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## **CASE LAW ANALYSIS: PROJECT DIRECTOR, NHAI V. M. HAKEEM (2021)**

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### **ABSTRACT**

The decision Project Director, NHAI vs., M. Hakeem (2021) is a landmark pronouncement made by the Supreme Court of India so as to expound the extent of judicial intervention allowed under the Arbitration and Conciliation Act, 1996. The dispute had its origins in land acquisition proceedings implemented by the National Highways Authority of India in view of the development and expansion of the national highway network. Property owners that had their land nationalized did not agree with the damages awarded by the competent authority and sought improved remuneration through the process of arbitration. Subsequently, the arbitral awards were modified by district courts with the statutory option contained in Section 34 of the Arbitration and Conciliation Act. This raised a dramatic legal question as to whether courts can alter arbitral awards or whether their authority is limited to the setting aside of such awards. The legislative framework of the Arbitration and Conciliation Act, the principle of minimum judicial intervention in arbitration and the doctrines supporting the arbitral autonomy were examined by the Supreme Court. It was noted that Section 34 largely gives the courts only a limited supervisory role over the arbitral awards where they do not have the authority to amend or change the substantive merits thereof. Accordingly, the Court held that the judicial authorities can only set aside an arbitral award on the grounds specified in the statute and are barred from making their own determinations instead of the tribunal of arbitrators decision. This judgment reiterates the dispensation of finality of arbitral awards and strengthens India's pro-arbitration legal framework by restraining over-abundance of judicial intrusion. It is a very important precedent in the domain of Indian arbitration jurisprudence, which provides clarity on the nature of the courts when reviewing arbitral awards and the independence and authority granted to arbitral tribunal.

Adjudication by the Supreme Court in Project Director, NHAI v M Hakeem [2021] brought up a key issue relating to the scope of judicial examination under the Arbitration and Conciliation Act, 1996. The dispute arose from

determinations of compensation effected during acquisition of land in the requisite for highway construction projects which were being undertaken by the National Highways Authority of India. This legal confrontation brought to the surface a number of complex questions related to the authority vested in the courts under Section 34 of the Act.

Specifically, the Court engaged in a scrupulous investigation of courts in particular and the prerogative of courts to revise an arbitral award when it came to examining that very arbitral award. The deliberations deliberated on the doctrinal nuances delineating the powers of the judiciary vis-a-vis arbitral determinations with special emphasis on the fact that such powers are circumscribed by the principle of finality inherent in arbitration.

**Bench: Justice R.F. NARIMAN and B.R. Gavai**

### **Introduction**

Consequently, the ruling acted as a point of demarcation as to the precincts of judicial intervention in arbitral proceedings that reaffirmed the principal role of the court is primarily evaluative in the sense of the legality of the award rather than transformative. The decision thus protected the sanctity of the arbitral process but at the same time ensured that unlawful or irregular procedures during its course are subject to judicial review.

### **Facts of the Case**

The cause of the dispute was the acquisition of land for the purpose of expansion and development of national highways under the authority of National Highways Authority of India. Landowners whose lands were acquired challenged the award of compensation made by the competent authority and sought increased compensation through arbitration proceedings.

During arbitration the arbitrators decided the amount of compensation that had to be paid to the landowners. However, some parties presented to the district courts seeking to modify the arbitral awards under Section/Get section under Section 34 of the Arbitration and Conciliation Act. The district courts adjusted the amounts owed in compensation instead of having the awards set aside.

The National Highways Authority of India challenged these orders before higher courts supporting that courts exercising jurisdiction under SectionSI as 34 do not have the power to modify arbitral awards. The matter eventually came to the Supreme for determination.

## **Issues Raised**

1. Does the exercise of jurisdiction by courts under Section 34 of the Act of Arbitration and Conciliation grant them to alter an arbitral award?

2. Does the judicial interference with arbitral awards through modification of arbitral awards violate the principle of minimum judicial interference with arbitration?

3. Does the statutory framework that is contained within the Arbitration and Conciliation Act allow for any possibility of judicial authorities making amendments to arbitral awards?

## **Arguments Advanced by the Parties**

### **Petitioner Arguments**

The petitioner, the National Highways Authority of India, argued in advance, the contention that the Arbitration and Conciliation Act provides only limited grounds for interference by judicial authorities with the awards of arbitration. Specifically, the petitioner asserted that Section 34 has made clear the situations where an arbitral award can be set aside, and that this statutory text never permitted courts to change or modify the substantive content of an award. Accordingly, the purported modification of the award by the district courts was an invasion of their jurisdiction.

### **Limited scope of Section 34**

The petitioner further argued that the Arbitration and Conciliation Act had been enacted with an express object of harnessing the powers of the judiciary from the proceedings of arbitration. Permitting the courts to alter the arbitral decisions would, in this opinion, defeat the purpose of the statute, which is to promote a rapid and efficient method of resolving disputes by resort to arbitration.

### **Legislative intent of the Act**

In accordance with settled legal doctrine, the petitioner claimed that arbitration is based on the twin pillars of “party autonomy” and finality of awards. Judicial modification of awards as the petitioner held would defeat the fundamental purpose of arbitration, engendering unnecessary delays and undermining the procedural integrity of the arbitral system.

### **Violation of arbitration principles**

The petitioner maintained that arbitration is based on the principle of party autonomy and finality of awards. Judicial modification of awards would defeat the purpose of arbitration and lead to unnecessary delays in dispute resolution.

### **Departure from statutory framework**

The petitioner argued that the Act provides for certain remedies (e.g. the setting aside of an award or the remittance of the matter back to the arbitral tribunal), but that it in no way allows courts to rewrite nor otherwise amending the substantive provisions of the arbitral award.

### **Inconsistency with precedents**

Reliance was put on a body of prior Supreme Court decisions that highlight that the judicial powers granted to Section 34 are circumscribed and supervisory, refusing to have an appellate flavor.

### **Respondent Arguments**

The respondents, representing the affected landowners, defended the decisions of the lower courts.

### **Protection of landowners' rights**

Respondents are developments that continue to develop the argument that the judicial system has the authority to ensure equity and administration of justice anytime the remuneration offered through the arbitration process is not adequate or appropriate.

### **Practical necessity of modification**

It has been argued that rewriting the arbitral award means being an efficacious method of dispute resolution, which eliminates the need to re-play the entire arbitration pipeline.

### **Judicial power to correct errors**

Respondents believe that courts are empowered with inherent faculties to correct aberrations in arbitral determinations especially in situations where such remedial measures are necessary

for the achievement of justice.

### **Fair compensation principle**

They further argued that the arbitrator's award did not cover all the defects and so they justified that judicial amplification of the awarded sums.

### **Public interest considerations**

Respondents highlight the fact that land acquisition litigation touches on the entitlements and sustenance of people, which means it is incumbent upon the judiciary to use the flexibility of discretion on the path of achieving an equitable result.

### **Legal Provisions Involved**

#### **Section 34 of the Arbitration and Conciliation Act, 1996**

Section 34 of the Arbitration and Conciliation Act is the procedural mechanism for the parties to obtain judicial review of an arbitral award. The directive lists a circumscribed list of grounds on which an award can be annulled: the incapacity of the parties, the nullity of the arbitration agreement, procedural irregularities or a conflict with the public policy. This provision emphasizes the supervisory role of the courts and expressly excludes this supervisory role as appellate authorities in matters of arbitral determination.

#### **Section 37 of the Arbitration and Conciliation Act**

Section 37 is only operative with respect to certain orders passed under the Act. It provides for the possibility of parties to challenge orders in respect of the setting aside or refusal to set aside an arbitral award but does not extend judicial competence beyond the limits provided under Section 34. Thus, though it allows judicial intervention in certain procedural orders, it does not expand the scope of judicial intervention in annulment of awards.

#### **Article 14 of the Constitution of India**

Article 14 guarantees equality before the law and equal protection of the laws. In the context of arbitration disputes, it ensures the integrity of legal procedures and judicial determinations and guarantees that all the parties are treated fairly and without arbitrary increase.

## **Land Acquisition and Compensation Principles**

The case also made the courts to consider issues relating to compensation for land acquisition. Judges considered whether the arbitral award was an appropriate reflection of the valuation of the acquired land and whether or not the statutory scheme under which arbitration could take place permitted for judicial intervention in these situations.

### **Court's Analysis**

In its detailed scrutiny the Supreme Court looked into the framework of the Arbitration and Conciliation Act, 1996 to determine whether the judiciary has the power of modifying arbitral awards. The Court considered that the manner of Section 34 clearly restricts the intervention by the court to the setting aside of an award on certain grounds; it does not empower the court to amend, revise or modify the award. The Court also mentioned the legislative intent to limit judicial intervention in arbitration. Allowing the courts to change arbitral awards would practically turn them into a court of appeal, which stands in sharp contrast to the structure of the Act. Accordingly, Section 34 modification of arbitral awards by the court was held impermissible.

### **Judgment**

The Supreme Court further made clear that the courts which exercise jurisdiction under section 34 of the Act of Arbitration and Conciliation have no power of modifying arbitral awards, their remit is limited to annulling such an award when the statutory grounds are met. As a result, the Court stayed the orders of courts of lower jurisdiction that had modified the arbitrations. This judgment reiterated the principle that arbitration proceedings should be free from the claim of excessive judicial intervention.

### **Our Opinion**

The judgement in this case gives much needed clarity on the scope of judicial powers under the Arbitration and Conciliation Act. The decision enforces the principle of minimal judicial intervention and the autonomy of arbitral tribunals. By limiting the power of the courts to awarding a side-award, the Supreme Court has secured the role of arbitration as a viable means of dispute resolution.

However, the decision may also create concerns in cases where arbitral awards contain obvious mistakes but have not met the stringent grounds for setting aside. In such circumstances, parties may have difficulties in securing appropriate relief.

### **Impact on Society**

The decision of **Project Director, NHAI v. M. Hakeem (2021)** has significant implications for the practice of arbitration in India. It elaborates the limits of judicial meddling and restates the binding nature of arbitral decisions. This decision gives confidence that arbitration is still a reliable mechanism for dispute resolution. At the same time, it encourages arbitrators to exercise greater prudence and diligence in evaluating compensations and settling disputes. The judgment is also a contribution to India's continuing efforts for building a robust and effective arbitration regime.

### **Conclusion**

The judgment of the Supreme Court in the **Project Director, NHAI Vs. M. Hakeem (2021)** is a landmark in the pathogenesis of Indian arbitration law. By stating that courts have no power to alter arbitral awards under Section 34, the Court reiterated the doctrine of minimum judicial intervention. The decision enhances the autonomy and finality of arbitral proceedings, and offers indispensable guidance to the courts and litigants on proper interpretation of the Arbitration and Conciliation Act. Overall, the judgment drives the push in India towards a more efficient and predictable arbitration regime.

### **References**

Arbitration and Conciliation Act, 1996

Supreme Court Cases (2021)