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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 13th February, 2026

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W.P.(C) 15198/2025

KAAYA BUILDTECH PRIVATE LTDPetitioner
Through: Mr. Harshit Batra and Ms. Tanya Karnwal, Advs.
versus
UNION OF INDIA & ANR.Respondents
Through: Mr. Niraj Kumar, Sr. Central Govt. Counsel with Mr. Chaitanya Kumar, Adv. for R1
Mr. Sanjay Kumar Pathak, SC with Mr. Sunil Kumar Jha, Mr. Mohd Sueb Akhtar, Advs. for LAC

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ directing the Respondents to refer the dispute regarding the enhancement of compensation awarded to the Petitioner under Award Nos. 02/2022/SW, 4/2022/SW and 7/2020/SW to arbitration under Section 3G(5) of the National Highways Act, 1956
3. A large passage of land was acquired under the National Highway Act, 1956 between the year 2020 and 2022 for development of National Highway being NH 334(M) and NH 334(N) in South West District, Delhi. The



compensation was assessed and the same was paid to the Petitioner. However, the Petitioner was not satisfied with the compensation and on the ground that the same was not commensurate with the market value, the Petitioner had reserved its rights to seek enhanced compensation and prayed that the matter be referred to arbitration under Section 3G(5) of the National Highways Act, 1956.

4. The said request was made to the Special Secretary, Land and Building Department, GNCTD. However, despite reminders, the matter was not referred to arbitration. Hence, the present writ petition.

5. Ld. Counsel for the Petitioner submits that under Section 3G(5) of the National Highways Act, 1956, the Petitioner's claim is liable to be referred to arbitration to the Special Secretary, as notified by the Government.

6. Ld. Counsel for the Petitioner has also placed reliance upon the decision in ***General Manager (Project) v. Prakash Chand Pradhan, Civil Appeal No. 5250 of 2018***, wherein it was held that in such cases, the appropriate remedy is a writ petition. The said decision dated 16th May, 2018 is set out below:

"Section 3-G of the National Highways Act, 1956 provides for determination of the amount that is payable by way of compensation. We are concerned in these appeals with sub-sections (5) and (6) of Section 3-G which read as under:

"(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."

A cursory reading of sub-section (5) shows us that appointment of the arbitrator under the said sub-section is only in the hands of the Central Government. Sub-section (6) begins with the important expression "subject to the provisions of this Act", the provisions of the Arbitration and Conciliation Act, 1996 shall apply.

Having heard learned counsel for the parties, we are, therefore, of the view that a Section 11 application under the 1996 Act cannot be made as the Central Government alone is to determine who is to be an arbitrator under Section 3-G (5) of the National Highways Act. If a demand is made for the appointment of an arbitrator, and the Central Government does not appoint an arbitrator within a reasonable time, the remedy that is to be availed of is a writ petition or a suit for the said purpose, and not Section 11 of the Arbitration and Conciliation Act, 1996.

A similar provision contained in Section 86 (1)(f) of the Electricity Act, 2003 specifically gives the State Commission power to refer any dispute for arbitration. In this view of the matter, this Court in Gujarat Urja Vikas Nigam Ltd. vs. Essar Power Ltd., (2008) 4 SCC 755, held as under:

"28. Section 86(1)(f) is a special provision and hence will override the general provision in Section 11 of the Arbitration and Conciliation Act, 1996 for arbitration of disputes between the licensee and



generating companies. It is well settled that the special law overrides the general law. Hence, in our opinion, Section 11 of the Arbitration and Conciliation Act, 1996 has no application to the question who can adjudicate/arbitrate disputes between licensees and generating companies, and only Section 86(1)(f) shall apply in such a situation."

We respectfully agree with the ratio of the said judgment. Likewise, Section 3-G of the National Highways Act is a special provision which will be given effect insofar as the appointment of an arbitrator is concerned.

Learned counsel appearing on behalf of the respondents has, however, argued that an arbitrator has now been appointed under Section 11 of the Arbitration and Conciliation Act, 1996 and, that, therefore, no prejudice will be caused if he is allowed to continue. This argument ignores the fact that Section 11 of the Arbitration and Conciliation Act does not apply and that, under Section 3-G, the Central Government alone can appoint an arbitrator.

Accordingly, the impugned judgment is set aside and the appeals are allowed."

7. Mr. Pathak, ld. Counsel for the LAC submits that a communication has been written by the Petitioner directly to the Special Secretary by the Petitioner, who is not a Competent Authority since the Special Secretary has to himself act as the Arbitrator.

8. The Court has considered the matter. Section 3G (5) of the National Highways Act, 1956 provides as under:



“[3G. Determination of amount payable as compensation.—...

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(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--”

9. The Supreme Court in the decision in ***NHAI v. Sayedabad Tea Co. Ltd., (2020) 15 SCC 161*** while dealing with the question whether an application under Section 11 of the Arbitration and Conciliation Act, 1996 is maintainable in view of Section 3G(5) of the National Highways Act, 1956, held as under:

“1. The moot question which arises before us is whether the application under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter being referred to as “the 1996 Act”) is maintainable in view of Section 3-G(5) of the National Highways Act, 1956 (hereinafter being referred to as “the 1956 Act”) which provides for appointment of an arbitrator by the Central Government.

2. The relevant seminal facts are that the subject land comprised in “Sayedabad Tea Estate” situated at Mouza Purba Madati, J.L. No. 108, Police Station Phansidewa, District Darjeeling measuring 5.08 acres was acquired by the appellant (National Highways Authority of India) in exercise of its powers under Section 3-D of the 1956 Act vide Notification dated 22-11-2005 under LAP Case No. 4/2004-05 for the purpose of construction of the highways.

3. The 1956 Act is a comprehensive code in itself and a special legislation enacted by Parliament for acquisition and for determining compensation and its disbursement where there are several claimants over the



amount deposited towards compensation determined by the competent authority in accordance with the mechanism provided under Section 3-G of the 1956 Act. If the amount so determined by the competent authority under sub-section (1) or sub-section (2) of Section 3-G 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 under Section 3-G(5) of the Act. While determining the amount of compensation under sub-section (1) or sub-section (5), it is the duty of the arbitrator to take into consideration the relevant pointers envisaged under sub-section (7) of Section 3-G of the 1956 Act. Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority under Section 3-G of the 1956 Act, the arbitrator may, at its discretion, award interest at nine per cent per annum on the excess amount under sub-section (5) of Section 3-H from the date of taking possession under Section 3-D till the date of actual deposit.

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15. At the very outset, we may notice that the two-Judge Bench of this Court in the recent judgment in National Highways & Infrastructure Development Corpn. Ltd. case [National Highways & Infrastructure Development Corpn. Ltd. v. Prakash Chand Pradhan, (2020) 15 SCC 533], while dealing with the scope of sub-sections (5) and (6) of Section 3-G of the 1956 Act with reference to Section 11 of the 1996 Act has held that the 1956 Act being a special enactment and Section 3-G in particular provides an inbuilt mechanism for appointment of an arbitrator by the Central Government. Hence, Section 11 of the 1996 Act has no application and the power is exclusively vested with the Central Government under Section 3-G(5) of the 1956 Act for appointment of an arbitrator and if the Central Government does not appoint an



arbitrator within a reasonable time, it is open for the party to avail the remedy either by filing a writ petition under Article 226 of the Constitution of India or a suit for the purpose but the remedy of Section 11 of the 1996 Act is not available for appointment of an arbitrator.

16. We are in full agreement with the legal position stated by a two-Judge Bench of this Court in National Highways & Infrastructure Development Corpn. Ltd. case [National Highways & Infrastructure Development Corpn. Ltd. v. Prakash Chand Pradhan, (2020) 15 SCC 533] but like to add further that the 1956 Act has been enacted under Entry 23 of the Union List of the Seventh Schedule to the Constitution with the exclusive power to legislate with respect to highways, which are declared to be national highways by or under law by Parliament. It is a comprehensive code and a special enactment which provides an inbuilt mechanism not only in initiating acquisition until culmination of the proceedings in determining the compensation and its adjudication by the arbitrator to be appointed by the Central Government and if still remain dissatisfied, by the court of law.

17. In compliance of the mandate of Sections 3-A to 3-F of the 1956 Act, after the land is acquired, there shall be paid an amount of compensation which shall be determined by an order of the competent authority under sub-sections (1) or (2) of Section 3-G of the 1956 Act and any person who is aggrieved by the amount so determined by the competent authority or what being determined is not acceptable to either of the parties, on an application being filed by either of the parties, has to be determined by the arbitrator to be appointed by the Central Government in terms of subsection (5) of Section 3-G of the 1956 Act.

18. After analysing the scheme, it can be assumed that the legislature intended the 1956 Act to act as a complete code in itself for the purpose of acquisition



until culmination including disbursement and for settlement of disputes and this conclusion is further strengthened in view of Section 3-J of the Act which eliminates the application of the Land Acquisition Act, 1894, to an acquisition under the 1956 Act.

19. It is settled principles of law that when the special law sets out a selfcontained code, the application of general law would impliedly be excluded. In the instant case, the scheme of the 1956 Act being a special law enacted for the purpose and for appointment of an arbitrator by the Central Government under Section 3-G(5) of the 1956 Act and subsection (6) of Section 3-G itself clarifies that subject to the provisions of the 1956 Act, the provisions of the 1996 Act shall apply to every arbitration obviously to the extent where the 1956 Act is silent, the arbitrator may take recourse in adjudicating the dispute invoking the provisions of the 1996 Act for the limited purpose. But so far as the appointment of an arbitrator is concerned, the power being exclusively vested with the Central Government as envisaged under sub-section (5) of Section 3-G of the 1956 Act, Section 11 of the 1996 Act has no application.

20. The plea of the respondents that they have rightly taken recourse in the facts and circumstances of Section 11 of the 1996 Act cannot be accepted for the reason that Section 3-G(6) of the 1956 Act clearly stipulates that the provisions of the 1996 Act will apply subject to the provisions of the 1956 Act. The usage of the expression "subject to" clearly indicates that the legislature intended to give overriding effect to the provisions of the 1956 Act where it relates to the disputes pertaining to determination of the amount of compensation under the Act. The irresistible conclusion is that the legislature in its wisdom intended to abrogate the power for appointment of an arbitrator under the provisions of the 1996 Act

21. In our considered view, the High Court of Calcutta



was not holding its competence to appoint an arbitrator invoking Section 11 of the 1996 Act.

22. *This very question earlier arose before this Court whether the application under Section 11(6) of the 1996 Act is maintainable in view of statutory provisions of the Electricity Act, 2003 adjudicating the dispute between the licensees and the generating companies of the special enactment and Section 86(1) of the Electricity Act, 2003 in particular, this Court in Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd. [Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd., (2008) 4 SCC 755] in para 28 observed as under: (SCC p. 765)*

“28. Section 86(1)(f) is a special provision and hence will override the general provision in Section 11 of the Arbitration and Conciliation Act, 1996 for arbitration of disputes between the licensee and generating companies. It is well settled that the special law overrides the general law. Hence, in our opinion, Section 11 of the Arbitration and Conciliation Act, 1996 has no application to the question who can adjudicate/arbitrate disputes between licensees and generating companies, and only Section 86(1)(f) shall apply in such a situation.”

23. *We are also of the considered opinion that in view of the power being vested exclusively with the Central Government to appoint an arbitrator under Section 3-G(5) of the 1956 Act, being a special enactment, the application filed under Section 11(6) of the 1996 Act for appointment of an arbitrator was not maintainable and provisions of the 1996 Act could not be invoked for the purpose.”*

10. In ***Bhupender Kumar Arora (HUF), Through its Karta Sh. Bhupender Kumar Arora v. Union of India & Anr., 2025: DHC:7774*** a Ld. Single Judge of this Court, has held that the National Highways Act, 1956, being a special enactment, provides an inbuilt mechanism for the appointment



of an Arbitrator by the Central Government under Section 3G(5). Consequently, Section 11 of the Arbitration and Conciliation Act, 1996 is inapplicable, and the authority to appoint an Arbitrator is exclusively vested in the Central Government. The relevant portion of the said decision reads as under:

“12. Insofar as the argument with respect to extent of acquisition of the land in question and/or percentage allocation in favour of the Petitioner is concerned, this touches upon the merits of the case and is not required to be decided in the present petition. Clearly, this is a matter within the domain and remit of the Arbitrator. Coming to the question of validity of appointment of the Arbitrator under Section 3G(5) of NH Act. This issue need not detain this Court as the same stands decided by the Supreme Court in Sayedabad Tea Company (supra), wherein the Supreme Court referred to a judgment of the Supreme Court given earlier in General Manager (Project), National Highways and Infrastructure Development Corporation v. Prakash Chand Pradhan and Others, (2020) 15 SCC 533, where it was held that NH Act is a special enactment and under Section 3G in particular, it provides inbuilt mechanism for appointment of an Arbitrator by the Central Government. Hence, Section 11 of 1996 Act has no application and the power is exclusively vested with the Central Government. Where the Central Government does not appoint the Arbitrator within a reasonable time, it is open to the party to either file a writ petition or a suit but remedy of Section 11 is not available. Agreeing with legal position stated in this judgment in Sayedabad Tea Company (supra), the Supreme Court observed that NH Act is enacted under Entry 23 of Union List of the Seventh Schedule to the Constitution with exclusive power to legislate with respect to highways, which are declared as National Highways by or under the law of



Parliament. It is a comprehensive Code and a special enactment which provides an inbuilt mechanism not only in initiating acquisition until culmination of the proceedings in determining compensation and its adjudication by the Arbitrator to be appointed by the Central Government and if it still remains dissatisfied, by the Court of law. It was observed that after analysing the scheme of the Act, it can be assumed that Legislature intended NH Act to act as a complete Code for acquisition as also settlement of disputes in this regard and this conclusion is strengthened by Section 3J of NH Act, which eliminates application of Land Acquisition Act, 1894 to an acquisition under NH Act. Relevant paragraphs of the judgment are as follows:-

“15. At the very outset, we may notice that the two-Judge Bench of this Court in the recent judgment in National Highways & Infrastructure Development Corp. Ltd. case [National Highways & Infrastructure Development Corp. Ltd. v. Prakash Chand Pradhan, (2020) 15 SCC 533], while dealing with the scope of sub-sections (5) and (6) of Section 3-G of the 1956 Act with reference to Section 11 of the 1996 Act has held that the 1956 Act being a special enactment and Section 3-G in particular provides an inbuilt mechanism for appointment of an arbitrator by the Central Government. Hence, Section 11 of the 1996 Act has no application and the power is exclusively vested with the Central Government under Section 3-G(5) of the 1956 Act for appointment of an arbitrator and if the Central Government does not appoint an arbitrator within a reasonable time, it is open for the party to avail the remedy either by filing a writ petition under Article 226 of the Constitution of India or a suit for the purpose but the remedy of Section 11 of the 1996 Act is not available for appointment of an



arbitrator.

16. *We are in full agreement with the legal position stated by a two-Judge Bench of this Court in National Highways & Infrastructure Development Corp. Ltd. case [National Highways & Infrastructure Development Corp. Ltd. v. Prakash Chand Pradhan, (2020) 15 SCC 533] but like to add further that the 1956 Act has been enacted under Entry 23 of the Union List of the Seventh Schedule to the Constitution with the exclusive power to legislate with respect to highways, which are declared to be national highways by or under law by Parliament. It is a comprehensive code and a special enactment which provides an inbuilt mechanism not only in initiating acquisition until culmination of the proceedings in determining the compensation and its adjudication by the arbitrator to be appointed by the Central Government and if still remain dissatisfied, by the court of law.*

17. *In compliance of the mandate of Sections 3-A to 3-F of the 1956 Act, after the land is acquired, there shall be paid an amount of compensation which shall be determined by an order of the competent authority under sub-sections (1) or (2) of Section 3-G of the 1956 Act and any person who is aggrieved by the amount so determined by the competent authority or what being determined is not acceptable to either of the parties, on an application being filed by either of the parties, has to be determined by the arbitrator to be appointed by the Central Government in terms of subsection (5) of Section 3-G of the 1956 Act.*

18. *After analysing the scheme, it can be assumed that the legislature intended the 1956 Act to act as a complete code in itself for the purpose of acquisition until culmination including disbursement and for settlement of disputes and*



this conclusion is further strengthened in view of Section 3-J of the Act which eliminates the application of the Land Acquisition Act, 1894, to an acquisition under the 1956 Act.

19. It is settled principles of law that when the special law sets out a selfcontained code, the application of general law would impliedly be excluded. In the instant case, the scheme of the 1956 Act being a special law enacted for the purpose and for appointment of an arbitrator by the Central Government under Section 3-G(5) of the 1956 Act and subsection (6) of Section 3-G itself clarifies that subject to the provisions of the 1956 Act, the provisions of the 1996 Act shall apply to every arbitration obviously to the extent where the 1956 Act is silent, the arbitrator may take recourse in adjudicating the dispute invoking the provisions of the 1996 Act for the limited purpose. But so far as the appointment of an arbitrator is concerned, the power being exclusively vested with the Central Government as envisaged under subsection (5) of Section 3-G of the 1956 Act, Section 11 of the 1996 Act has no application.

20. The plea of the respondents that they have rightly taken recourse in the facts and circumstances of Section 11 of the 1996 Act cannot be accepted for the reason that Section 3-G(6) of the 1956 Act clearly stipulates that the provisions of the 1996 Act will apply subject to the provisions of the 1956 Act. The usage of the expression "subject to" clearly indicates that the legislature intended to give overriding effect to the provisions of the 1956 Act where it relates to the disputes pertaining to determination of the amount of compensation under the Act. The irresistible conclusion is that the legislature in its wisdom intended to abrogate the power for appointment of an arbitrator under the provisions of the 1996 Act



21. *In our considered view, the High Court of Calcutta was not holding its competence to appoint an arbitrator invoking Section 11 of the 1996 Act.*

22. *This very question earlier arose before this Court whether the application under Section 11(6) of the 1996 Act is maintainable in view of statutory provisions of the Electricity Act, 2003 adjudicating the dispute between the licensees and the generating companies of the special enactment and Section 86(1) of the Electricity Act, 2003 in particular, this Court in Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd. [Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd., (2008) 4 SCC 755] in para 28 observed as under: (SCC p. 765)*

“28. Section 86(1)(f) is a special provision and hence will override the general provision in Section 11 of the Arbitration and Conciliation Act, 1996 for arbitration of disputes between the licensee and generating companies. It is well settled that the special law overrides the general law. Hence, in our opinion, Section 11 of the Arbitration and Conciliation Act, 1996 has no application to the question who can adjudicate/arbitrate disputes between licensees and generating companies, and only Section 86(1)(f) shall apply in such a situation.”

23. *We are also of the considered opinion that in view of the power being vested exclusively with the Central Government to appoint an arbitrator under Section 3-G(5) of the 1956 Act, being a special enactment, the application filed under Section 11(6) of the 1996 Act for appointment of an arbitrator was not maintainable and provisions of the 1996 Act could not be invoked for the purpose.””*

11. On a query from the Court, the ld. Counsel have informed that the



question as to whether the appointment of the Special Secretary would be hit by Section 12(5) of the Arbitration & Conciliation Act, 1996 is also presently pending consideration in some cases before the Hon'ble Supreme Court. Ld. Counsel further submit that as of now arbitrations are being conducted by the Special Secretary as per the provision.

12. In view thereof, the Respondent No. 2 - Competent Authority (Land Acquisition)/CALA shall make the reference to arbitration within a period of 30 days in accordance with law.

13. A copy of this order be communicated to Respondent No. 2 - Competent Authority (Land Acquisition)/CALA formally by the Petitioner within a period of one week. The reference shall be made by the said Respondent No. 2 within 30 days thereafter.

14. The Court has been assured by Mr. Pathak, Id. Counsel for the LAC that the post of the Special Secretary, who has to act as an Arbitrator has now been filled up.

15. No further orders are called for in the present petition.

16. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

FEBRUARY 13, 2026/ys/ck