

Arbitration and Conciliation Act, 1996 . S. 37 – No power to remand the matter to the arbitral tribunal.

“3. By the impugned judgment and order passed by the High Court in exercise of power under Section 37 of the Arbitration and Conciliation Act, 1996, the High Court has set aside the award passed by the learned Arbitrator and has remanded the matter to the Arbitrator for fresh decision. As per the law laid down by this Court in the case of *Kinnari Mullick v. Ghanshyam Das Damani*, (2018) 11 SCC 328 and *I-Pay Clearing Services Pvt. Ltd. v. ICICI Bank Ltd.*, (2022) SCC OnLine SC 4, the same is wholly impermissible. Only two options are available to the Court considering the appeal under Section 37 of the Arbitration Act. The High Court either may relegate the parties for fresh arbitration or to consider the appeal on merits on the basis of the material available on record within the scope and ambit of the jurisdiction under Section 37 of the Arbitration Act. However, the High Court has no jurisdiction to remand the matter to the same Arbitrator unless it is consented by both the parties that the matter be remanded to the same Arbitrator.”

Dr. A. Parthasarathy v. E Springs Avenues Pvt. Ltd. 2022 SCC OnLine SC 719