MHYA010013922024

Presented on : 08-07-2024
Registered on : 17-02-2025
Decided on : 14-11-2025
Duration : 01Y-04M-06D

Exh.18

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, YAVATMAL.
(Presided over by Nagesh V. Nhavkar)

Civil M. A. No. 47/2025

1. **Secretary to the Government of India,**
   Ministry of Shipping, Road Transport
   and Highways, New Delhi.
2. **The National Highways Authority of India,**
   Through its Project Director,
   Project Implementation Unit - Nanded,
   Having Registered Office at
   Guru Mauli Venkatadri Nagar,
   Near Ayodhya Nagari, Malegaon Road,
   Taroda (Kh.), Nanded-431605,
   Maharashtra.

.... **Applicants**

VERSUS

1. **Sudhakar Dattatray Shravale,**
   Age - Major, Occu. : Nil.
   R/o. Umarkhed,
   Tal. Umarkhed, Distt. Yavatmal.
2. **Competent Authority,** (Land Acquisition) and
   Sub- Divisional Officer, Umarkhed,
   Distt. Yavatmal.
3. **The Arbitrator / Additional Collector,**
   Yavatmal, Collector Office, Yavatmal.
4. **State of Maharashtra**
   through Collector Yavatmal, Dist. Yavatmal

.......**Respondents**

Application Under Section 34 of
The Arbitration and Conciliation Act, 1996.

Appearance :

Smt. S. C. Maddiwar, Advocate for Applicants.
Mr J. A. Khandare, Advocate for resp. No.1
Mr M. S. Gangalwar, A.G.P. for respondent No.3 and 4
Respondent No.2 proceeded exparte

JUDGMENT

(Delivered on 14th day of November, 2025)

This is an application under Section-34 of the Arbitration and Conciliation Act, 1996 (For the sake of brevity hereinafter referred as “the Act”).

2. The applicant challenges the arbitration award dated 24/11/2023 passed by respondent No.3 under Section 3(G)(5) of National Highways Act, 1956 and under Arbitration and Conciliation Act, 1996 in Arbitration Case No.1167/47/2018-19.

3. The applicant- NHAI is primarily responsible for construction, development, maintenance and management of National Highways. It was entrusted with four lane widening of National Highway No.361 between Wardha-Yavatmal to Waranga Fata wherein respondent no.2-Competent Authority has passed the acquisition award for the land acquired from the ownership and possession of respondent No.1. The details of acquisition are as follows-

1.	Land Acquisition Case No.	:	16/47/2015-16 mouza Umarkhed

2.	Survery No./ Gat No. & Area	:	Gat No.71/3 area 100 sq. meter
3.	Notification under Section 3(A) of National Highways Act	:	08/09/2015
4.	Notification under Section-3(D)	:	07/09/2016
5.	Award passed by Respondent No.2	:	08/08/2018
6.	The amount of compensation awarded	:	Rs.9,57,000/- per hectare

4. The respondent no.1 had filed the arbitration petition before respondent no.3 in respect of said acquired land with the prayer for enhancement of compensation. The respondent no.3 being statutory arbitrator considered the prayer for enhancement of compensation amount at the rate of Rs.15,000/- per sq. meter. While determining the compensation on the basis of market value respondent no.3 Arbitrator concluded for award at the rate of Rs.1275/- per sq. meter. Respondent no.3 had relied upon the ready reckoner rates for the year 2015 for said land being agricultural land. This being highway adjacent land, respondent no.3 had not applied guideline no.16-B of the ready reckoner for slab system relying upon circular dt.01/01/2016 of the appropriate Government.

5. The applicants submit that the Arbitrator and CALA have passed illegal awards without applying the mind properly and erroneously passed a hectic order. The applicant further submits that the uniform rate of Rs.1275/- per sq. meter with multiplier of 2 to the acquired land is excessively granted. The Advocate for applicant submits that the impugned award is being challenged mainly on three grounds. Firstly the quantum of compensation is not properly decided by the Arbitrator, secondly the uniform rate of entire portion of the land is erroneously applied which violates the directions given under the said guidelines to apply slab system for the highway adjacent lands and thirdly wrong application of multiplier while applying the compensation wherein multiplier 1 is applicable.

6. Advocate for respondent no.1 Shri. Khandare argued that the arbitral award dated 24/11/2023 is legal, valid, reasoned and passed after due compliance of law. It does not suffer from any patent illegality, procedural irregularity or contravention of public policy under Section 34 of the Act. Hence, no interference by this Court is warranted. In support of argument he placed reliance on the judgment in case of ***Project Director, NHAI Vs. M. Hakeem, (2021) 9 SCC 1***, ***Panjabrao Vs. State of Maharashtra, (2015) 6 Mh.L.J. 69***, ***Nagpur Improvement Trust Vs. Vithal Rao, (1973) 1 SCC 500***, ***Union of India and Another Vs. Tarsem Singh and others, (2019) 9 SCC 304*** and ***Atma Singh Vs. State of Haryana (2008) 2 SCC 568.***

7. It is brought to the notice that the appropriate Government had decided to apply multiplier of 2 to the area of C-Class Nagar Panchayat as Umarkhed was C-Class Nagar Panchayat prior to the notification under section 3(A) of National Highways Act, 1956. It is also brought to the notice that it was the decision of appropriate Government not to apply slab system in these cases being in the vicinity of Nagar Panchayat.

8. Having considered the grounds raised for challenging the impugned arbitral award and the resistance brought on record by respondent no.1, following points arose for determination and I have recorded findings for the reasons discussed thereafter.

Sr. No.	**Points**		**Findings**
1.	Whether any of the grounds under Section-34(2)(3) of the Arbitration and Conciliation Act, 1996 do exist in the impugned award dated 24/11/2023 for setting aside the same ?	::	No
2.	What order ?	::	As per final order.

<u>R E A S O N S</u>

<u>As to Point No.1 & 2</u> :-

9. I have perused the grounds raised by applicant while challenging the impugned arbitral award along with documents annexed thereto. The first ground raised for challenging the award is quantum of compensation not being decided properly. It is pertinent that the learned Arbitrator had relied upon the ready reckoner rates while deciding the quantum of compensation. The reasons are specified by the learned Arbitrator while concluding on such rates.

10. Section-26 of RFCTLARR Act, 2013 which reads as under :

> *26. **Determination of market value of land by Collector.**–(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—*
>
> *(a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or*
> *(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or*
> *(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:*
> *Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.*

11. It is clear from Section 26(1)(a) of RFCTLARR Act,. 2013 that while determining the market value of the land the Arbitrator can adopt the market value if any specified in the Indian Stamp Act for the registration of sale deeds. The ready reckoner rate relied upon by the Arbitrator as Rs.1275/- wherein market value of the land is specified for the purpose of registration of sale deeds or agreement to sale. Therefore, there is no scope to accept the argument on the part of applicant that the quantum is being decided by violation the norms.

12. Moreover, the case of applicants is that Section 26 (1) (b) of RFCTLARR Act, 2013 ought to have been strictly applied by the learned Arbitrator. Advocate Shri. Kathane argued that Section 26(1)(b) of RFCTLARR Act, 2013 is the mandate that is to be followed and he relies upon the judgment in case of ***Madhya Pradesh Road Development Corporation Vs. Vincent Danial and Others, (2025) 7 SCC 798*** wherein compensation awarded as per RFCTLARR Act, 2013 was held appropriate and it is also held that no reduction could be granted by applying theory of deduction.

13. The impugned award dated 24/11/2023 when perused it appears that there are around ten sale-deeds preferred by the land owner before the learned Arbitrator. The reasons given by the learned Arbitrator to rely upon specific sale-deeds are clearly in terms of peculiarities of the land involved in the specific sale-deeds. It further appears that the learned Arbitrator has specifically excluded those sale-deeds which could have unjustifiably enhanced the amount of compensation. The reliance is specifically on the sale-deed in the land of vicinity area. Though the learned Arbitrator has relied upon those sale-deeds, it is specifically argued for average sale price as contemplated under Section 26(1)(b)of RFCTLARR Act, 2013. It is pertinent here to note that the learned Arbitrator has to act upon for determining the market value of land for the purpose of compensation under Section 3-G (5) of the said Act.

> *3-G(7) – The competent authority or the arbitrator while determining the amount under sub-section (1)*

or sub-section (5), as the case may be, shall take into consideration -
(a) the market value of the land n the date of publication of the notification under Section 3-A;
(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;
(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;
(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

14. It is pertinent here to note that Section 26 of RFCTLARR Act, 2013 is similarly making the provisions. It is the argument on the part of applicants that only the provisions of Section 26 of RFCTLARR Act, 2013 needs to be applied. When brought to the notice the provision under Section 103 of RFCTLARR Act, 2013 it is the argument adopted by Advocate for applicants that the Central Government by notification under Section 105 adopted the application of RFCTLARR Act, 2013 for the cases under National Highways Act, 1956. Section 103 of RFCTLARR Act, 2013 reads as under :-

103. Provisions to be in addition to existing laws – *The provisions of this Act shall be in addition to an not in derogation of, any other law for the time being in force.*

15. It is very much clear from this provision that Section 26 of RFCTLARR Act, 2013 would be in addition to Section 3-G(7) of the said Act. Therefore, the learned Arbitrator while determining the market value when adopted certain criteria and for such purpose when the learned Arbitrator also being a public servant acting within the framework of law, the only aspect needs to be scrutinized by this Court in the present proceeding is if the learned Arbitrator has given justifiable reasons for those conclusions. Upon perusal of all these reasoning to adopt a particular method of considering certain sale-deeds for the purpose of determination of market value, the learned Arbitrator has given justifiable reasons.

16. Advocate for applicant further relies upon the judgment in case of ***Kinnari Mallick Vs. Ghanshyam Das Damani (2018) 11 SCC 328*** and the judgment in case of ***I-Pay Clearing Services Private Limited Vs. ICICI Bank Limited, (2022) 3 SCC 121***.

17. Advocate for applicants further seeks intervention as same rate is being applied for agricultural and non-agricultural land by the learned Arbitrator. When this was scrutinized from the impugned award dated 24/11/2023 it appears that the learned Arbitrator has specifically referred to the potentiality in the vicinity area and while doing so specifically relied upon the submission of Advocate appearing on behalf of NHAI. When the learned Arbitrator has justifiably considered the submissions of NHAI the same appears to be in favour of NHAI. Therefore, the approach of learned Arbitrator to adopt specific methodology is justifiable.

18. The further reliance by the advocate for applicants in the judgment in case of ***Bhupendrasingh Vs. The Competent Authority of National Highway No.6, 2020 (2) BCR 296,*** wherein it is observed in Para No.29 as follows:-

> *Further question is, once the award was declared on 14/08/2011, was it permissible for the Competent Authority to reopen the same, on the ground that there was a subsequent notification dated 24/11/2017, providing a lesser multiplying factor. In our opinion, this was impermissible for two reasons. The first is that a notification/Govt. Resolution would always operate prospectively, unless by express language or necessary implication, as indicated therein. This is enunciated by the Hon'ble Apex Court in the case of* ***MRF Ltd., Kottayam Vs. Asstt. Commissioner (Assessment) Sales Tax and others, (2006) 8 SCC 702,*** *in the following words :*
>
> *" 27. The provisions of the Act or notification are 10 always prospective in operation unless the express language renders it otherwise making it effective with retrospective effect. This Court in* ***S. L. Srinivasa Jute Twine Mills (P) Ltd. Vs. Union of India, (2006) 2 SCC 740,*** *has held that it is a settled principle of interpretation that (SCC p.747, para 18) ".....retrospective operation is not taken to be intended unless that intention is manifested by express words or necessary implication, there is a subordinate rule to the effect that a statute or a section in it is not to be construed so as to have larger retrospective operation than its language renders necessary." A perusal of the Govt. Resolution dated 24/11/2017 does not indicate any such express language, implication or indication. It plainly and simply only notifies the factor by which the market value is to be multiplied in respect of areas other than residential, commercial and industrial area of Special Planning Authorities, etc. in the matter of determining compensation under the Act of 2013. This Govt. Resolution dated 24/11/2017 has to operate 5 prospectively and not retrospectively, in light of which there was no reason or cause whatsoever for the Competent Authority to issue the corrigendum/*

clarification dated 02/01/2018, which clearly is not only illegal but also is without any authority too. The right to have use of the higher multiplier of 2.00, which was extant, as on the date of the award, can be said to be a vested right in the land owner, which could not have been taken away by way of amendment to the existing notification, subsequent in point of time to the award. The second is that, once the award was declared on 14/08/2017, the matter went out of the domain of the Competent Authority and was only susceptible to a challenge before the Arbitrator, as provided in Section 3-G(5) of the NH Act 1956. The Competent Authority, therefore, once having declared the award on 14/08/2017, was rendered bereft of any powers either to recall the award or reconsider the same, on any count whatsoever. Even assuming that the Competent Authority under the NH Act, 1956 had any inherent power to correct an error of clerical or arithmetical nature, the same should have been so obvious, apparent or patent as not to admit of any debate or discussion. On the factuality of the matter, it is pertinent to note that the purported correction dated 02/01/2018 was passed not because there was any clerical error or mistake in the award dated 14/08/2017 but for the reason that subsequent to the declaration of the award on 14/08/2017, the Government had issued a Govt. Resolution on 24/11/2017, providing for a multiplier factor, which in the opinion of the Competent Authority, if applied, would reduce the compensation granted to the petitioner in the award dated 14/08/2017. Such a course of action was not only impermissible but also is clearly without any authority in the Competent Authority in law. The Competent Authority appointed under a statute is supposed to be an independent person and has to dispassionately use and apply the powers as vested in it, for the purpose of implementing the provisions of the statute, which has to be done without fear or favour from any quarter. However, in the instant matter, the Competent Authority, instead of doing so, clearly appears to have digressed from its powers and duties, in order to favour the acquiring body, which clearly it ought not to have done. The correction dated 21/01/2018 by whatever name *called, is therefore, illegal and unsustainable in law on the above counts too."*

19. The settled position of law in these judgments when perused clearly demarcates the framework for this court for exercise the power under section 34 of the Act. It is limited to the extent of scrutinizing if sufficient reasons are given by the Arbitrator for the ultimate conclusion drawn as to the impugned award as per Section 26 of RFCTLARR Act 2013. In the present case, the Arbitrator adopted the criteria of application of ready reckoner rates. It is in accordance with Section 26(1)(a) of RFCTLARR Act, 2013. However, the learned Arbitrator has not followed First Schedule of the said Act while applying the multiplier. The First Schedule of the said Act provides for multiplier of 1 whereas the Arbitrator has awarded multiplier of 2. The reason given by the Arbitrator for applying multiplier of 2 is as per the directions of appropriate Government.

20. It is pertinent here to note that when the appropriate government have come out with a specific Resolution dated 16/03/2020 and 08/08/2018 it appears to have considered the fact that the Umarkhed Nagar Panchayat was in C-Class prior to the notification under Section 3(A) of National Highways Act, 1956 and Umarkhed Nagar Panchayat became B-Class thereafter. The appropriate government appears to have considered the applicability of Multiplier factor of 2 to such Nagar Panchayats which arose on certain grounds in a meeting dated 23/03/2018. It is also clearly indicated by such government Resolution dated 16/03/2020 and 08/08/2018 that the additional multiplier factor of 2 be considered. It is in addition to the existing multiplier of 1. This is to be considered as an amount of additional solatium. It appears that this decision is taken by the appropriate government in the presence of the Senior Officers of National Highways Authority i.e. present applicant. This act of the applicant needs to be treated as consent given to the appropriate government to apply multiplier factor of 2 and this consent is justified under Section 26(1)(C) of the RFCTLARR Act, 2013. Therefore the ground raised by the applicant is not acceptable.

21. The learned Arbitrator has given the reasons for not applying the Slab System. The Arbitrator has acted upon the government circular dated 01/01/2016 which directs not to apply the Slab System. When Section-107 and 108 of RFCTLARR Act, 2013 confers option to the affected families to avail better compensation, the approach of the learned Arbitrator not to apply slab system to the acquired highway adjacent land is justified. More particularly, when applying slab system for the purpose of levying stamp duty is based upon guidelines of the State Government, the further decisions of the State Government not to apply slab system for the purposes of determination of market value for compensating the land losers is also another guideline justifiable under Section-107 and 108 of RFCTLARR Act, 2013.

22. All these acts of the learned Arbitrator appears to be dependent upon the directions of the appropriate government which on the fact of record indicates that these directions are passed by the appropriate government after consultation with the Senior Officer of National Highways Authority. The same Authority is not challenging the relevant government resolution on such grounds. However, the applicant National Highways Authority of India fails to raise any ground contrary to the government resolution dated 16/03/2020 and 08/08/2018 which clearly indicates the presence of Senior Officers of National Highways Authority of India while passing such resolution.

23. This Court as per the settled law needs to scrutinize the impugned award if passed for sufficient reasons while arriving at ultimate decision based upon evidence on record. The impugned award is justified by the learned Arbitrator by giving sufficient reasons and no ground exists as per Section-34(2) of the Arbitration and Conciliation Act, 1996 to set aside the impugned award dated 24/11/2023.

24. The grounds raised for challenging the impugned award are not acceptable as discussed above. There is no such circumstances from the face of record which leads to Patent Illegality caused by the learned Arbitrator. The justification is in terms of Section-26 of RFCTLARR Act, 2013 and directions of the appropriate government. The appropriate government appears to have acted in consultation with the officers of National Highways

Authority. The said consultation is reflected from the government resolution. For all such reasons the learned Arbitrator appears to have acted in accordance with law, therefore not caused any kind of Patent Illegality. In the result, I answer points accordingly, and pass the following order :-

ORDER

1. The application is rejected.
2. The Arbitration Award in Arb. Case No.1167/47/2018-19 dated, 24/11/2023 is hereby confirmed.
3. Record and proceeding, if any, be sent back to concerned Arbitrator.
4. Inform learned Arbitrator accordingly.

(Dictated and pronounced in open Court)

DISTRICT COURTS MAHARASHTRA

Digitally signed by NAGESH VITHALRAO NHAVKAR
Date: 2025.11.19 12:10:58 +0530

Dated :14/11/2025.

(**Nagesh V. Nhavkar**)
Principal District Judge,
Yavatmal.
JO Code (MH01091)

Certificate

I affirm that the contents of this P. D. F. Judgment are same word to word, as per the original judgment.

Name of Stenographer	:-	Mrs S.R.Sontakke Stenographer Grade I.
Court name	:-	Principal District & Sessions Court, Yavatmal.
Date	:-	14/11/2025
Judgment signed by Presiding officer on	:-	18/11/2025
Judgment uploaded on	:-	19/11/2025