

KA14010020722024



**IN THE COURT OF III ADDL. DISTRICT JUDGE
AT SHIVAMOGGA**

Dated this the 29th day of July 2026

PRESENT:

Sri Yashawanth Kumar, B.A.(Law),LL.B
III Addl. District and Sessions Judge,
Shivamogga.

CIVIL MISCELLANEOUS No.27/2024

PETITIONER: Ramakrishna, S/o Late Lakkaiah,
Aged about 74 years,
R/o Bypass Road, Hosa Siddapura,
Bhadravathi.
(By Sri T.S.S., Advocate)

VS.

RESPONDENTS: 1. The Special Land Acquisition Officer,
National Highway 206, Tumkur-
Shivamogga Plannint, Shivamogga
Division 611-368/368-1, 2nd Floor,
Central Avnue, Near SBI, NT Road,
Shivamogga.
2. The Secretary, Ministry of Road
Transport & Highways Transport
Bhawan, 1, Parliament Street,
New Delhi.
(Absent)

ORDER

This is a petition filed by the petitioner under section 3G(5)
and (6) of the National Highways Act, 1956 to direct the
respondent No.2 to appoint an arbitrator in accordance with

Section 3G (5) and (6) of the National Highways Act, 1956 to adjudicate the claim of the petitioner for enhancement of compensation.

2. The petitioner has contended as under;

The petitioner is the owner in possession of the property bearing No.228/2402 E-property PID No.28-3-35-111 in ward No.10, earlier sy.no.73 of Jannapura village, Bhadravathi taluk. The petitioner has constructed RCC building with compound wall around his property. For the purpose of formation of Four Track Road, the respondent No.1 initiated acquisition proceedings of schedule property. While awarding the compensation the respondent No.1 calculated the compensation considering that the petitioner's property is not a property situated within the limits of municipality. The petitioner produced municipality katha and requested the respondent to calculate the compensation considering it as urban site property. But respondent failed to value the property in accordance with urban norms. The respondent No.1 awarded compensation by fixing the valuation at Rs.26,25,581/- and granted a total compensation of Rs.52,51,161/-. In fact, the market value of the property acquired as per the valuation of engineers is Rs.32,55,000/- for the year 2018-19. The respondent No.1 extremely undervalued the acquired property. The petitioner is entitled for additional compensation of at least Rs.66 lakhs over and above the amount determined by the competent authority. The petitioner issued the statutory notice under Section 3G of the Act to respondent No.1 on 23.11.2022

requesting for appointment of an arbitrator. The respondent No.1 was obligated to inform the respondent No.2 the need for appointment of arbitrator as per section 3G(5) and (6) of the Act. But he has failed to do so. The petitioner also intimated respondent No.2 vide letter dated 23.03.2023 seeking appointment of an arbitrator at the earliest. Even after the lapse of stipulated period of 30 days the respondent No.2 has failed to act on the same. Hence, this petition.

3. In spite of sufficient service of notice to respondent No.1 and 2, they have not appeared before this Court.

4. To prove his case, the petitioner has examined himself as PW1 and got marked 15 documents as per Ex.P.1 to P.15.

5. Heard the arguments of learned counsel for the petitioner.

6. The points that arise for my consideration are as under;

- 1) Whether the petition is maintainable?
- 2) Whether the petitioner has made out grounds to issue direction to respondent No.2 to appoint an arbitrator in accordance with Section 3G(5)&(6) of the National Highways Act 1956?
- 3) What order?

7. My answer to the above points are as under:

Point No.1: In the Negative

Point No.2; In the Negative

Point No.3: As per final order,
for the following:

REASONS

8. **POINT NO.1:-** The petitioner has been examined as PW.1 and he has reiterated petition averments in his chief-examination. He has got marked 15 documents as per Ex.P.1 to P.15. The respondents remained absent and they have not cross-examined the PW.1 and the evidence of PW.1 remained uncontraverted.

9. As far as maintainability of this petition is concerned, the learned counsel for petitioner has relied on decision reported in **(2019) 11 SCR 725(National Highways Authority of India v. Sayedabad Tea Company Ltd and Ors)**. In this decision the Hon'ble Supreme Court has relied on the decision rendered in *Crl.Apl. No.5250/2018 decided on 16.05.2018 between General Manager(Project), National Highways and Infrastructure Development Corporation Ltd., Vs. Prakash Chand Pradhan and others*, wherein it is observed that the power of appointment of arbitrator is exclusively vested with the Central Government under Section 3G(5) of the Act, 1956 and if the Central Government does not appoint an arbitrator within a reasonable time, it is open for the party to avail the remedy either by filing a writ petition under Article 226 of the Constitution of India or a suit for the said purpose.

10. It is further observed in para No.24 that, there is no statutory limitation provided under sub-section (5) of Section 3G of the Act, 1956 for the Central Government to appoint an Arbitrator but that may not give an unguided discretion to the

authority and in the absence of any statutory limitation, it must be within the time and if the Central Government fails in discharge of its statutory duty in appointing an arbitrator on a request being made by either of the party aggrieved, it will be open to the party to invoke either the writ jurisdiction of the High Court under Article 226 of the Constitution of India or the Civil Court for the purpose.

11. The petitioner has relied on another decision rendered by **Hon'ble Supreme Court in Civil Appeal No.5250/2018 decided on 16.05.2018** wherein it is observed that, the Central Government alone is to determine who is to be an arbitrator under Section 3G(5) of the National Highways Act and if a demand is made for the appointment of an arbitrator, and the Central Government does not appoint an arbitrator within a reasonable time, the remedy that is to be availed of is a writ petition or a suit for the said purpose.

12. It is clear from the decisions relied by the petitioner himself that if the Central Government fails to appoint an arbitrator within a reasonable time, the remedy available to the party is to approach the Hon'ble High Court by filing a writ petition under Article 226 of Constitution of India or to file a suit for the said purpose before the Civil Court.

11. It is true that the respondent No.1 is the Special Land Acquisition Officer and respondent N.2 is the Secretary of Ministry of Road Transport and Highways of Central Government. It is the contention of the petitioner that though

they have approached the respondent No.2 by addressing a letter dated 23.03.2023, the Central Government has not appointed an arbitrator. Such being the case, the remedy available to the petitioner herein is to approach the Hon'ble High Court by filing writ petition under Article 226 of Constitution of India or to file a suit before the Civil Court. This is a miscellaneous petition filed by the petitioner for a direction to respondent No.2 i.e., the Central Government to appoint an arbitrator to adjudicate the claim of the petitioner. But such a miscellaneous petition is not maintainable. This Court cannot give a direction to the Central Government in this miscellaneous petition. Under the above circumstances, I am of the opinion that the present petition filed by the petitioner is not maintainable. Accordingly I answer **point No.1 in the negative.**

12.Point No.2:- When the petition itself is not maintainable, the question of issuing direction to the respondent No.2 to appoint an arbitrator as prayed by the petitioner, does not arise. Accordingly, I answer **point No.2 in the negative.**

13.Point No.3: In view of the above discussion, I proceed to pass the following:

ORDER

The petition filed by the petitioner under section 3G(5) and (6) of the National Highways Act 1956 is hereby dismissed as not maintainable.

Under the circumstances, there shall be
no order as to cost.

(Dictated to the stenographer-II, transcribed and typed by her, printout corrected, signed
and then pronounced by me in the open court on this the 29th day of July 2026)

(Yashawanth Kumar)
III Addl. District Judge,
Shivamogga.

ANNEXURE

Witnesses examined

for petitioner:

PW1: Ramakrishna

for respondents: - None-

Documents marked

for petitioner:

- Ex.P.1: Genealogical tree
- Ex.P.2: Notice dated 30.06.2020
- Ex.P.3: Information Letter dtd.17.06.2022 to respondent
No.1 from CMC, Bhadravathi.
- Ex.P.4: Office Copy of letter dtd.23.03.2023 to respondent
No.2.
- Ex.P.5: Postal acknowledgment
- Ex.P.6: Valuation letter issued by Sub-Registrar office
- Ex.P.7: Valuation report issued by Engineer
- Ex.P.8: Notarized copy of Aadhaar card of petitioner
- Ex.P.9: Encumbrance certificate.
- Ex.P.10&11: Property tax payment challans
- Ex.P.12: SAS form for properties with building
- Ex.P.13: Building License
- Ex.P.14: Approved building plan

Ex.P.15 Original sale deed dtd;22.10.1998.

for respondents: - Nil-

(Yashawanth Kumar)
III Addl. District Judge,
Shivamogga.