



Sayyed

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

(903) WRIT PETITION NO.9608 OF 2023

Kisanlal Bairudas Jain	... Petitioner
<i>Versus</i>	
Union of India and ors.	... Respondents

**AND
(904) WRIT PETITION NO.11052 OF 2024**

Ratanlal Ramchandra Jain	... Petitioner
<i>Versus</i>	
Union of India and ors.	... Respondents

**WITH
WRIT PETITION NO.7627 OF 2024**

Ramnath Rajaram Niphade	... Petitioner
<i>Versus</i>	
Union of India and ors.	... Respondents

**WITH
WRIT PETITION NO.15636 OF 2024**

Ramrao Dattatray More	... Petitioner
<i>Versus</i>	
Union of India and ors.	... Respondents

**WITH
WRIT PETITION NO.15115 OF 2024**

Chitra Ramesh Khode	... Petitioner
<i>Versus</i>	
Union of India and ors.	... Respondents

**WITH
WRIT PETITION NO.15834 OF 2024**

Dattatraya Karbhari Niphade ... Petitioner

Versus

Union of India and ors. ... Respondents

**WITH
WRIT PETITION NO.7626 OF 2024**

Sudhakar Baburao Kandekar ... Petitioner

Versus

Union of India and ors. ... Respondents

**WITH
WRIT PETITION NO.11876 OF 2024**

Shivram Vithoba Pawar ... Petitioner

Versus

The Competent Authority National ... Respondents
Highway Authority of India and Anr.

**WITH
WRIT PETITION NO.15649 OF 2024**

Khanderao Waman Vatpade ... Petitioner

Versus

Competent Authority Land Acquisition ... Respondents
No.2 and Anr.

**WITH
WRIT PETITION NO.11573 OF 2024**

Dineshbhai Dayabhai Bhalodia ... Petitioner

Versus

Competent Authority National Highway ... Respondents
Authority of India and Anr.

**WITH
WRIT PETITION NO.10696 OF 2024**

Ramdas Pundalik Vidhate ... Petitioner

Versus

Competent Authority National Highway ... Respondents
Authority of India and Anr.

**WITH
WRIT PETITION NO.15653 OF 2024**

Navnath Murlidhar Vatpade ... Petitioner

Versus

Competent Authority Land Acquisition ... Respondents
No.2, Nashik and Anr.

**WITH
WRIT PETITION NO.7982 OF 2024**

Raman Damu Jore ... Petitioner

Versus

Government of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.15116 OF 2024**

Bajirao Raghunath Gaikwad ... Petitioner

Versus

Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.11051 OF 2024**

Ashok Mahadu Pawar and Ors. ... Petitioners

Versus

Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.9585 OF 2024**

Genu Mahadu Jadhav ... Petitioner

Versus

Government of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.6876 OF 2024**

Mayur Bhausahab Pawar ... Petitioner

Versus

The Competent Authority and Special ... Respondents
Land Acquisition Office No.2, Nashik
and Anr.

**WITH
WRIT PETITION NO.9542 OF 2024**

Minakshi Prakash Deshmukh ... Petitioner

Versus

Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO. 6971 OF 2024**

Sunil Babulal Burad ... Petitioner

Versus

The Government of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.5842 OF 2024**

Minakshi Prakash Deshmukh ... Petitioner

Versus

Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.15967 OF 2024**

Rajaram Nathu Bonde ... Petitioner
Versus
Government of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.6036 OF 2024**

Grafite India Ltd. ... Petitioner
Versus
Government of India and Ors. ... Respondents

**WITH
WRIT PETITION NO.15704 OF 2024**

Ramdas Keru Malunjkar ... Petitioner
Versus
Government of India and Ors. ... Respondents

**WITH
WRIT PETITION NO. 11772 OF 2024**

Ananda Revji Sanap ... Petitioner
Versus
Competent Authority and Special Land ... Respondents
Acquisition Officer and Ors.

**WITH
WRIT PETITION NO. 11888 OF 2024**

Ramdas Budha Gohire ... Petitioner
Versus
Union of India and Ors. ... Respondents

**WITH
WRIT PETITION NO. 16482 OF 2023**

Jagannath Vishnu Pagar ... Petitioner

Versus

Government of India and Ors.

... Respondents

WITH

WRIT PETITION (ST) NO.33968 OF 2023

Ramdas Murlidhar Gunjal

... Petitioner

Versus

Union of India and Ors.

... Respondents

WITH

WRIT PETITION (ST) NO.33972 OF 2023

Sitabai Nivrutti Satbhai

... Petitioner

Versus

Government of India and Ors.

... Respondents

Mr. P. N. Joshi a/w Mr. Nikhil M. Pujari, Mr. Pratik Rahade for the Petitioner in all petitions.

Mr. Sambahji Kharatmol i/b. Mr. Suhas P. Urgunde, for Respondent No.5 in WP/9608/2023.

Mr. Rakesh L. Singh a/w Ms. Heena Shaikh i/b. M. V. Kini & Co., for Respondent No.5-NHAI in WP/11052/24 & all connected WPs.

Mr. Aditya R. Deolekar, AGP for Respondent-State in WP/9608/23 and WP Nos.11052, 7627, 15636, 15115, 15834 of 2024.

Ms. S. R. Crasto, AGP for Respondent-State in WP Nos.7626, 11876, 15649, 11573, 10696 of 2024.

Mr. R. S. Pawar, AGP for Respondent-State in WP Nos.15653, 7982, 15116, 11051, 9585 of 2024.

Ms. M. S. Bane, AGP for Respondent-State in WP Nos.6876, 9542, 6971, 5842, 15967 of 2024 and WPST/33972/2023.

Ms. V. R. Raje, AGP for Respondent-State in WP Nos.6036, 15704, 11772, 11888 of 2024 and 16482/2023 and WPST/33968/2023.

**CORAM : M.S. Sonak &
Jitendra Jain, JJ.**

DATED : 9 May 2025

ORAL JUDGMENT:- (Per M. S. Sonak, J.)

1. Heard learned counsel for the parties.
2. We issue Rule in each of these petitions. The Rule is made returnable forthwith, with the consent of the learned counsel for the parties.
3. Yesterday, we made it clear that these matters would be taken up for final disposal today because there was never any dispute that the law laid down by the Hon'ble Supreme Court in the case of *Union of India vs Tarsem Singh and Ors.*¹ was applicable in these matters, entitling all the Petitioners to the statutory benefits of interest and solatium on par with the provisions of the Right To Fair Compensation And Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
4. Mr. Sambhaji Kharatmol, the learned counsel appearing on behalf of the National Highway Authority of India in some of these matters, has tendered an affidavit-in-reply. He has contended that these Petitions should not be entertained because all the Petitioners have an alternate remedy under Section 37 of the Arbitration and Conciliation Act, 1996 ("Arbitration Act"). Further, the affidavit states that if the Petitioners are affected by non-payment of solatium and interest in terms of the decision of the Hon'ble Supreme Court in the case of *Tarsem Singh (Supra)*, *'petitioner should promptly file claims with the Competent Authority, including all necessary documentation and prove that,*

¹ (2019) 9 SCC 304

he is entitled for solatium and interest, but the Petitioner without availing the remedy directly approached this Hon'ble Court by way of writ petition, which is against the settled position of law, hence, the Writ Petition filed by the Petitioner deserves to be dismissed holding that the same is not maintainable.'

5. In all these matters, the Petitioners were aggrieved with the compensation amount determined and, therefore, applied for the matter to be resolved through Arbitration as provided under Section 3G(5) of the National Highways Act, 1956. The Arbitrator so appointed made an award, enhancing the compensation. However, the benefit of the decision of the Hon'ble Supreme Court in ***Tarsem Singh (supra)*** was not granted.

6. Therefore, the Petitioners preferred petitions under Section 34 of the Arbitration Act. A common judgment and order dated 4 May 2023 disposed of these. In this judgment and order, the Principal District Judge, Nashik, [PDJ], in fact agreed with the Petitioner's contention that they were entitled to solatium and interest in terms of the decision of the Hon'ble Supreme Court in ***Tarsem Singh (supra)***. This judgment and order records that even the National Highway Authority expressed willingness to pay the solatium component from the decision date in ***Tarsem Singh (supra)***. However, the PDJ, being bound by the decision of the Co-ordinate Bench of this Court in the case of ***Rishabhkumar Vs Secretary to Government of India***², felt disabled to modify the Arbitrator's award and grant the Petitioners relief in terms of the

² 2021 SCC OnLine Bom 4561

decision of the Hon'ble Supreme court in the case of ***Tarsem Singh (supra)***.

7. The above is evident from paragraphs 25 to 26 of the PDJ's order disposing of the Petitioner's Petitions under Section 34 of the Arbitration Act. Paragraphs 25 and 26 are transcribed below for the convenience of reference: -

“25. I do agree with the submissions made by learned Advocate Mr. S.N.Baste appearing for the applicants that applicants are entitled for solatium and interest on solatium. So also National Highways Authority expressed willingness to pay the solatium components from the date of decision of Hon'ble Apex Court passed in case of Tarsem Singh.

26. However, in the light of legal principle laid down by the Hon'ble Bombay High Court in Rishabhkumar s/o. Babulal Jejani (Supra), grant of statutory amount and components are not permissible in exercise of jurisdiction under Section 34 of the Arbitration and Conciliation Act.”

8. Incidentally, ***Rishabhkumar (supra)*** takes the view that whatever the Principal District Judge in a Petition under Section 34 of the Arbitration Act could not have done, the same cannot be done by the Appeal court under Section 37 of the Arbitration Act. In such circumstances, we cannot appreciate the NHAI's stance of raising the plea that these petitions should not be entertained because the Petitioners have an alternate remedy under Section 37 of the Arbitration Act.

9. It is well settled that the rule of exhaustion of alternate remedies is a self-imposed restriction on exercising extraordinary jurisdiction under Article 226 of the Constitution of India. Before

applying this Rule, the court must see whether the alternate remedy is indeed efficacious. There is no point in relegating the Petitioners to the remedy under Section 37 of the Arbitration Act, when the relief they claim cannot be granted under such proceedings.

10. If we were to relegate the Petitioners to the remedy of Section 37, the Appeal Court, being bound by the decision in *Rishabhkumar (supra)*, would have no option but to dismiss such appeals by declining to modify the arbitral award. This would be futile. Such a remedy can hardly be called an efficacious one. Accordingly, we reject the unfortunate contention that these Petitions should not be entertained because the Petitioners have an alternative remedy under Section 37 of the said Act.

11. In the case of *M/s Godrej Sara Lee Ltd Vs The Excise and Taxation officer-cum-Assessing Authority and Ors.*³, Civil Appeal no.5393 of 2010 decided on 1 February 2023, the Hon'ble Supreme Court interfered with the dismissal of the writ petition by the High Court because the petitioner had not availed the alternate remedy. The Hon'ble Supreme Court noted that such dismissal was improper because the High Court failed to examine whether an exceptional case has been made out. The Hon'ble Supreme Court also noted that mere availability of an alternative remedy of appeal or revision would not oust the jurisdiction of the High Court and render a writ petition '*not maintainable*'. Where the controversy is purely legal one and it does not involve

³ 2023 (384) ELT 8 (SC)

disputed questions of fact but only involves questions of law, then it should be decided by the High Court instead of dismissing the writ petition on the ground of an alternative remedy being available.

12. There is no serious dispute regarding the facts or applicable law in these matters. The PDJ has held that the Petitioners are entitled to the benefits in terms of *Tarsem Singh (Supra)*. The NHAI offered such benefits from the date of the judgment. The so-called alternative remedy is ineffective. There is no benefit in relegating the Petitioners to avail themselves of such an alternative remedy, thus depriving them of the benefits to which they are entitled.

13. In all these matters, as noted earlier, there is no dispute about the Petitioners being entitled to the benefits of the solatium and interest under the decision of the Hon'ble Supreme Court in *Tarsem Singh (Supra)*. Even the counsel for NHAI who appeared before the Principal District Judge, fairly submitted that the NHAI was willing to pay solatium component, though, from the date of the decision in the case of *Tarsem Singh (Supra)*. After all this, to raise the objection based on alternate remedy in this Court, appears to be extremely unfortunate and unfair on the part of the NHAI. The NHAI cannot take diversion stances. Ultimately, these are statutory benefits. The entitlement is never seriously disputed. Even the Principal District Judge, in terms held that the Petitioners were entitled to such benefits given the decision in *Tarsem Singh (Supra)*.

14. These are not adversarial proceedings, and we are happy to note that NHAI did not treat them as adversarial proceedings at least before the District Court. Even in this Court, Mr. Singh, who appeared for NHAI in some of the matters, did not raise an objection based on an alternate remedy. The objection was only raised by Mr. Sambhaji Kharatmol, no doubt, on the instructions of his senior, who had appeared yesterday and raised the same objection.

15. Though no contention was pressed before us that the benefits of *Tarsem Singh (Supra)* should be given only from the date on which the Hon'ble Supreme Court made such a decision, still, we must add that such a plea was attempted to be raised before the Hon'ble Supreme Court by filing the Miscellaneous Application. Such a Miscellaneous Application was rejected on 4 February 2025. We have taken cognisance of the Miscellaneous Application filed in *Tarsem Singh (Supra)* and the orders made thereon in our order dated 8 April 2025, disposing of Writ Petition No.11932 of 2019 and connected matters.

16. Even in *Rishabhkumar (supra)*, the Co-ordinate Bench agreed that the appellants were entitled to the benefits in terms of *Tarsem Singh (supra)*. However, the Co-ordinate Bench held that if the Arbitrator failed to grant such benefits in the arbitral award, the Section 34 Court was not entitled to modify and grant such monetary benefits. The Co-ordinate Bench also held that whatever the Section 34 Court could not do, even the appeal Court under Section 37 could not do. Accordingly, orders made by the Section

34 Court granting such statutory benefits were interfered. The Coordinate Bench clarified that such interference was due to the restricted powers possessed by the Section 34 and Section 37 Courts.

17. In fact, in paragraphs 62 and 66, the Co-ordinate Bench held that though such reliefs could not have been granted by modifying the awards, the landowners would have to take such steps as are permissible in law to seek additional reliefs beyond what may have been granted in the award. Since the petitioners only claim statutory reliefs in terms of the decision of the Hon'ble Supreme Court in the case of *Tarsem Singh (supra)*, we see nothing wrong in their invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution.

18. We also rely upon our reasoning in the order dated 8 April 2025, disposing of the Writ Petition No.11932 of 2019 and connected matters. In this order, the petitioners had directly petitioned this Court under Article 226 of the Constitution of India. The NHAI's counsel, Mr. Rakesh Singh, very fairly, accepted that the matter was covered by the decision of the Hon'ble Supreme Court in the case of *Tarsem Singh (supra)*. Even otherwise, we were satisfied that the matter was covered. Accordingly, directions were issued to grant the petitioners the statutory benefits in terms of the decision of the Hon'ble Supreme Court in the case of *Tarsem Singh (supra)*.

19. In our order dated 8 April 2025, we referred to Article 141 of the Constitution, which provides that the law declared by

the Supreme Court shall be binding on all Courts within the territory of India. We also referred to Article 144 of the Constitution, which provides that all authorities, civil and judicial, in the territory of India shall act to the aid of the Hon'ble Supreme Court.

20. Accordingly, for all the above reasons, we overrule the objection to the maintainability of these petitions on grounds of alternate remedy and allow all these petitions by directing the NHAI to pay to the Petitioners the statutory benefits of solatium and interest in terms of the decision of the Hon'ble Supreme Court in *Tarsem Singh (supra)* within four months from today without requiring the Petitioners to institute any contempt petitions for non-compliance.

21. The Rule is made absolute in the above terms without any cost order.

22. All concerned must act on the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)