

KADK010004372026



**In the Court of Principal District and Sessions
Judge, D.K., Mangaluru.**

Present:- Sri Basavaraj, B.Com., LL.M.,
Principal District and Sessions Judge,
D.K., Mangaluru.

Dated this the 31st day of July, 2026.

A.P./12/2026

Plaintiff/
Petitioner: Mr. K. Vishwanath Prabhu,
S/o K. Madhava Prabhu,
aged about 72 years,
R/at Door No.14-3-269/1,
'Sri Ram', Don Bosco Hall Lane,
Falnir, Mangaluru - 575001.

(Smt. Aneesha D'Souza, Advocate)

Versus

Defendants/
Respondents: 1. The Competent Authority and
Assistant Commissioner,
Mangaluru,
Sub-Division, Mangaluru.

2. The National Highway Authority of India,
Project Implementation Unit,
Mangaluru, D.K.,
Represented by its Project Director,
D.No.3-29, 'Bethel', Tharethota,
near Pumpwell, Mangaluru - 575005.

3. The Arbitrator & Deputy Commissioner,
D.K. District, Mangaluru.

(R1, R2: Sri Prakasha V. Angady, Advocate,
R3: D.G.P.)

i	Provision under which the application is filed	U/S.34 of the A & C Act r/w Sec.3G(6) of NH Act.
ii	Relief sought for	To set aside the Arbitral Award.
iii	The date on which the application is filed	31.01.2026.
iv	Number of the application	----
v	The date on which the objections is filed by different respondents	29.04.2026.
vi	The date on which the orders were passed on the said application	31.07.2026.

JUDGMENT

This Arbitration Petition is filed under Sec.34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'A & C Act') read with Sec.3-G(6) of the National Highways Act to set-aside the Award passed by the Respondent No.3/the Deputy Commissioner, D.K and Arbitrator (herein after referred as the 'learned Arbitrator') in Case No. C.DIS.ARB(4)NH.LAQ.CR.79/2024-25 dated 16.12.2025.

2. Brief facts of the case of the petitioner is that:

(a) The Respondent No.2/NHAI has acquired the land of the land loser/petitioner i.e. Sy.No.37/4 measuring 81 and 63 square meter situated at Beluvai Village, Moodabidri Taluk for development of National Highways work of widening of National Highway No.169 (Old NH-13) i.e. Shimoga – Mangaluru Section under the preliminary notification S.O.1962(E) dated 28.04.2023.

(b) The Special Land Acquisition Officer cum Competent Authority (hereinafter referred as 'SLAO & CA') awarded compensation amount of Rs.2,100/- per sq.mtr. for 81 sq.mtr. And Rs.1,032/- per sq.mtr. for 63 sq.mtr. with all the statutory benefits and interest as per the RFCTLARR Act 2013.

(c) Being aggrieved by the compensation amount determined by the SLAO & CA, the petitioner filed application before the learned Arbitrator, Mangaluru for enhancement of compensation amount.

(d) The learned Arbitrator passed award on 16.12.2025 by rejecting the application of the petitioner.

(e) Being aggrieved by the Arbitration Award dated 16.12.2025 the petitioner/land loser filed this petition on the following:

GROUND

1) The acquired land was being used as a parking area for the Hall and the Temple. The entire land had a commercial value. The 3rd Respondent has erred in holding that the compensation granted for 63 sq.mtr. is treated as dry land in Sy.No.37/4, which in fact is the converted land. The compensation ought to have been awarded by the 3rd Respondent on the 'actual market value' that prevailed during the relevant year, which the 3rd Respondent has failed to take into consideration.

2) The sale statistics would clearly indicate that the land value touching the NH, a year prior to the acquisition was above Rs.7,00,000/- to Rs.8,00,000/- per cent of land. Instead, the 3rd Respondent has simply rejected the petition. Apart from that it also needs to be taken into consideration that the acquired property has been converted and as such the compensation Awarded ought to have been determined as per the value of converted lands.

3) The award passed is against the provisions of law and public policy, apart from being in violation of principles of natural justice.

4) So, he prays to allow the petition.

3. On service of notice, the Respondent Nos.1 and 2 appeared through their counsel. The respondent Nos.1 and 2 filed objection statement by stating as under:

(1) The petitioner has sought for enhancement of compensation which is outside the scope of Sec.34 of A&C Act and also the jurisdiction of this Court. The petitioner has not made out any grounds to interfere with the impugned order.

(2) National Highways Authority of India Vs Smt. Mahadevi & others in MFA. No.25353/2012(AA) as held the Award can be challenged only under the grounds mentioned in Sec.34(2) of the Act. In Associate Builders Vs Delhi Development Authority (2015) 3 SCC 46, the Hon'ble Supreme Court held that none of the grounds contained in Sec.34(2) (a) of the Act permitted dealing with the merits of the decision rendered by an Arbitral Award and unless the award is in conflict with public policy of India, same cannot be interfered with and it can be set aside only on the grounds mentioned u/s 34(2) (a) and (b) of the Act and not otherwise.

(3) The Respondent -SLAO has acquired the land bearing Sy.No.37/4 measuring to an extent of 81 sq.mtr. non-agriculture land and 63 sq.mtr. wet land situated at Beluvai Village, Moodabidri Taluk, amongst others, as per the notification published in the extraordinary Gazette of

India under the provisions of Sec.3A bearing No. S.O.1962(E) dated 28.04.2023 of NH Act same was published in popular Daily News Paper i.e., Udayavani (Kannada) and The New India Express (English) on 18.05.2023 for the knowledge of general public. After completion of 3C proceedings as per provisions of the Act, Notification u/s 3D(1) No.S.O.1438(E) dated 16.03.2024 is published in Government of India Gazette, and published in the two popular daily newspaper i.e., Varthabharathi (Kannada) and The Times of India (English) on 16.05.2024. Public notice was also issued to the land owners to submit the claims along with documents for determining the compensation and after completion of award enquiry 3G award was passed by the SLAO on 08.07.2024 as per the provisions of the NH Act.

(4) The Respondent -SLAO as per the circular issued by the Government of India Ministry of Road Transport and National Highways Authority of India Head Quarters, in order to uphold the principles of social justice and to meet the ends of justice, the best and the highest price available considered for determining the just and fair compensation. Accordingly as per the provisions of Sec.3(G) of the NH Act and as amended Act 1997 and as per the First Schedule of the RFCTLARR Act passed the award bearing No. NH.LAQ.SR.14/2024-25 dated 08.07.2024.

(5) The petitioner not being satisfied with the award passed by the Respondent -SLAO has preferred the reference application before the Respondent-Arbitrator, the Hon'ble Arbitrator after affording an opportunity to both side passed an Arbitral award No.C.DIS.ARB(4).NH.LAQ.CR.79/2024-25 dated 16.12.2025 rightly rejected the application holding that the compensation determined by the Respondent -SLAO is correct, fair, proper and in accordance with the law and closed the case, the learned Arbitrator by following the due process of law passed the arbitral award.

(6) The Respondent -SLAO & CA passed the award by following the provisions of RFCTLARR Act-2013, with other benefits as such the award passed has been upheld by the Hon'ble Arbitrator and the reference application filed has been rightly rejected by the Arbitrator for the reasons that the Petitioner have failed to submit the reliable attested documents.

(7) The respondent -SLAO & CA awarded the compensation with all the statutory benefits available under the provisions of RFCTLARR Act 2013 which has been accepted by the petitioner, the above petition filed is outside the scope of Sec.34 of A&C Act.

(8) The Arbitrator has rightly held that the Respondent -SLAO & CA after considering the sale deed registered for taking the average market value passed the

award with other statutory benefits available under the RFCTLARR Act.

(9) Except contending above, the Respondent Nos.1 and 2 denied all the petition averments. So prays to dismiss the petition with costs.

4. On service of notice, the Respondent No.3 appeared through the learned D.G.P., but did not file objection statement.

5. Heard arguments. Perused the records of the case.

6. Now the points that would arise for my consideration are as under:

- 1) Whether the Arbitration Petition is filed within the period of limitation?
- 2) Whether the petitioner complied with Sec. 34(5) of A & C Act?
- 3) Whether the petitioner has made out sufficient grounds to set aside the impugned Arbitral Award as provided under Sec.34(2) of A & C Act?
- 4) What Order?

7. My finding to the above points are as follows:

Point No.1 : In the Affirmative,
Point No.2 : In the Affirmative,
Point No.3 : In the Negative,

Point No.4 : As per final order, for the following:

REASONS

8. **Point No.1**: Now the point to be considered is whether the petition is filed within the time of limitation as per Sec.34(3) of the A & C Act.

9. The Arbitral award discloses that, the award passed on 16.12.2025. The order sheet of this petition disclose that, this petition is filed on 31.01.2026.

10. The Sec.31(5) of the A & C Act reads thus;

“(5) After the Arbitral Award are made, a signed copy shall be delivered to each party.”

11. The Sec.34(3) of the A & C Act reads as under:

“(1) xxxxx

(2) xxxxx

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application

within a further period of thirty days, but not thereafter.”

12. In this regard this Court would like to rely on the ruling in **Civil Appeal No.791/2021 [Dakshin Hariyana Bijali Vikran Nigam Ltd. Vs M/s Nyavigant Technologies Pvt. Ltd.]** dated 30.07.2018 wherein the Hon'ble Supreme Court of India held that, the period of limitation would commence from the date on which the signed copy of the arbitral award was made available to the parties.

13. So, from the conjoint reading of above provisions and as held by their Lordships in the above ruling it is clear that after passing of arbitral award the learned Arbitrator has to supply the copy of the same to all the parties of the arbitration. The petitioner produced the copy of the arbitral award which discloses that, the same is supplied to the petitioner. The award is passed on 16.12.2025 and the limitation starts from 17.12.2025 and this petition is filed on 31.01.2026. Hence, the petition is filed within the period of 90 days from the date of supplying the copy of the arbitral award and it is in time. So, the Point No.1 is answered in the Affirmative.

14. **Point No.2:** - The Sec.34(5) of A & C Act, 1996 reads thus:

“An application under this section shall be filed by a party only after issuing a prior notice to the other

party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.”

15. On perusal of the records of the cases the petitioner has produced the notice with postal receipt regarding the filing of this petition to the Respondent Nos.1 to 3.

16. In this regard, this Court would like to rely on the ruling reported in **AIR 2018 SC 3862 [C.S. of Bihar and Others Vs. Bihar Rajya Bhumi Vikas Bank Samiti, Bihar, Jarkhand]**, wherein it is held that, the Sec.34(5) of the A & C Act, 1996 is directory and not mandatory. So the issue of notice before filing the petition is not mandatory. Hence, the Point No.2 is answered in the Affirmative.

17. **Point No.3:** In the petition the petitioner taken several grounds challenging the Arbitration Award.

18. Admittedly the SLAO & CA acquired the land of the land loser/petitioner under the preliminary notification dated 28.04.2023 and the final notification dated 16.03.2024 under Sec.3D of NH Act for the purpose of widening of NH-169 (13) of Shimoga - Mangaluru Section and awarded the compensation amount to the acquired land as under:

Sy.No.	Acquired area in sq. meter	Rate per sq. meter in Rs.	Details of acquired structures and trees
37/4	81	2,100/-	Non-agriculture
37/4	63	1,032/-	Wet

19. On going through the materials on record reveals that the land acquired is non-agricultural and wet land. The SLAO & CA awarded the compensation of Rs.2,100/- for 81 sq.mtr. and Rs.1,032/- for 63 sq.mtr. under his award dated 08.07.2024.

20. Aggrieved by the same the land loser filed the arbitration petition before the learned Arbitrator and same is rejected by him.

21. The impugned award was passed after the Arbitration & Conciliation (Amendment) Act 2015 came into force. The said amendment brought major changes to the Sec.34 of the Act restricting the Courts from interfering with the arbitral award on the ground of public policy.

22. The power of the Court to examine the award is dealt in Sec.34 of A & C Act, which reads thus:

“Application for setting aside arbitral award. —(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if—

a) the party making the application furnishes proof that—

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an Arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or,

failing such agreement, was not in accordance with this Part; or

b) the Court finds that—

- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or*
- (ii) the arbitral award is in conflict with the public policy of India.*

Explanation. 1 — For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if, -

- (i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or,*
- (ii) it is in contravention with the fundamental policy of Indian law; or*
- (iii) it is in conflict with the most basic notions of morality or justice.*

Explanation.2— For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian Law shall not entail a review on the merits of the dispute.]

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.]”

So, the Explanation 2 of Sec.34(2) makes it very clear that in no way Court be entitle to review the award on merits of the dispute nor re-appraise the evidence unless the petitioner is able to establish the grounds enumerated under the provisions of law and set-aside the arbitration award.

23. The present arbitration award arose out of statutory arbitration. The land loser has no say in the appointment of Arbitrator. As per Sec.3G(5) NH Act provides if the amount determined by the land acquisition authority is not acceptable to the parties, then on the application of either parties be determined by the Arbitrator to be appointed by Central Government. So the appointment of Arbitrator under the NH Act is not a consensual process and it is only by the acquiring authority.

24. The Ministry of Land Transport and Highways by its notification dated 13.01.2016 it is clarified that in cases instituted under NH Act 1956, but award has not been announced by 31.12.2014 the RFCTLARR Act 2013 will apply u/s 24(1) of the Act. In view of the same, the order of the Arbitrator awarding benefits under the RFCTLARR Act is legally permissible.

25. The Hon'ble Supreme Court of India in the ruling reported in **2019 (20) SCC 1 [Dyna Technologies Pvt. Ltd., Vs Crompton Greaves Ltd.]**, discussed the scope and interference by the court in a petition U/Sec. 34 of the A & C Act in Para No.24 & 25 as under:

“24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to the conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.

25. Moreover, umpteen number of judgments of this court have categorically held that the courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The courts need to be cautious and should defer to the view taken by

the Arbitral Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Section 34 of the Arbitration Act.”

26. The Hon'ble Supreme Court in its decision reported in **AIR 2021 SC 4661 – [PSA SICAL Terminals Pvt. Ltd. Vs Board of Trustees]**, held that:

“In an application U/s. 34 of the Act, court is not expected to act as an appellate court and re-appreciate evidence. Scope of interference would be limited to grounds provided U/s. 34 of the Act. Interference would be so warranted when award is in violation of “Public Policy of India”, which has been held to mean “Fundamental Policy of Indian Law”. A judicial intervention on account of interfering on the merits of the award would not be permissible. However, the principles of natural justice as contained in Sec.18 and Sec.34(2)(a)(iii) of the Arbitration Act would continued to be the grounds of challenge of an award. The ground of interference on the basis that award is in conflict with justice or morality is now to be understood as a conflict with the “most basic notions of morality or justice”. It is only such arbitral award that shock the conscience of the court, that can be set aside on the said ground. An award would be set aside on the ground of patent illegality appearing on the face of the award and as such, which goes to the roots of the matter. However an illegality with regard to a mere erroneous application of law would not be a ground for interference. Equally re-appreciation of evidence would not be permissible

on the ground of patent illegality appearing on the face of the award.”

So in view of the proposition of law laid down by the Hon'ble Supreme Court, this court has limited jurisdiction to interfere with the award only when the petitioner has made out grounds enumerated under sub-section (2) or 2-A of Sec.34 of A & C Act.

27. The Hon'ble Supreme Court of India in the ruling reported in **2017 (9) SCC 426 [Narendra and others Vs State of Uttar Pradesh]** it is held that proper compensation has to be awarded to the land losers. It is further held that while awarding compensation it is kept in mind in the matter of compulsory acquisition of lands by the Government, the land losers are not willing parties and they are compel to give their land to the State for public purpose. It is further held that duty casted upon the Court to award fair compensation and fairness requires that all those similarly situated are treated similar and laid down the parameters to be considered by the Arbitrator.

28. In the petition the petitioner contended that the acquired land was being used as parking area for the hall and temple. The entire land had a commercial value. Even though conversion order is produced, but not awarded the compensation as per the converted value of the land, but treated as dry land. The sale statistics would clearly

indicates that land value touching the national highway, a year prior to the acquisition was above Rs.7 lakhs to Rs.8 lakhs per cent of land.

29. In Page Nos.6 and 7 of the impugned order, the learned Arbitrator observed as under:

“In the present case, in award No.NH.LAQ.SR:14/2024-25 dated 08.07.224 an extent of 81 sq.mtrs non-agricultural land and 63 sq.mtrs wet land in Sy.No.37/4 belonging to the applicant has been acquired. While determining the compensation the 2nd respondent has considered 81 sq.mtrs as non-agricultural land and compensation at the rate of Rs.2,100/- per sq.mtr has been fixed. An extent of 63 sq.mtrs of land has been considered as wet land and Rs.1,032/- per sq.mtr has been fixed. The 2nd respondent has determined the compensation u/Sec.3-G(7) of N.H. Act 1956 and Sec.26 of the RFCTLARR Act 2013. Even though 63 sq.mtrs land is wet land the 2nd respondent while determining the compensation has taken into consideration the sale deed registered 12.5 cents and below 12.5 cents of agricultural land for taking the average market value. The applicant has contended that the acquired land is converted land. But the applicant has not produced copy of the conversion order. The applicant has been awarded the compensation in terms of factor 2 and also paid 100% solatium and additional compensation at 12%. The compensation determined by the 2nd respondent is correct, fair, proper and in accordance with the law. Hence the

question of enhancement of compensation does not arise. The contention that the land value touching the N.H. a year prior to the acquisition was above Rs.7 lakhs to Rs.8 lakhs per cent is not supported by any documentary evidence.

Order

The application filed u/s 3-G(5) of the N.H. Act 1956 for enhancement of compensation by the applicant is rejected.

30. On careful perusal of the LCR received from the office of the learned Arbitrator, the conversion order was not produced before the learned Arbitrator. The learned Arbitrator in his order mentioned regarding non-production of conversion order. So it is clear the petitioner has not produced the conversion order before the learned Arbitrator. It is important to note that along with the petition the petitioner produced conversion order, which is dated 11.04.2014. When such being the case, awarding of compensation to the acquired land is just and proper on the materials available on record. In **Civil Appeal No.73/2023 dated 19.01.2023 [M/s Alpine Housing Development Corporation Pvt. Ltd. Vs Ashok S. Dhariwal and Others]** of Hon'ble Supreme Court of India, held that if the document in question was available with the parties at the time of filing of Sec.34 petition, then the parties cannot be allowed to file the same belatedly. As on the date of filing of the petition before the learned Arbitrator the said conversion order was

available with petitioner, but the same was not produced before him. Hence, now the said conversion order cannot be considered as held in the above ruling. So also the petitioner has not produced any documentary evidence to show that, a year prior to the acquisition was above Rs.7 lakhs to Rs.8 lakhs per cent. So also the petitioner has not produced any document to show that there was severance of land and because of that the building left no parking area and the bookings for the said all have decreased substantially. The petitioner has not made out any grounds to assail the award and it does not suffer from patent illegality or against public policy.

31. In **A.A. No.1/2019 [National Highways Auth. of India Vs Pankaj Singh & Others]**, it is held as under;

“As far as interference with an order made under sec 34, as per sec 37, is concerned, it cannot be disputed that such interference under sec 37 cannot travel beyond the restrictions laid down under sec 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under sec 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under sec 34 and by the court in an appeal under sec 37, this court must be extremely cautious and slow to disturb such concurrent findings.”

32. In **(2021) 9 SCC 1 [National Highways Authority of India Vs M. Hakeem and Another]**, it is held as under;

“Quite obviously if one were to include the power to modify an award in Sec 34, one would be crossing the Lakshman Rekha and doing what, according to the justice of a case, ought to be done. In interpreting a statutory provision, a Judge must put himself in the shoes of Parliament and then ask whether Parliament intended this result. Parliament very clearly intended that no power of modification of an award exists in Sec 34 of the Arbitration Act, 1996. It is only for Parliament to amend the aforesaid provision in the light of the experience of the courts in the working of the Arbitration Act, 1996, and bring it in line with other legislations the world over.”

33. In **MFA No.22769/2012 (AA) etc. [National Highways Authority of India Vs Gangadharayya Pattadswamy Hiremath and Another]**, it is held as under;

“As held by the Apex Court in the case of K. Krishna Reddy and others vs. The Special Deputy Collector reported in AIR 1988 SC 2123, money is what it buys. It cannot be said that the market value which was prevailing in 2001 can be given in 2014. It should not be a case of too little and too late. The relevant portion of the said decision is extracted herein below:

“..... After all money is what money buys. What the Claimant could have bought with the compensation in 1977 cannot do in 1988.

Perhaps, not even one half of it. It is a common experience that the purchasing power of rupee is dwindling. With rising inflation, the delayed payment may lose all charm and utility of the compensation. In some cases, the delay may be detrimental to the interests of Claimant. The Indian agriculturists generally have no avocation. They totally depend upon land. If uprooted, they will find themselves nowhere. They are left high and dry. They have no savings to draw. They have nothing to fall back upon.

They know no other work. They may even face starvation unless rehabilitated. In all such cases, it is of utmost importance that the award should be made without delay. The enhanced compensation must be determined without loss of time. The appellate power of remand, at any rate ought not to be exercised lightly. It shall not be resorted to unless the award is wholly unintelligible. It shall not be exercised unless there is total lack of evidence. If remand is imperative, and if the claim for enhanced compensation is tenable, it would be proper for the appellate court to do modest best to mitigate hardships. The appellate court may direct some interim payment to Claimant subject to adjustment in the eventual award.”

We may also usefully refer to the decision of the Hon’ble Supreme Court in the case of Tukaram Kana Joshi and others vs. M.I.D.C. and others reported in AIR 2012 SCW 6343. It has this to say in para 17 of its decision:

“.....Even under valid acquisition proceedings, there is a legal obligation on the part of the authorities to complete such acquisition proceedings at the earliest, and to make payment of requisite compensation. The appeals etc. are required to be decided expeditiously, for the sole reason that, if a person is not paid compensation in time, he will be unable to purchase any land or other immovable property, for the amount of compensation that is likely to be paid to him at a belated stage.”

34. In **Arb.A. No.28/2016 [Ramadas M.R. Vs National Highways Authority of India]**, it is held as under;

“There is no dispute that sec 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Sec 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under sec 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial

wisdom behind opting for alternate dispute resolution would stand frustrated.”

35. In **(2012) 1 SCC 594 [P.R. Shah Shares and Stock Brokers Pvt. Ltd. Vs B.H.H. Securities Pvt. Ltd. and others]**, it is held that the court cannot sit in appeal over award by reasoning or re-appreciating evidence to find out whether different decision could be arrived at against findings of arbitral tribunal in absence of grounds under Section 34.

36. In **2010 (3) KCCR SN 44 [Ravindra Kumar Gupta and Company Vs Union of India]**, it is held that the power of the courts to interfere with the correctness of award is very much limited and the Award of Arbitrator final unless it is perverse or apparent on the face of the record and jurisdiction of the courts very much limited and not that of as a court of appeal.

37. In **(2008) 14 SCC 785 [Satna Stone and Lime Company Ltd. Vs Union of India and Another]**, it is held that the court's interference with award is limited and the court does not sit in appeal while examining the award and it would not reappreciate the evidence or substitute its own view in place of that of the learned Arbitrator.

38. In **2015 (5) SCC 698 [Navodaya Mass Entertainment Ltd., Vs J.M. Combines]**, it is held that reappraisal of material on record by Court and submitting

its own view in place of arbitration's view reiterated is not permissible in absence of perversity, merely because two views are possible and once Arbitrator has applied his mind to matter before him, the court cannot reappraise said matter as if it were an appeal even if two views are possible and the view taken by the learned Arbitrator would prevail.

39. In **Civil Appeal No.4671/2022 [National Highways Authority of India Vs Sri. P. Nagaraju @ Chaluvayya and Another]** dated 11.07.2022 of Hon'ble Supreme Court of India, referred the citation of **NHAI Vs M. Hakeem and Another [(2021) 9 SCC 1]** (Supra) and held that, if there is patent illegality in the award of the learned Arbitrator, then the same can be set-aside and matter can be remanded to the learned Arbitrator.

40. In **(2022) 15 SCC 1 [National Highways Authority of India Vs Sri P. Nagaraju @ Cheluvaiah & Another]**, it is held that;

“...In that light, the limited scope available under Act, 1996 to assail an award as provided under Section 34 of the said Act is also to be kept in view even in these appeals. while doing so, what cannot also be lost sight of is the fact that the arbitration was not initiated based on an agreement entered into between the contracting parties under a contract but is under a statutory provision which provides for such arbitration in lieu of 'reference' under the regime for acquisition

of land for public purpose. One of the parties to such arbitration proceedings would also be a land loser and the adjudication in the arbitration proceedings is not based on any definite terms of the contract providing for mutual obligations determinable under the contract but for determination of just compensation in respect of land which is compulsorily acquired for a public purpose.”

“It is contended that the factors to determine the compensation payable to the land loser as provided in Section 3G(7)(a) of the NH Act can only be the basis. In that view, it is contended that the parameters contained in Section 28 of RFCTLARR Act 2013 cannot be taken into consideration.”

“When land is acquired from a citizen, Articles 300A and 31A of the Constitution will have to be borne in mind since the deprivation of property should be with authority of law, after being duly compensated. Such law should provide for adequately compensating the land loser keeping in view the market value. Though each enactment may have a different procedure prescribed for the process of acquisition depending on the urgency, the method of determining the compensation cannot be different as the market value of the land and the hardship faced due to deprivation of the property would be the same irrespective of the Act under which it is acquired or the purpose for which it is acquired. In that light, if Section 28 of RFCTLARR Act 2013 is held not applicable in view of Section 3J of NH Act, the same will be violative of Article 14 of the Constitution. In that

circumstance, the observation in **Tarsem Singh** (Supra) that Section 3J of NH Act is unconstitutional to that extent though declared so while on the aspect of solatium and interest, it is held so on all aspects relating to determining of compensation. In any event, the extracted portion of the notification dated 28.8.2015 is explicit that the benefits available to the land owners under RFCTLARR Act is to be also available to similarly placed land owners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, among which NH Act is one. Hence all aspects contained in Section 26 to 28 of RFCTLARR Act for determination of compensation will be applicable notwithstanding Section 3J and 3G(7)(a) of NH Act.”

41. In **(2015) 3 SCC 49 – Associate Builders Vs Delhi Development Authority**, the Hon’ble Supreme Court of India observed that:

“It must clearly be understood that when a court is applying the "public policy" test to an arbitration award, it does not act as a court of appeal and consequently errors of fact cannot be corrected. A possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on this score. Once it is found that the arbitrators approach is not arbitrary or

capricious, then he is the last word on facts. In P.R. Shah, Shares & Stock Brokers (P) Ltd. Vs B.H.H. Securities (P) Ltd., (2012) 1 SCC 594, this Court held:

"21. A court does not sit in appeal over the award of an Arbitral Tribunal by reassessing or re-appreciating the evidence. An award can be challenged only under the grounds mentioned in Section 34(2) of the Act. The Arbitral Tribunal has examined the facts and held that both the second respondent and the appellant are liable. The case as put forward by the first respondent has been accepted. Even the minority view was that the second respondent was liable as claimed by the first respondent, but the appellant was not liable only on the ground that the arbitrators appointed by the Stock Exchange under Bye-law 248, in a claim against a non-member, had no jurisdiction to decide a claim against another member. The finding of the majority is that the appellant did the transaction in the name of the second respondent and is therefore, liable along with the second respondent. Therefore, in the absence of any ground under Section 34(2) of the Act, it is not possible to re-examine the facts to find out whether a different decision can be arrived at."

It is with this very important caveat that the two fundamental principles which form part of the fundamental policy of Indian law (that the arbitrator must have a judicial approach and that he must not act perversely) are to be understood."

42. In **(2019) 20 SCC 1 [Dyna Technologies Private Limited Vs Crompton Greaves Limited]**, the Hon'ble Supreme Court of India observed that:

“24. There is no dispute that Sec.34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various Courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Sec.34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Sec.34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the Courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.

25. Moreover, umpteen number of judgments of this Court have categorically held that the Courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The Courts need to be cautious and should defer to the view taken by the Arbitral Tribunal even if the reasoning provided in the award is implied unless such

award portrays perversity unpardonable under Sec.34 of the Arbitration Act.”

43. In **2025 Supreme (SC) 721 [Consolidated Construction Consortium Limited Vs Software Technology Parks of India]**, the Hon'ble Supreme Court of India observed that:

“23. Scope of Sec.34 of the 1996 Act is now well crystallized by a plethora of judgments of this Court. Sec.34 is not in the nature of an appellate provision. It provides for setting aside an arbitral award that too only on very limited grounds i.e. as those contained in sub-sections (2) and (2A) of Sec.34. It is the only remedy for setting aside an arbitral award. An arbitral award is not liable to be interfered with only on the ground that the award is illegal or is erroneous in law which would require re-appraisal of the evidence adduced before the arbitral tribunal. If two views are possible, there is no scope for the court to re-appraise the evidence and to take the view other than the one taken by the arbitrator. The view taken by the arbitral tribunal is ordinarily to be accepted and allowed to prevail. Thus, the scope of interference in arbitral matters is only confined to the extent envisaged under Sec.34 of the Act. The court exercising powers under Sec.34 has perforce to limit its jurisdiction within the four corners of Sec.34. It cannot travel beyond Sec.34. Thus, proceedings under Sec.34 are summary in nature and not like a full-fledged civil suit or a civil appeal. The award as such cannot be touched unless it is contrary to the substantive provisions

of law or Sec.34 of the 1996 Act or the terms of the agreement.

24. Therefore, the role of the court under Sec.34 of the 1996 Act is clearly demarcated. It is a restrictive jurisdiction and has to be invoked in a conservative manner. The reason is that arbitral autonomy must be respected and judicial interference should remain minimal otherwise it will defeat the very object of the 1996 Act.”

44. So, the above decisions of Hon'ble Apex Court of India and Hon'ble High Court of Karnataka have clarified beyond any ambiguity that the award can be set aside u/s 34 of the Act by a District Court only when (i) such an award is patently illegal on the face of it, (ii) the award was in contravention with fundamental policy of Indian Law, (iii) it is in conflict with most basic notions of morality or justice and (iv) the award was induced or affected by fraud or corruption or was in violation of Sec.75 or Sec.81 of the Act, when the award shocks the conscience of the Court. The petitioner has not made out any grounds mentioned herein to set-aside the arbitral award.

45. Therefore, this Court is of the opinion that the reasoning of learned Arbitrator does not call for any interference by this Court as no grounds u/s 34 of the A & C Act and it is in accordance with the judicial pronouncements. Hence, the Point No.3 is answered in the Negative.

46. **Point No.4**: In view of discussions and finding on Point Nos.1 to 3, this Court proceeds to pass the following:

ORDER

The Arbitration Petition filed by the petitioner under Sec.34 of the Arbitration read with Sec.3-G(6) of National Highways Act is hereby dismissed.

No order as to costs.

Draw award accordingly.

Send back Arbitration records to the learned Arbitrator.

(Dictated to the Stenographer Grade-I, typed by her directly on computer, corrected and signed by me and then pronounced in the open court on this the 31st day of July, 2026).

(Basavaraj)
Principal District & Sessions Judge,
D.K., Mangaluru.