moti Ram, Aged About 60 Years, R/o Hariyali, Tehsil Sanchore, District Jalore (Now Sanchore).
2. Ganesha Ram S/o Jetha Ram, Aged About 45 Years, R/o Hariyali, Tehsil Sanchore, District Jalore (Now Sanchore).
3. Rawata Ram S/o Jetha Ram, Aged About 44 Years, R/o Hariyali, Tehsil Sanchore, District Jalore (Now Sanchore).
4. Lakha Ram S/o Jetha Ram, Aged About 38 Years, R/o Hariyali, Tehsil Sanchore, District Jalore (Now Sanchore).

----Appellants

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Though Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanda, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan - 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

----Respondents

Connected With

S.B. Civil Misc. Appeal No. 1806/2023

Sanwla Ram S/o Veera Ram, Aged About 45 Years, R/o Jajusan Tehsil Sanchore District Jalore (Now Sanchore).

----Appellant

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Though Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanda, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan - 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

----Respondents

S.B. Civil Misc. Appeal No. 1807/2023

Devendra Choudhary S/o Kana Ram, Aged About 32 Years, R/o Jajusan Tehsil Sanchore District Jalore (Now Sanchore).

----Appellant

Versus



1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Though Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanda, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan - 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

-----Respondents

S.B. Civil Misc. Appeal No. 1808/2023

Smt. Kanu D/o Teja, Aged About 60 Years, W/o Padma Ram, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).

-----Appellant

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Though Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanda, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan - 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

-----Respondents

S.B. Civil Misc. Appeal No. 1993/2023

Haza Ram S/o Damara Ram, Aged About 72 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).

-----Appellant

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Through Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanada, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

-----Respondents

S.B. Civil Misc. Appeal No. 1994/2023

Smt. Naju Devi W/o Gova Ram, Aged About 81 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).



----Appellant

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Through Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanada, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

----Respondents

S.B. Civil Misc. Appeal No. 1996/2023

1. Padma Ram S/o Chatra Ram, Aged About 44 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).
2. Ishwar Lal S/o Chatra Ram, Aged About 32 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).
3. Sanwala Ram S/o Chatra Ram, Aged About 39 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).
4. Amriti Devi W/o Chatra Ram, Aged About 69 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).
5. Prema Ram S/o Chatra Ram, Aged About 52 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).

----Appellants

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Through Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid Heritage, Ratanada, Jodhpur, Rajasthan 342001.
2. District Collector Cum Arbitrator, Jalore, Rajasthan 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

----Respondents

S.B. Civil Misc. Appeal No. 1999/2023

Padma Ram S/o Maga Ram, Aged About 39 Years, R/o Jajusan, Tehsil Sanchore District Jalore (Now Sanchore).

----Appellant

Versus

1. National Highway Authority Of India, Ministry Of Road Transport And Highways, Government Of India, New Delhi Through Its Project Director, Project Execution Unit, National Highway Authority Of India, 148, Ummaid





Heritage, Ratanada, Jodhpur, Rajasthan 342001.

2. District Collector Cum Arbitrator, Jalore, Rajasthan 343001.
3. Competent Authority (Land Acquisition Officer) Sub Divisional Officer, Sanchore District Jalore (Now Sanchore).

-----Respondents

For Appellant(s) : Mr. Jitendra Mohan Choudhary
Mr. Samyak Dalal

For Respondent(s) : Mr. Ankur Mathur
Mr. Mudit Vaishnav

HON'BLE MS. JUSTICE REKHA BORANA**Judgment****22/02/2024**

1. The present appeals have been filed against the orders passed by the District Judge, Jalore whereby the applications/objections under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act of 1996') as filed by the claimants-objectors have been rejected as being non-maintainable. The details of the appeals filed and the respective details of the impugned orders are as under:

Sr. No.	S.B. Civil Misc. Appeal Nos.	Date of order passed by learned District Judge, Jalore.	Civil Misc. Case No. (CIS No.) before learned District Judge, Jalore.
1.	1805/2023	19.08.2023	01/2023 (01/2023)
2.	1806/2023	07.08.2023	17/2022 (18/2022)
3.	1807/2023	27.07.2023	16/2022 (17/2022)
4.	1808/2023	07.08.2023	15/2022 (16/2022)
5.	1993/2023	01.08.2023	20/2022 (21/2022)
6.	1994/2023	01.08.2023	21/2022 (22/2022)
7.	1996/2023	07.08.2023	14/2022 (15/2022)
8.	1999/2023	19.08.2023	03/2023 (03/2023)



2. For the present purpose of adjudication, the facts and dates of S.B. Civil Misc. Appeal No.1805/2023 preferred against the impugned order dated 19.08.2023 passed in Civil Misc. Case No.01/2023 (CIS No.01/2023) are taken into consideration.

3. The facts of the case are that Notification dated 20.08.2018, in terms of Section 3A of the National Highways Act, 1956 (hereinafter referred to as 'the Act of 1956') was issued for acquisition of land for the purposes of construction of National Highway No.754K of Amritsar-Kandla Project under Bharat Mala Project in Jalore District. Vide the said notification, the khatedari land of the claimants was proposed to be acquired. The objections qua the said acquisition were invited vide communication dated 07.09.2018 and the objections were even filed by the claimants on 18.09.2018. However, the said objections were rejected and the final declaration in terms of Section 3D of the Act of 1956 was made on 05.08.2019. The gazette publication of the said declaration was made on 06.08.2019.

4. Meaning thereby, the acquisition proceedings were finalised and the amount to be paid qua the acquisition was determined by the Competent Authority i.e. the Land Acquisition Officer cum Sub Divisional Officer, Jalore on 21.11.2019. The said amount was determined on basis of the DLC rates as prevalent at that point of time.

5. Aggrieved of the determination (Award) dated 21.11.2019 passed by the Competent Authority, an application was preferred by the claimants before the Collector on 24.06.2021. The said application was nomenclated to be under Section 18 of the Land Acquisition Act, 1894 (hereafter referred to as 'the Act of 1894').



However, an application for an amendment was preferred subsequently with the prayer for the said application to be read to be one under Section 64 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act of 2013'). Ultimately, the application as preferred before the Collector was decided vide order dated 25.08.2022.

Vide the said order, the Collector proceeded on to dismiss the application as preferred by the claimants while observing that the arbitration application as preferred by the claimants stands rejected.

6. Aggrieved of the order dated 25.08.2022 as passed by the Collector vide which, the determination/Award dated 21.11.2019 was affirmed, application/objections under Section 34 of the Act of 1996 was/were preferred by the claimants before the District Judge, Jalore. Vide Order dated 19.08.2023, the learned District Judge, Jalore proceeded on to reject the said application/objections on the premise that the same was/were not maintainable before the Court. The learned District Judge observed that the application as rejected by the Collector was an application preferred under Section 64 of the Act of 2013 and hence, the same cannot be termed to be an 'Award' qua which any objections would be maintainable in terms of the Act of 1996 before the Court.

The Court observed that without a reference been made by the Collector to the Court in terms of Section 64 of the Act of 2013, the Court could not have assumed jurisdiction to decide the present application. The Court further observed that there ought



to have been a reference by the Collector in terms of Section 64 of the Act of 2013 and then only the application/reference could have been entertained by the Court.

Aggrieved of the order dated 19.08.2023, the present appeal has been preferred.

7. Learned counsel for the appellants, at the inception, fairly admitted that the application as preferred before the Collector was inadvertently nomenclated first, to be under Section 18 of the Act of 1894 and subsequently under Section 64 of the Act of 2013. Counsel submitted that, in fact, the said application was in terms of Section 3G(5) of the Act of 1956 and even the Collector decided the same treating it to be under the said provision only. He submitted that the operative portion of the order as passed by the Collector makes it clear that the Collector treated the application to be under Section 3G(5) of the Act of 1956 and he, acting as an Arbitrator, dismissed the application treating it to be so. Therefore, in terms of Section 3G(5) of the Act of 1956, once an application under the said provision is rejected, i.e. the claim of the claimants is rejected by the Arbitrator, objections in terms of Section 34 of the Act of 1996 would lie as that was the only remedy available to the claimants in terms of Section 3G(6) of the Act of 1956.

Learned counsel further submitted that the wrong nomenclature or the wrong mentioning of the provision of law would not make the law applicable to a matter which otherwise was not applicable. Counsel submitted that admittedly, the acquisition in question was an acquisition in terms of the Act of 1956 for the purposes of a National Highway and hence, the acquisition or the proceedings for compensation would be



governed by the said act only. Even if the claimants preferred any application under any provision of the Act of 1894, the same could not have governed the dispute and such wrong mentioning of the provision could not have made the Act of 1894 applicable.

8. Counsel further submitted that Section 3G(5) of the Act of 1956 provides that if the amount determined by the competent authority is not acceptable to either of the parties, the same shall be determined by the Arbitrator to be appointed by the Central Government on an application by either of the parties. Therefore, the application as preferred by the claimants was definitely in terms of the said provision.

So far as the applicability of the Act of 2013 is concerned, the same was only to the extent of computation of compensation by the Arbitrator as the Act of 2013 has been made applicable only to that extent, in the matters of acquisition for National Highways.

9. So far as the finding of the learned District Judge regarding there being no notification/order available on record regarding the appointment of the Arbitrator by the Central Government in terms of Section 3G(5) of the Act of 1956 is concerned, counsel placed on record a copy of the notification dated 11.05.2016 issued by the Central Government whereby the Collector, Jalore had been appointed to be the Arbitrator regarding the acquisition in question. Counsel submitted that although the said notification was not placed on record before the District Court, but it is an assumption and a practice that the Collector of the concerned District acts as an Arbitrator appointed in terms of Section 3G(5) of the Act of 1956.



10. Lastly, learned counsel for the appellants submitted that the Order impugned deserves interference even for the reason that no such objection pertaining to jurisdiction or maintainability of the objections was raised even by the respondent Union of India. The Court, *suo moto*, without any objection regarding maintainability been raised, proceeded on to hold the application/objections to be not maintainable before the Court.

11. With the above submissions, counsel submitted that the order passed by the learned District Judge holding the application/objections under Section 34 of the Act of 1996 to be not maintainable, deserves to be set aside. Counsel prayed that the matter be remanded back to the District Judge for decision afresh on merits.

12. Per contra, learned counsel appearing for the NHAI submitted on merits that the award in question is totally in conformity with law and does not deserve any interference. However, counsel was not in a position to refute the submission as made by learned counsel for the appellants that the application/objections as preferred by the claimants was/were very much maintainable before the District Judge in terms of Section 34 of the Act of 1996.

13. Heard learned counsel for the parties and perused the order impugned.

14. Before advertent into the adjudication of the issues involved, at the inception itself, it is relevant to note that it is an admitted position on record that acquisition of the land in question was for the purposes of National Highways in terms of the Act of 1956. Meaning thereby, the provisions of Section 3G of the Act of 1956



would govern the procedure for determination of compensation. Section 3G(1) & (2) provide that qua acquisition of a land under this Act, the amount as determined by the Competent Authority shall be payable. Section 3G(5) provides that if the amount so determined by the Competent Authority is not acceptable to either of the parties, the same shall be determined by the Arbitrator to be appointed by the Central Government and Section 3G(6) provides that the provisions of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act of 1996') shall apply to every arbitration under this Act (subject to the provisions of the Act).

Meaning thereby, the amount of compensation would be first determined by the Competent Authority which would be subject to challenge before the Arbitrator as appointed by the Central Government so as to say, an award would be passed by the said Arbitrator and in terms of Section 3G(6), the same would be subject to challenge under the Act of 1996. The provision under the Act of 1996, which provides for a challenge to an award passed by the Arbitrator, is definitely Section 34. Therefore, the application as moved before the District Judge in the present case, raising a challenge to the award as passed by the Collector/Arbitrator in terms of Section 3G(5) of the Act of 1956, was definitely in terms of Section 34 of the Act of 1996.

15. The fact that the application as preferred before learned Collector was infact in terms of Section 3G(5) of the Act of 1956 is also evident from the fact that no prayer for reference of the same in terms of Section 64 of the Act of 2013 was made in the same. The only prayer made was to determine the compensation in



terms of law applicable and for granting of solatium as well as the interest amount. Had the application been intended to be made under Section 64 of the Act of 2013, a prayer for reference of the same definitely would have been made. The same was clearly not made.

Even in the application for correction in the nomenclature of the application, a prayer was made for determination of the compensation in terms of newly applicable provisions of the Act of 2013. The said prayer was definitely made in terms of law as the provisions from Sections 26 to 28 of the Act of 2013 were definitely applicable for determination of compensation. But by no means, the said prayer could have been said to be in terms of Section 64 of the Act of 2013.

16. So far as the mentioning of the wrong provision or wrong nomenclature is concerned, the Hon'ble Apex Court in **Vijaya Bank Vs. Shyamal Kumar Lodh, (2010) 7 SCC 635**, held that incorrect label of the application and mentioning wrong provision neither confers jurisdiction nor denudes the court of its jurisdiction. Relief sought for, if falls within the jurisdiction of the court, it can not be thrown out on the ground of its erroneous label or wrong mentioning of provision.

17. So far as the finding of the learned District Judge that the application as preferred by the applicants would have been maintainable only on a reference been made by the Collector in terms of Section 64 of the Act of 2013 is concerned, the same is also misplaced as, by virtue of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015 (which came into effect from



01.09.2015), the provisions of the Act of 2013, relating to the determination of the compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule were only made applicable to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act. Meaning thereby, all aspects contained under Sections 26 to 28 of the Act of 2013, for determination of compensation, were made applicable to the National Highways Act, 1956 also. The effect of the Act of 2015 was that the beneficiary provisions of Sections 26 to 28 of the Act of 2013 were made applicable to all the land acquisition proceedings. But then, only the said provisions of the Act of 2013 were made applicable to the Act of 1956 and nothing more than that. Meaning thereby, Section 64 of the Act of 2013 as relied upon by the learned District Judge was not applicable in the present matter. The reference to the Act of 2013 qua acquisition under the Act of 1956 could have been only to the extent of determination of the quantum of compensation and nothing else. The complete process for determination of said compensation and further, competent authorities to determine the compensation would definitely be governed by Section 3G (1) to (6) of the Act of 1956 only. Hence, the reliance of learned District Judge on Section 64 of the Act of 2013 was totally misplaced.

18. So far as the reference of the dispute to Civil Court in matters of acquisition governed by the Act of 1956 is concerned, only Section 3H(4) of the Act of 1956 provides for the same and that too, only in the circumstances where any dispute arises as to



apportionment of the amount of the dispute as to whom the amount of compensation would be payable. The Act does not provide for any other contingency where a reference to a Civil Court can be made.

19. So far as the finding of learned Judge regarding there being no notification in terms of Section 3G(5) of the Act of 1956 appointing an Arbitrator is concerned, the finding cannot be said to be contrary to the material as no such notification was placed on record before the learned District Judge. However, the same has been placed on record with the present appeal and hence the said finding also deserves to be set aside.

There being a specific notification dated 11.05.2016 whereby the Collector, Jalore was appointed as an Arbitrator qua the acquisition in question and order dated 25.08.2022 having been passed by him as an arbitrator, the application as preferred before learned District Judge is definitely required to be treated under Section 34 of the Act of 1996.

20. Hence, in view of the overall analysis and the above observations, the orders impugned are hereby quashed and set aside. The matter is remanded back to the learned District Judge, Jalore for decision afresh on the application/objections as preferred by the claimants treating them to be under Section 34 of the Act of 1996. Both the parties shall remain present before the District Judge, Jalore, on 11.03.2024. The learned District Judge shall not be required to issue any fresh notices to the parties and may proceed to decide the application/objections afresh after affording opportunity of hearing to all the parties.



21. With the above observations, the present appeals are **disposed of.**

22. All pending applications, if any, stand **disposed of.**

(REKHA BORANA),J

235-242/KashishS/-

