2026 INSC 103

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.12892-12893 OF 2024

M/S SAISUDHIR ENERGY LTD. APPELLANT(S)

VERSUS

M/S NTPC VIDYUT VYAPAR NIGAM LTD. RESPONDENT(S)

WITH

CIVIL APPEAL NOS.12894-12895 OF 2024

M/S NTPC VIDYUT VYAPAR NIGAM LTD. APPELLANT(S)

VERSUS

M/S SAISUDHIR ENERGY LTD. RESPONDENT(S)

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. These cross appeals arise out of the common judgment passed by the Division Bench of the Delhi High Court dated 18.01.2018 in proceedings filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, "the Act of 1996"). Broadly, the dispute between the parties relates to the claim for liquidated damages raised by the employer against the Solar Power Developer

on account of delay caused in commissioning a power plant. A three-member Arbitral Tribunal while holding that there was a delay in commissioning the power plant, by majority, awarded an amount of ₹1.2 crores towards the claim made by the employer. Both parties raised objections under Section 34 of the Act of 1996. A learned Single Judge of the Delhi High Court proceeded to grant an amount of ₹ 27.06 crores to the employer on account of delay on the part of the Solar Power Developer in commissioning the power plant. Both parties further took recourse to Section 37 of the Act of 1996. By the impugned judgment, the Division Bench modified the order passed under Section 34 of the Act of 1996 in the matter of grant of liquidated damages and reduced the amount to ₹ 20.70 crores.

2. The facts relevant for considering the challenge as raised by the parties to the aforesaid common judgment are that, in 2010 the Ministry of Power, Government of India, launched the Jawaharlal Nehru National Solar Mission (for short, "the JNNSM") with the objective of deploying 20000 Mega Watt (MW) of grid connected solar power in three phases by 2022 at a reasonable cost. The JNNSM postulated bundling of solar power alongwith cheaper power from and out of the unallocated quota of central

stations and thereafter selling the said bundled power to the State distribution utilities at a regulated price.

3. The Ministry of Power designated NTPC Vidyut Vyapar Nigam Limited (for short, "NVVNL") as the nodal agency. NVVNL was required to enter into Power Purchase agreements with Solar Power Developers at a fixed rate for twenty-five years. The bundled-up power was to be sold by NVVNL to various distribution utilities at prices determined by the Regulatory Commission. Accordingly, on 24.01.2012, a Power Purchase Agreement (for short, "PPA") was entered into between M/s Saisudhir Energy Limited (for short, "SEL") and NVVNL. Under the said agreement, SEL agreed to set up and thereafter supply 20 MW solar power at the rate of ₹ 8.22 per unit, which was a discounted price from the tariff approved by the Regulatory Commission of ₹ 15.39 per unit. Under the said agreement, the date of commissioning supply of 20 MW solar power was 26.02.2013. Clause 4.6 of the PPA provided for liquidated damages in case there was a delay in commencement of supply of solar power to NVVNL. On 30.01.2013, SEL sought extension of time by two months from NVVNL citing various exigencies and invoked the *force majeure* clause. This request was, however, rejected by NVVNL on 31.01.2013 as notice of seven days

as required under Clause 11.5.1 of the PPA was not given. SEL failed to commission its project by 26.02.2013. It commissioned supply of 10 MW power from 26.04.2013, which was after a delay of two months. Thereafter, it commissioned supply for the balance 10 MW power from 24.07.2013, which was after a delay of about five months. SEL, thereafter, moved an application under Section 9 of the Act of 1996 before the Delhi High Court seeking to restrain NVVNL from encashing the bank guarantees furnished by it. The High Court granted interim relief in favour of SEL till the consideration of its prayer for interim relief by the Arbitral Tribunal under Section 17 of the Act of 1996.

4. On invocation of the arbitration clause, a three-member Arbitral Tribunal was constituted. SEL as claimant submitted its claim and sought to restrain NVVNL from encashing the bank guarantees. It also claimed charges for maintenance of the bank guarantees. On the other hand, NVVNL claimed encashment of the bank guarantees as per Clause 4.6 of the PPA. On 21.07.2015, the three-member Arbitral Tribunal passed a split award. As per the majority award, SEL was directed to pay NVVNL ₹ 1.2 crores being 20% of the original performance guarantee at the rate of ₹ 30 lakhs per MW. The claim made by SEL for reimbursement of expenditure

was, however, rejected. The minority award on the other hand held that it was not possible to work out the actual loss suffered by NVVNL on account of delay in commissioning the project. The liquidated damages as mentioned in Clause 4.6 of the PPA were held to be a genuine pre-estimate of loss suffered and SEL was directed to pay the same. NVVNL was held entitled to encash the bank guarantees amounting ₹ 49.92 crores excluding the bank guarantees furnished towards earnest money deposit.

5. Both the parties were aggrieved by the aforesaid awards and they took recourse to the provisions of Section 34 of the Act of 1996. By the judgment dated 08.09.2016, a learned Judge of the Delhi High Court held that there was delay on the part of SEL in commencing the supply of power in terms of the PPA. He held that NVVNL had not invested any amount in the said project nor did it prove any actual damage suffered by it. The project was for a duration of twenty-five years while the delay caused was of only a few months. He, therefore, modified the award and granted 50% of the amount awardable towards damages under Clause 4.6. This amount was to be recovered by adjusting a sum of ₹ 25 lakhs per month from 01.10.2016 that was payable to SEL. The majority award was set aside by the learned Single Judge.

6. Both the parties were further aggrieved by the judgment passed under Section 34 of the Act of 1996 and they preferred appeals under Section 37 of the Act of 1996. The Division Bench by its common judgment did not agree with the findings recorded in the majority award on the aspect of liquidated damages as well as on the question of public utility. It held that the PPA had been entered into with a social object and purpose. It was difficult to prove the quantum of damages that could be awarded and paid in case of breach on account of delay on the part of SEL. After considering various aspects such as total cost of the project incurred by SEL, the monthly income received by SEL from NVVNL and the fact that duration of the project was about twenty-five years while the period of delay was not very long, SEL was directed to pay damages at the rate of ₹ 1,00,000/- per MW for the entire period of delay which amounted to ₹ 20.70 crores. SEL was also directed to pay bank guarantee renewal charges within a period of six weeks from the date of the judgment. It is this judgment that is the subject matter of challenge at the instance of both the parties in these cross appeals.

7. Mr. Nakul Dewan, learned Senior Advocate on behalf of SEL submitted that NVVNL having failed to prove the actual loss

suffered by it, it was not entitled to receive any liquidated damages under Clause 4.6.2 of the PPA. The PPA was a purely commercial contract entered into for the purchase and sale of solar power. Merely because the PPA was executed under the JNNSM, it could not be stated that it was a project of public utility and, hence, there was no obligation on the part of the NVVNL to prove its actual loss for claiming liquidated damages. Relying upon the decision of this Court in ***Kailash Nath Associates vs. D. D. A.***[1]**,** it was submitted that in terms of Section 74 of the Indian Contract Act, 1872 (for short, "the Act of 1872") proof of damage caused or loss suffered was a *sine qua non* for claiming compensation on account of such breach. In absence of any such loss being proved by NVVNL before the Arbitral Tribunal, it was not entitled to receive any liquidated damages under Clause 4.6.2 of the PPA. Both the Courts erred in relying upon the decision in ***M/s Construction and Design Services vs. D.D.A.*** [2] inasmuch as the employer therein had made various investments in the concerned project and had suffered loss due to delay. It was urged that in the present case, NVVNL had not made any investment whatsoever and that all investments were in fact made by SEL. While the contractor in the said case had

[1] **2015 INSC 22**
[2] **2015 INSC 92**

abandoned the project, SEL had successfully commissioned the Solar Power Project and it was running smoothly. A delay of few months, therefore, ought not to be the reason to impose liquidated damages on SEL.

It was further submitted that ignoring the limited power available under Sections 34 and 37 of the Act of 1996, the Courts proceeded to modify the arbitral award while granting liquidated damages. A merit based evaluation under Sections 34 and 37 of the Act of 1996 was impermissible and a review of the arbitral award in such a manner could not have been undertaken. Both the Courts erred in travelling beyond the arbitral award and modifying the same. The exercise of undertaking the calculation of liquidated damages was also an exercise on merits of the dispute, which was impermissible under the limited jurisdiction available. In this regard, reliance was placed on the decision in ***Gayatri Balasamy vs. ISG Novasoft Technologies Limited***[3]. It was, thus, submitted that interference by both the Courts being unwarranted, the said orders were liable to be set aside. The appeal filed by SEL, thus, ought to be allowed.

[3] **2025 INSC 605**

8. On the other hand, Mr. Gopal Jain, learned Senior Advocate appearing on behalf of NVVNL submitted that in the case of a public utility project or a work involving public interest, it was not necessary to prove the actual loss suffered. The supply of solar energy under the JNNSM was in fact a public utility project and it was necessary for SEL to have complied with the time schedules agreed. The fact that delay was caused in the initiation of the project was itself sufficient to indicate that NVVNL had in fact suffered loss and that there was no need of any specific evidence in that regard. It was submitted that the ratio of the decision in *M/s Construction and Design Services (supra)* was squarely applicable to the case in hand. In fact, NVVNL was entitled to higher amount of liquidated damages and that the Division Bench was not justified in reducing the same. Referring to the pleadings of the parties, it was submitted that the delay caused by NVVNL being an admitted fact, the entire claim for liquidated damages in accordance with Clause 4.6.2 of the PPA ought to have been allowed. There was no question of importing the notions of equity in such matters and that the rights of the parties were governed by the PPA entered into by them. The reduction in the amount of liquidated damages from ₹ 27.06 crores to ₹ 20.70 crores by the

Division Bench was uncalled for. To substantiate the aforesaid contentions, reliance was placed on the decision in ***Chamundeshwari Electricity Supply Company Limited vs. Sai-Sudhir Energy (Chitradurga) Private Limited and another***[4]. While the entitlement of NVVNL to liquidated damages under Clause 4.6.2 of the PPA was ₹ 54.12 crores, the Division Bench despite being satisfied with the claim made on behalf of NVVNL was not justified in reducing that amount to ₹ 20.70 crores. Finally, it was submitted that the dispute between the parties was of the year 2013 and relegating the parties to any fresh proceedings was totally unwarranted. It was prayed that the appeal preferred by NVVNL be allowed.

9. We have heard the learned Senior Advocates for the parties at length and we have also perused the documentary material on record. Having given our due consideration to the entire matter, we find that the Division Bench in exercise of jurisdiction under Section 37 of the Act of 1996 was not justified in modifying the amount of compensation awarded by the Court under Section 34.

10. The PPA entered into by NVVNL with SEL on 24.01.2012 was in its capacity as the Nodal Agency for carrying out the objectives

[4] **2025 INSC 1034**

under the JNNSM. This was to enable the sale of bundled up power by NVVNL to various distribution utilities at prices determined by the regulatory commission. A total of 20 MW solar power was to be commissioned under the PPA. It is an admitted position under the terms of the PPA that the date of commissioning was fixed as 26.02.2013. SEL, however, failed to meet this deadline. It commissioned supply of 10 MW power from 26.04.2013, which was after a delay of two months. The balance of 10 MW power was commissioned from 24.07.2013, which was after a delay of about five months. Clause 4.6 of the PPA is the subject matter of dispute between the parties and same reads as under: -

> "4.6 Liquidated Damages for delay in commencement of supply of power to NVVN
>
> 4.6.1 If the SPD is unable to commence supply of power to NVVN by the Scheduled Commissioning Date other than for the reasons specified in Article 4.5.1, the SPD shall pay to NVVN, Liquidated Damages for the delay in such commencement of supply of power and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:
>
> a. Delay upto one (1) month - NVVN will encash 20% of total Performance Bank Guarantee proportionate to the Capacity not commissioned.
>
> b. Delay of more than one (1) month and upto two months - NVVN will encash 40% of the total Performance Bank Guarantee proportionate to the Capacity not commissioned.

c. Delay of more than two and upto three months - NVVN will encash the remaining Performance Bank Guarantee proportionate to the Capacity not commissioned.

4.6.2 In case the commissioning of Power Project is delayed beyond three (3) months, the SPD shall pay to NVVN, the Liquidated Damages at rate of Rs. 1,00,000/- per MW per day of delay for the delay in such remaining Capacity which is not commissioned. The amount of liquidated damages would be recovered from the SPD from the payments due on account of sale of solar power to NVVN.

4.6.3 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee and payment of Liquidated Damages shall be limited to eighteen (18) months from the date of signing of this Agreement. In case, the commissioning of the Power Project is delayed beyond eighteen (18) months from the date of signing of this Agreement, it shall be considered as an SPD Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced/amended to the Project Capacity Commissioned within 18 months of signing of PPA and the PPA for the balance Capacity will stand terminated.

4.6.4 However, if as a consequence of delay in commissioning, the applicable tariff changes, that part of the capacity of the Project for which the commissioning has been delayed shall be paid at the tariff as per Article 9.2 of this Agreement."

11. As regards failure on the part of SEL to meet the deadline for commissioning solar power is concerned, there is no dispute that SEL failed to meet the agreed deadline as the supply of 10 MW

power was undertaken with a delay of two months and the supply of balance 10 MW power was undertaken after a delay of about five months. The majority award in paragraph 97 records this aspect, including the admission on the part of SEL that such delay in fact had been occasioned. The learned Single Judge while dealing with the proceedings under Section 34 of the Act of 1996 has in paragraphs 57, 76 and 77 recorded in clear terms that the breach of contract was admitted by SEL and that there was in fact delay on its part in supplying power. The Division Bench in the appeals filed under Section 37 of the Act of 1996 affirmed this position.

The aforesaid would indicate that insofar as the grievance raised by NVVNL that SEL failed to commission 20 MW power within the time stipulated under the PPA is concerned, the said position does not admit of any doubt. In fairness to the learned Senior Advocate for SEL, it may be stated that this finding was not seriously challenged in its appeal.

12. Thus, having found that the timelines agreed to by the parties to the PPA not having been followed by SEL, it is evident that Clause 4.6 of the PPA that provides for liquidated damages for delay in commencement of supply of power gets attracted. Clause 4.6 provides the consequence of delay in not commissioning the

agreed capacity within the prescribed period. The period of delay is material in determining the amount of liquidated damages. It is in this context that the provisions of Section 74 of the Act of 1872 gets attracted. Section 74 reads as under:-

> "**74. Compensation for breach of contract where penalty stipulated for:-** [When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for.
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> *Explanation.*-- A stipulation for increased interest from the date of default may be a stipulation by way of penalty.]
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> *Exception.*-- When any person enters into any bail-bond, recognizance or other instrument of the same nature, or, under the provisions of any law, or under the orders of the [Central Government] or of any [State Government], gives any bond for the performance of any public duty or act in which the public are interested, he shall be liable, upon breach of the condition of any such instrument, to pay the whole sum mentioned therein.
>
> *Explanation.*-- A person who enters into a contract with Government does not necessarily thereby undertake any public duty, or promise to do an act in which the public are interested....."

Section 74 of the Act of 1872 stipulates that in the case of breach of contract, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused, to receive from the party who has broken the contract reasonable compensation not exceeding the amount named or the

penalty stipulated. The provisions of Section 74 were the subject matter of consideration by this Court in *M/s Construction and Design Services (supra)* wherein it was held in the context of delay in providing a public utility service that in such a case, the delay in commissioning of such utility service itself can be taken to have resulted in loss in the form of environmental degradation. In the said case, the contract was in relation to the construction of a sewerage pumping station. It was observed that providing for a sewerage pumping station was of public utility to maintain and preserve clean environment. It was held that if the parties had pre-estimated the loss likely to be caused, it would be unjustified to arrive at the conclusion that the party that had committed the breach was not liable to pay compensation.

13. The learned Single Judge while exercising jurisdiction under Section 34 of the Act of 1996 relied upon the aforesaid decision and while exercising discretion in the matter of award of reasonable compensation proceeded to grant 50% of the amount of damages that NVVNL was entitled to under Clause 4.6 of the PPA. The Division Bench in appeal recorded its agreement with the view of the learned Single Judge that it was necessary to compute a fair and reasonable amount of compensation while balancing the

equities. The Division Bench, however, proceeded to modify the order passed under Section 34 of the Act of 1996 and thereafter reduced the amount of compensation taking into consideration the period of delay caused by SEL.

14. It has been urged on behalf of SEL that the majority award having granted an amount of ₹ 1.20 crores to NVVNL in view of the delay in commission the power plant, the Section 34 Court could not have modified the award so as to grant higher compensation. The modification was beyond the permissible limits recognized in *Gayatri Balasamy (supra)*.

The Constitution Bench in *Gayatri Balasamy (supra)* has recognised the power of the Section 34 Court to modify an award to a limited extent. It has held in paragraphs 40 to 46 as under:

> "IV. A Limited Power of Modification Can Be Located in Section 34
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> 40. A core principium of arbitration, an Alternative Dispute Resolution mechanism, is to provide a quicker and cost-effective alternative to courtroom litigation. While this suggests minimal judicial interference, the role of domestic courts remains crucial, as they function in a supportive capacity to facilitate and expedite the resolution of disputes. Therefore, it follows that judicial intervention is legitimate and necessary when it furthers the ends of justice, including the resolution of disputes.
>
> 41. To deny courts the authority to modify an award-particularly when such a denial would impose significant hardships, escalate costs, and lead to unnecessary delays-would defeat the raison d'être of arbitration. This concern is particularly pronounced in

India, where applications under Section 34 and appeals under Section 37 often take years to resolve.

42. Given this background, if we were to decide that courts can only set aside and not modify awards, then the parties would be compelled to undergo an extra round of arbitration, adding to the previous four stages: the initial arbitration, Section 34 (setting aside proceedings), Section 37 (appeal proceedings), and Article 136 (SLP proceedings). In effect, this interpretation would force the parties into a new arbitration process merely to affirm a decision that could easily be arrived at by the court. This would render the arbitration process more cumbersome than even traditional litigation.

43. Equally, Section 34 limits recourse to courts to an application for setting aside the award. However, Section 34 does not restrict the range of reliefs that the court can grant, while remaining within the contours of the statute. A different relief can be fashioned as long as it does not violate the guardrails of the power provided under Section 34. In other words, the power cannot contradict the essence or language of Section 34. The court would not exercise appellate power, as envisaged by Order XLI of the Code of Civil Procedure, 1908.

44. We are of the opinion that modification represents a more limited, nuanced power in comparison to the annulment of an award, as the latter entails a more severe consequence of the award being voided *in toto*. Read in this manner, the limited and restricted power of severing an award implies a power of the court to vary or modify the award. It will be wrong to argue that silence in the 1996 Act, as projected, should be read as a complete prohibition.

45. We are thus of the opinion that the Section 34 court can apply the doctrine of severability and modify a portion of the award while retaining the rest. This is subject to parts of the award being separable, legally and practically, as stipulated in Part II of our Analysis.

> 46. Mustill and Boyd have observed that an order varying an award is not equivalent to an appellate process. The authors suggest that a modification order would only be appropriate where the modification, including any adjustment of costs, follows inevitably from the tribunal's determination of a question of law. This approach would be beneficial, as it would reduce costs and delays. The courts need not engage in any fact-finding exercise. By acknowledging the Court's power to modify awards, the judiciary is not rewriting the statute. We hold that the power of judicial review under Section 34, and the setting aside of an award, should be read as inherently including a limited power to modify the award within the confines of Section 34."

15. In our view, the modification of the award so as to enhance the amount of reasonable compensation by the Section 34 Court was a permissible exercise when viewed in the context of the law laid down in *Gayatri Balasamy (supra)*. The modification is in exercise of jurisdiction under Section 34 of the Act of 1996 without undertaking any examination of the merits of the dispute. To put it plainly, the modification is only with a view to apply Clause 4.6.2 of the PPA to the facts of the case which exercise has also been approved by the Section 37 Court. We, therefore, do not find that on this count, the judgment of the Section 34 Court suffers from any jurisdictional error.

16. SEL has strenuously sought to distinguish the decision of this Court in *M/s Construction and Design Services (supra)* and urge that the PPA entered into by the parties was merely a

commercial agreement to supply power. We do not find this contention acceptable. The PPA indicates that NVVNL had been appointed as a Nodal Agency for carrying out the objectives under the JNNSM. The commissioning of the solar plant by SEL was with a view to satisfy and take the solar mission forward. This activity was definitely in public interest and with a view to promote green energy. The objective of the PPA, therefore, involves public interest and the environment at large. The timelines fixed by the parties, therefore, are relevant. We are, therefore, of the view that *M/s Construction and Design Services (supra)* in fact provides sufficient indication of the manner in which the aspect of reasonable compensation could be considered wherein a public utility project is involved. In such cases, the burden would be on the party committing the breach to show that no loss was caused by the delay or that the amount stipulated as liquidated damages was in the nature of penalty. In the facts of the present case, this burden has not been discharged by SEL. In fact, it has remained content by urging that NVVNL having failed to make any investment under the PPA, it neither suffered any loss of capital or loss of interest, notwithstanding the delay. Having agreed to incorporate Clause 4.6 in the PPA, it is clear that the rights of the parties ought to be

determined bearing in mind the terms agreed and SEL would not be justified in contending that NVVNL had failed to indicate the exact loss suffered by it due to the delay in commissioning of the project. The learned Single Judge as well as the Division Bench have in our view rightly approached this aspect of the matter and have held that NVVNL in terms of Clause 4.6 of the PPA is entitled to reasonable compensation. We, therefore, do not find any reason whatsoever to take a different view of the matter in this regard.

17. Coming to the aspect of determination of the amount of reasonable compensation, the learned Single Judge after referring to Clause 4.6 of the PPA determined the claim as made by NVVNL in terms of Clause 4.6 of the PPA at an amount of ₹ 54,12,32,000/-. He found that granting 50% of the aforesaid amount by adjusting ₹ 25,00,000/- per month from the revenue to be received by SEL would amount to reasonable compensation in favour of NVVNL. The Division Bench in appeal, however, proceeded to modify the amount of reasonable compensation by reading Clause 4.6 of the PPA on the premise that a higher rate of damages was payable in the initial three months period of delay and that amount was reduced after three months. On that basis damages at the rate of ₹ 1,00,000/- per MW per day came to be worked out. The amount

of compensation was, thus, reduced to ₹ 20.70 crores.

18. In our view, the Division Bench exceeded its jurisdiction under Section 37 of the Act of 1996 when it proceeded to re-work and re-calculate the amount of reasonable compensation to which NVVNL was entitled. The learned Single Judge having determined the amount of reasonable compensation by relying upon Clause 4.6 of the PPA and thereafter awarding 50% of the amount so determined, in the absence of this determination being shown to be beyond the terms of Clause 4.6 of the PPA or arbitrary or perverse, no interference with such determination was called for in exercise of jurisdiction under Section 37 of the Act of 1996. In fact, the Division Bench has not recorded any finding that such determination of reasonable compensation by the learned Single Judge suffered from arbitrariness or that it travelled beyond what was provided by Clause 4.6 of the PPA. Having held in paragraph 28 of the impugned judgment that it was in agreement with the view of the learned Single Judge of the need to balance equities and compute a fair and reasonable amount of compensation coupled with the fact that the majority award granting a paltry amount of ₹ 1.2 crores was held to be contrary to the fundamental policy of Indian law thus requiring interference, the further

exercise undertaken by it in modifying the amount of reasonable compensation was not justified in the facts of the case. The modification in the amount of reasonable compensation by the Division Bench is merely a substitution of its view in place of the plausible view taken by the learned Single Judge. Such course of taking a different view of the same matter from the one taken under Section 34 of the Act of 1996 would be beyond the scope of Section 37 of the Act of 1996. As held in ***AC Chokshi Share Broker Private Limited vs. Jatin Pratap Desai and another***[5] to which one of us (P.S. Narasimha J) was a party, the Court under Section 37 must only determine whether the Section 34 Court had exercised its jurisdiction properly and rightly, without exceeding its scope. To that extent, we find that the Division Bench of the High Court erred in interfering with the judgment of the learned Single Judge.

19. For the aforesaid reasons, we are of the view that the determination of the amount of reasonable compensation by the learned Single Judge having been undertaken in terms of Clause 4.6 of the PPA and further discretion having been exercised by awarding 50% of such amount as liquidated damages, the Division

[5] **2025 INSC 174**

Bench was not justified in modifying the said decision. Accordingly, the judgment of the Division Bench dated 18.01.2018 to that extent stands set aside. The judgment of the learned Single Judge in OMP No.410 of 2015 and 446 of 2015 stands restored. Civil Appeal Nos.12894-12895 of 2024 preferred by NVVNL, thus, stands allowed and Civil Appeal Nos.12892-12893 of 2024 preferred by SEL stands dismissed. The parties shall bear their own costs.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI,
JANUARY 30, 2026.