



**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 22<sup>nd</sup> OF AUGUST, 2024**

**ARBITRATION APPEAL No. 284 of 2023**

***NARESH YADAV***

*Versus*

***SUB DIVISIONAL OFFICE REVENUE AND OTHERS***

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**Appearance:**

*Shri Vivek Patwa – Advocate for appellant.*

*Shri Apoorv Joshi – G.A. for respondent No.1/State.*

*Shri Tayjas Sharma – Advocate for respondent No.2.*

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**JUDGEMENT**

- 1] They are heard and perused the documents filed on record.
- 2] This appeal has been preferred by the appellant Naresh Yadav against the order dated 20.07.2023 passed by the II District Judge, Garoth, District Mandsaur in MJC No.17 of 2022 whereby the application filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (in short 'the Act of 1996') assailing the order dated 09.11.2020 passed by the Arbitrator/Commissioner, Ujjain under The National Highways Act, 1956 (in short 'the Act of 1956') has been rejected on the ground that the application is barred by Section 63 of the Right to Fair Compensation and Transparency in



Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the Act of 2013').

3] Counsel for the appellant, at the outset, has drawn the attention of this Court to the fact that the original award was passed by the Arbitrator/Commissioner, Ujjain under Section 3G(5) of the Act of 1956 and Sub-section (6) of the same provides that subject to the provisions of this Act, the provisions of the Act of 1996 shall apply to every arbitration under this Act. Thus, it is submitted that the learned Judge of the District Court has erred in applying the provisions of the Act of 2013 in place of the Act of 1956, hence the impugned order be set aside and the matter may be remanded back for its fresh disposal under the provisions of the Act of 1996.

4] Shri Tayjash Sharma, learned counsel for the respondent No.2 has opposed the prayer and it is submitted that the application itself was not maintainable. It is submitted the Court at Garoth, District Mandsaur had no territorial jurisdiction as the cause of action had arisen at Ujjain as the same was decided by the Arbitrator/Commissioner, Ujjain.

5] In rebuttal, counsel for the appellant has submitted that since the original cause of action had arisen at Garoth, District Mandsaur, hence, the Mandsaur Court had the jurisdiction to decide the case and the Divisional Commissioner of Mandsaur is also the same i.e., the Commissioner, Ujjain.

6] Heard. On due consideration of submissions and on perusal of the documents filed on record, it is found that so far as the impugned order is concerned, the learned Judge of the District Court has referred



to Section 63 of the Act of 2013, however, the learned Judge has lost sight of the fact that the Arbitration proceedings had initiated under Section 3G(5) of the Act of 1956. The relevant paras of Section 3G of the Act of 1956 read as under:-

**“3G. Determination of amount payable as compensation.**

**XXXXXXXXXXXX**

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.”

(Emphasis Supplied)

7] It is apparent from the aforesaid provision that the order passed by the Arbitrator, determining the amount of compensation, can be challenged only under the Act of 1996 as provided under Sub-section (6) of the Act of 1956, and it is rather strange that the learned Judge of the trial Court has referred to the Act of 2013 for no apparent reasons, when the said objection was not even raised by the respondent.

8] A bare perusal of the original award passed by the Commissioner also reveals that it has been passed by the Commissioner in the capacity of an Arbitrator under the provisions of Act of 1956. Thus, there was absolutely no reason for the learned Judge of the District Court to invoke the provisions of the Act of 2013, and apparently an error of law has been committed by the learned Judge in rejecting the application on that basis.

9] Accordingly, the appeal stands allowed and the impugned order dated 20.07.2023 is hereby set aside and the matter is remanded back to the District Court for its decision afresh on the merits.



**10]** It is made clear that this Court has not reflected upon the merits of the case, and the parties shall be free to raise all the grounds available to them under law, before the District Court.

**11]** With the aforesaid, the appeal stands *allowed* and *disposed of*.

**(SUBODH ABHYANKAR)**  
**JUDGE**

**Pankaj**