KABG010096292025

IN THE COURT OF PRL. DISTRICT JUDGE, BELAGAVI

DATED THIS THE 04th DAY OF JULY, 2026

PRESENT : **SHRI MANJUNATH NAYAK**
B.A.L. LL.B.
Prl. District & Sessions Judge
Belagavi.

ARBITRATION PETITION No.229/2025

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PETITIONER: The Deputy General Manager (Tech)
And Project Director,
National Highways Authority of India,
Project Implementation Unit,
2nd Cross, Sattur Colony, Vidyagiri,
Now at Shivakrupa Nivas,
Vivekananda Nagar,
2nd Cross, Next to Excellent NEET
Academy, Vidyagiri,
Dharwad-580004.

(By Sri B.P.Mathapati, Advocate)

Vs.

RESPONDENTS :

1. Shobha Sadeppa Kolakar,
After marriage,
Shobha Basavaraj Kolkar.

2. Sunita Sadeppa Kolakar,
After Marriage,
Sunita Yajekal Kolakar,

Both are R/o: Dastikoppa village,
Tq: Kittur, District: Belagavi.

3. The Arbitrator Land Acquisition (NHAI) & Additional Regional Commissioner (ADMN), Regional Commissioner Office, Belagavi Division, Belagavi.

(Resp No.1 & 2 by Sri P.V.Sambargi, Advocate)

(Resp No.3 by District Government Pleader)

J U D G M E N T

This petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996 (in short **'Arbitration Act'**) challenging the legality and correctness of the award dated 31.07.2025 passed by the Respondent No.3.

2. **The case of the petitioner, as made out in the petition, is as follows:**

The petitioner is entrusted with the work of construction of 4/6 laning National Highway No.4 from KM 282 to KM 515 passing through Dastikoppa village. The petitioner has initiated the acquisition proceedings vide Preliminary Notification dated 10.07.2001 and Final Notification dated 17.05.2002. The respondent No.1 and 2 are the owners of the land bearing Sy.No.26/4 of Dastikoppa village. An area measuring 100 square meters in the said survey number was acquired by the petitioner. The Special LAO has determined the market value of the acquired land at the rate of Rs.47.45/- per square meter for irrigated lands and Rs.172.20/- per square meter for non agricultural lands. Being aggrieved by the same, the respondent No.1 and 2 have approached the respondent No.3, who is the Sole Arbitrator under the National Highways Act, (in short, **Highways Act**) for enhancement of the compensation. Vide impugned award dated 31.07.2025, Sole Arbitrator has enhanced the market value of the acquired land at the rate of Rs.1115/- per square meter for NA and PNA lands and Rs.832/- per square meter for agricultural lands. Being aggrieved by the said award, the petitioners have filed the present petition on following grounds:

GROUNDS OF CHALLENGE

1. That, the award passed by the learned Arbitrator is against the provision of law and public policy of India and in gross violation of principles of natural justice and the learned Arbitrator has not applied his judicious mind and awarded exorbitant amount of compensation. Hence, it deserves to be set aside.

2. That, the award passed by the learned Arbitrator is without application of mind, misconceived of facts and deserves to be set aside. Hence, award passed by the learned Arbitrator is perverse and patently illegal and requires to be quashed and set aside.

3. That it is well settled law that public exchequer should not be put to undue burden, as the land acquisition is meant for Public Purpose. The National Highways link up significant cities and towns enabling the efficient transportation of goods and people throughout the nation. But in the present case the learned Arbitrator has violated Section 29A of the Act and has not assigned any reasons for such delay in pronouncing the order.

   Ultimately, the interest for period of 19 Years is burden on the petitioners. Such unexplained delay of more than 19 years in rendering the award is being in conflict with the public policy of India and the same will be challengeable under Section 34(2)(b)(ii) to set aside the arbitral award.

   The Hon'ble Supreme Court of India in the case of Union of India V/s M/s. Varindera

Construction Ltd. Etc. reported in Civil Appeal Nos. 3994-3995 of 2018 held that:

"8) The primary objective of the arbitration is to reach a final disposition in a speedy, effective, inexpensive and expeditious manner. In order to regulate the law regarding arbitration, legislature came up with legislation which is known as Arbitration and Conciliation Act, 1996. In order to make arbitration process more effective, legislature restricted the role of courts in case where matter is subject to the arbitration"

Another decision of the the Hon'ble High Court of Delhi in the case of Harji Engg. Works Pvt. Ltd V/s M/s Bharat Heavy Electricals Ltd & Anr reported in O.M.P No. 241 of 2006 held that:

"the award passed after an inordinate and unexplained delay would be contrary to justice and would defeat justice"

4. That, the learned Arbitrator has violated the provisions of Section 31(3) of the Arbitration and Conciliation Act, 1996. The mandate under Section 31(3) of the Arbitration Act is to have reasoning, which is intelligible and adequate and also documents referred to thereunder, if

the need be. The Section 31(3) of the Act speaks as follows:

(3) The arbitral award shall state the reasons upon which it is based, unless-

(a) the parties have agreed that no reasons are to be given, or

(b) the award is an arbitral award on agreed terms under section 30.

As per the above provision of law, the learned Arbitrator has to assign proper reasons at the time of passing award. But in the present case, nowhere in his award the learned Arbitrator has given the reasonings and explanation how he has fixed the market value of Rs. 1,115/- per Sqm. Therefore, enhancing the compensation by the learned Arbitrator without giving proper reasons and without applying fundamental policies of Indian law, the Impugned Award suffered patent illegality. Hence, the Impugned award is liable to be set aside since it suffered from inadequate reasoning.

5. That, the learned Arbitrator has gravely erred by erroneously enhancing the compensation exorbitantly, without any basis and any relevant consideration and no documents referred and

also in contravention of Section 3(G) (7) of the NH Act. Section 3(G)(7)(a) states that the learned Arbitrator shall consider

"the market value of the land on the date of publication of the notification under Section 3-A".

6. That, the acquired land was already considered as PNA Land and fixed the proper market value by the CALA as on the date of 3A Notification. But the learned Arbitrator has not considered the same and enhanced the meager compensation of Rs. 1115/- per Sqm without any proper reasons.

Hence, the learned Arbitrator has excessively ventured outside his jurisdiction by considering irrelevant and baseless factors that have no bearing on the actual market value and amount of compensation to be awarded in respect of the said acquired land and merely enhanced the compensation by just considering the land as NA potential land.

7. That the impugned award is patently illegal and contrary to the provisions U/s 34 of the Arbitration Act and contravention to the substantial law of India. On this ground alone,

the impugned award is liable to be set aside. The Hon'ble Supreme Court in the case of Patel Engineering Ltd. V/s. North Eastern Electric Power Corporation Ltd. reported in SLP © Nos. 3584-85 of 2020 held that:

"40. Patent Illegality

We now come to the fourth head of public policy namely, patent illegality. It must be remembered that under the explanation to Section 34(2)(b), an award is said to be in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption. This ground is perhaps the earliest ground on which courts in England set aside awards under English Law. Added to this ground (in 1802) is the ground that an arbitral award would be set aside if there were an error of law by the arbitrator...

8. That the mere potentiality of the land cannot be a factor for enhancement. Therefore, the impugned award is passed without considering the material evidence on record and relevant factors necessary for determining the market value of the said acquired land and in fact, the impugned award is against the judgment of the Hon'ble Supreme Court of India in the case of

Ranvir Singh vs. Union of India reported in (2008) 1 SCC 1, which is held as under:

"(A) Land Acquisition Act (1 of 1894) 5.23- Compensation - Determination of market value of acquired land Market value of fully developed land Cannot be compared with wholly under developed land although they may be adjoining or situated at little distance Determination of market value on basis of brochure of Authority inviting applications for purchase of fully developed leasehold plots in adjacent residential scheme without taking into consideration deeds of sale and other judgments relied upon by parties - illegal."

Also, in another decision of Hon'ble Supreme Court of India reported in (2018) 13 SCC 96 in the case of Manojkumar V/s. State of Haryana, wherein it was held that:

"The previous awards/judgments are only piece of evidence on a par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding"

Further present impugned award passed by Arbitrator is contrary to Hon'ble supreme court of India reported in in the case of Jayaprakash v/s Union of India, wherein it was held that:

"Merely because higher compensation was given for lands situated in a neighbouring village/adjacent land does not entitled the appellant to get the same compensation".

That the impugned award is contrary to the well established principles and judicial precedent of the Hon'ble Apex Court in the case of Tarlochan Singh and Another vs. State of Punjab and Others reported in (1995) 2 Supreme Court Cases 424, wherein it was held that:

"Not even the adjacent lands in the same village may attract similar prices for land acquisition."

9. That the Impugned Award is the one which has not taken into account the huge burden that would be imposed on the Petitioners. It is well settled law that public exchequer should not be put to undue burden, as the land acquisition is meant for Public Purpose and the Project of

widening and development of NH-4 would be put to serious jeopardy.

10. That the learned Arbitrator has passed the impugned award without considering the material evidence and factual matrix of the case. In fact, the learned Arbitrator has not perused the award passed by the learned SLAO, which is correct, complete and relevant in all aspects and therefore, the award passed by the learned Arbitrator is patently illegal and deserved to be set aside.

11. That the findings of the learned Arbitrator is on the face of the record contrary to the statutory provisions of the NH Act. Also, the said award is violation of the Provision Section 34(2)(b)(ii) and award is in conflict with public policy of India. Therefor there is an error apparent on the face of the law and on that ground, the award passed by the learned Arbitrator is liable to quashed and set aside.

12. That since the award passed by the learned Arbitrator is contrary to the public policy of India and reeks patent illegality appearing on the face of record owing to the gross negligence of provisions of the law and

established judicial precedents, the same is liable to be quashed and set aside forthwith.

13. That as per the provisions of Section 31(5) of the Arbitration and Conciliation Act, 1996, after the passing of an arbitral award, signed copy of the award must be delivered to each party. Till today, no signed copy of the award has been received to the petitioners.

3. In response to the notice, respondent No.1 to 3 appeared before this court through their respective counsel and filed objections separately. The respondents No.1 and 2, in their objections, contended that the the market value determined by the Special LAO is on the lower side, due to which they approached the Sole Arbitrator for enhancement of the market value. The respondents further contended that the Dastikoppa village is situated adjacent to M.K.Hubli village and acquired land is situated by the side of already running National Highway, having non agricultural potentiality. The respondents further contended that the commercial activities are adjacent to the acquired land, including Sugar Factory and by considering the same, the learned Sole Arbitrator has rightly enhanced the market value of the

acquired land. The respondents further contended that there are no grounds to say that the determination of market value of the acquired land is erroneous and there are no grounds for interference of this court under Section 34 of the Arbitration Act. On all these grounds, the respondents No.1 and 2 prayed for dismissal of the petition with costs.

4. The respondent No.3 filed separate objections and contended that the petition is not maintainable in law or facts. According to the respondent No.3, petitioner has not complied Section 34(5) of the Arbitration Act and without complying the said mandatory provisions, petition is not maintainable. It is further contented by the respondent No.3 that this petition is filed after the lapse of statutory period and delay in filing the petition is not explained. On all these grounds, respondent No.3 prayed for dismissal of the petition with costs.

5. I have heard the arguments of both the parties and perused the materials on record.

6. The points that arise for my consideration are:

1. **Whether the impugned award passed by the Sole Arbitrator is perverse, against the public policy and suffers from patent illegality and liable to be interfered by this court?**

2. **What Order?**

7. My answer for the above points are in the following, because of my below discussed reasons:

Point No.1: **IN THE NEGATIVE**

Point No.2: **AS PER THE FINAL ORDER**

R E A S O N S

8. **Point No.1**: The petitioner has approached this court with a petition under Section 34 of the Arbitration Act, challenging the award dated 31.07.2025, passed by the respondent No.3, who is the Sole Arbitrator appointed under the Highways Act. The grievance of the petitioner is that the Sole Arbitrator has awarded the excess compensation without considering the factual situations and also by ignoring the provisions of the Arbitration Act, Highways Act and also the decisions of the Hon'ble Supreme Court.

TECHNICAL OBJECTIONS REGARDING MAINTAINABILITY OF THE PETITION:

9. The respondents have raised some technical objections in disputing the maintainability of this petition in challenging the award passed under the Arbitration Act. One of the objections is about delay in filing the petition. Another objection is about filing this petition without issuing notice as required under Sec. 34(5) of the Arbitration Act.

10. Regarding the period of limitation in filing the petition under Section 34 of the Arbitration Act, it is necessary to refer to Section 34(3) of the Arbitration Act and proviso to the same, which runs as follows:

> ***(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.***

11. As per the above provision, an application to set aside the award under Section 34 of Arbitration Act shall be made within

03 months from the date of service of award on the petitioner. The proviso to Section 34(3) of the Arbitration Act says that, if the court is satisfied that the petitioner was prevented by sufficient cause from making the application within the period of 03 months, it may entertain the application within a further period of 30 days, but not thereafter. So, the maximum period within which a petition for setting aside the arbitral award can be filed is 120 days.

12. In the case on hand, impugned award was passed on 31.07.2025, whereas, the present petition is filed before this court on 31.10.2025. So, this petition is filed within 90 days from the date of passing the impugned award. Hence, I found no substance in the contention of the respondents in disputing this petition on the ground of delay or limitation.

13. Another ground upon which the respondents disputed the maintainability of this petition is, non-compliance of Section 34(5) of the Arbitration Act and non issuance of notice before filing the petition. It is true that, as per Section 34(5) of the Arbitration Act, before filing the petition under Section 34 of the Arbitration Act challenging the award, a notice has to be issued.

Admittedly, no such notice was issued in the present case, before filing the petition. However, on that ground alone, this petition can not be said to be not maintainable. The Hon'ble Supreme Court, in **State of Bihar and Others vs. Bihar Rajya Bhumi Vikas Bank Samiti** reported in **(2018) 9 SCC 472,** has held that, issuance of notice under Section 34(5) of the Arbitration Act, before filing the petition under Section 34, is not mandatory and it is only directory in nature. Even though the word 'shall' is employed under Section 34(5) of the Arbitration Act, in view of the ratio laid down in the above said decision, the petition cannot be said to be bad and not maintainable for non issuance of the notice before filing the petition.

SCOPE OF INTERFERENCE BY THE CIVIL COURT UNDER Sec. 34 OF THE ARBITRATION ACT:

14. Before proceeding to consider the grounds assigned by the petitioner in disputing the correctness of the impugned award, it is necessary to consider the scope and ambit of the petition filed under Section 34 of the Arbitration Act. A plain and meaningful reading of Section 34 of the Arbitration Act, makes it very clear that, this court can set aside the arbitral award only on

the grounds, which are set out under Section 34(2) of the Arbitration Act. The jurisdiction of a Civil Court under Section 34 of the Arbitration Act is a supervisory jurisdiction and not an appellate jurisdiction over the arbitral award, as held by the Hon'ble Supreme Court in a decision reported in **AIR 2011 Supreme Court 2477 (J.G. Engineering Private Limited Vs. Union of India).**

15. So, this court cannot sit like an appellate court to decide the legality and correctness of the award, which has been challenged. This court also cannot re-appreciate the evidence like a First Appellate Court, which a First Appellate Court does, while considering the legality of the trial court judgment. In the absence of any grounds under Section 34(2) of the Arbitration Act, it is not possible to re-examine the facts to find out as to whether a different decision can be arrived at or not.

16. It was held by the Hon'ble Supreme Court in a decision reported in **AIR 2012 Supreme Court 1866 (P.R. Shaw, Shares and Stock Brokers Private Limited Vs. B.H.H. Securities Private Limited)** that the grounds to set aside the arbitral award

are exhaustive. However, none of these grounds permit a review on the merits of the decision rendered by an Arbitrator. The burden of proof rests on the party raising the objections for setting aside the order.

17. The Hon'ble Supreme Court, in a decision reported in **AIR 2015 Supreme Court 620 (Associate Builders Vs. D.D.A)**, held that the jurisdiction of the Civil Court under Section 34 of the Arbitration Act is limited. The Civil Court cannot act as a court of appeal or subject the award to a review on merits. It shall not re-assess the material placed before the Arbitrator and it can neither correct the errors of the Arbitrator nor can it remand the matter back to the Arbitrator for fresh adjudication.

18. It was held in another decision reported in **2016(11) Supreme Court Cases 181 (International I.N.C Vs. Burn Standard Company Limited)** that the Civil Court can neither correct the award nor it can remand the matter and it can only set aside the award, leaving the parties free to begin the arbitration again if so, desired.

19. An irregularity, which can vitiate the award is, if it is perverse, which could be covered under the head ‘patent illegality’. If the Arbitrator ignores substantial law in force in India and passes an award, which could cause miscarriage of justice, it would liable to be set aside under Section 34(2)(b)(ii) of the Arbitration Act. The Hon'ble Supreme Court in **AIR 2001 Supreme Court 386 (Gaya Din vs Hanuman Prasad)** has interpreted expression ‘perverse’ and held that the findings, which are not supported by the evidence on record or against the law or suffers from procedural irregularity, can be called as a perverse.

20. Any order made in conscious departure of pleadings and law is a perverse order, as held in a decision reported in **1976(2) Karnataka Law Journal 254 (M.S. Narayanagowda Vs. Girijamma).** If a decision is arrived at, but without evidence or the evidence relied on is thoroughly unreliable and no reasonable person would act upon it, then the order would be perverse. If there is some evidence on record, which is acceptable and could be reliable and, a conclusion is arrived at, then it would not be treated as perverse and findings would not be interfered with.

21. Keeping in mind all these well established principles held in the above referred decisions, I have to consider the facts of this case and the legality and correctness of award passed by the respondent No.3 and the grounds set up by the petitioner to challenge the same.

22. It is an undisputed fact that, the petitioner has initiated acquisition proceedings for acquiring the land for widening of the National Highway No.4 passing through Dastikoppa village in Belagavi District. It is also an undisputed fact that a Preliminary Notification in this regard was made on 10.07.2001 and Final Notification was made on 17.05.2002. The land belong to the respondent No.1 to the extent of 100 square meters respectively in Sy.No.26/4 of Dastikoppa village, was acquired for the said project. The Special LAO has determined the market value of the acquired land at the rate of Rs.47.45/- per square meter for agricultural irrigated land and Rs.172.20/- per square meter for NA and PNA lands.

23. Being not satisfied with the same, the respondent No.1 and 2 have approached the Sole Arbitrator for enhancement

of the market value. The Sole Arbitrator, after hearing both the parties and considering the materials placed before him, has enhanced the market value of the acquired land at the rate of Rs.832/- per square meter for irrigated agricultural lands and Rs.1115/- per square meter for NA and PNA lands, vide impugned award dated 31.07.2025. The Sole Arbitrator has also awarded the statutory benefits like solatium and interest. Challenging the impugned award, to the extent of enhancement of market value, the petitioners have filed this petition.

24. If I carefully peruse the impugned award, Sole Arbitrator has considered the fact that the Special LAO has determined the market value of the acquired land on the basis of guidelines value for the year 1999-2000 to 2002-2003. At the same time, the Sole Arbitrator has considered the award made in respect of the same project and in respect of the adjacent M.K.Hubli village. As per the said award, the market value of the acquired land was determined at the rate of Rs.398.25/- per square meter for NA agricultural lands and Rs.236.80/- per square meter for NA residential lands and Rs.49.50/- per square meter for agricultural

land. Said determination was enhanced by the Sole Arbitrator to the tune of Rs.594/- per square meter for NA residential land and Rs.796.50 per square meter for NA commercial lands.

25. The Sole Arbitrator has considered the fact that the Dastikoppa village and M.K.Hubli village are adjacent to each other. Therefore, by relying upon the decision of Hon’ble Supreme Court reported in 2010 5 SCC 747, has accepted the same. Apart from that the Sole Arbitrator has also relied upon the decision of Hon’ble Supreme Court reported in AIR 2004 SC 4135 and decision of the Hon’ble High Court of Karnataka reported in ILR 2003 KAR 2336.

26. The Sole Arbitrator has also relied upon the Gazette Notification dated 04.11.2004 and decision of Hon’ble Supreme Court reported in SAR 2000 (Civil) 597 for adding 50% of the market value as an additional wieghtage. The Sole Arbitrator has also considered the fact that the acquired land is already situated by the side of National Highway, having commercial potentiality with the commercial activities in and around the acquired land. The Sole Arbitrator has also relied upon the decision of the Hon’ble High

Court of Karnataka in MFA No.2090/2002 to add 50% additional market value. On all those basis the Sole Arbitrator has enhanced the market value of the acquired land at the rate of Rs.832/- per square meter for agricultural land and Rs.1115/- per square meter for non agricultural land and potential non agricultural lands.

27. It is pertinent to note here that the acquisition of the land in the present case is not for formation of altogether a new National Highway. Rather, the land was acquired for widening of already existing National Highway. So the acquired lands are already situated by the side of National Highway. The materials on record show that there are commercial activities in and around the acquired lands. In fact, under the same notification, portion of the land belonging to Malaprabha Sugar Factory was also acquired. Considering the same, Sole Arbitrator rightly added 50% of the market value.

28. In support of his arguments and in order to justify the impugned award, the learned counsel for the respondent No.1 has relied upon the decision of Hon'ble Supreme Court reported in **(2012) 7 Supreme Court Cases 595, (2008) 14 Supreme Court**

Cases 745, ILR 2003 KAR 2336, (2010) 5 Supreme Court Cases 747, AIR 2004 Supreme Court Cases 4135 and **(2019) 9 Supreme Court Cases 304**. By relying all those decisions, it was argued by the learned counsel for the respondent No.1 that the Sole Arbitrator was right in enhancing the market value of the acquired land and also adding 50% additional weightage. I have not found any reason to say that the Sole Arbitrator has committed error in enhancing the market value of the acquired land. There are also no grounds to say that the impugned award is against the public policy or patently illegal.

29. The Hon'ble Supreme Court, in a recent Constitution Bench decision reported in **2025 INSC 605 (Gayathri Balaswamy Vs. M/s. I.S.G. Novasoft Technologies Limited)**, laid down the law regarding the scope of interference by the Civil Court under Section 34 of the petition and grounds when the interference can be made. The Hon'ble Supreme Court, by 4:1 majority, has held that the limited power of interference under Section 34 of the Arbitration Act, may be exercised when the award is severable, by severing invalid portion from the valid portion. According to the

Hon’ble Supreme Court, interference can also be permissible for correcting any clerical, computable or typographical error, which appears erroneous on the face of the record. There is also limited scope for interference to modify post award interest under some circumstances. Further, it was held that with great care and caution, an interference can be made by exercising powers under Article 142 of the Constitution by the Apex Court.

30. None of those grounds for interference, as held by the Hon’ble Supreme Court in the above referred Constitution Bench Judgment, has been made out in the present case for the intervention of this court with the impugned award.

31. As I said earlier, scope of this petition is very limited. This court cannot sit as an appellate court to consider the impugned award as a judgment of the trial court. This court also cannot act as a referral court under the Land Acquisition Act to simply enhance the compensation, by considering any of the methods, which are followed for determining the market value of the acquired land. This court, either has to allow the petition or dismiss the same. This court is not empowered even to modify the

award and enhance the compensation, as it is outside the scope and purview of the petition filed under Section 34 of the Arbitration Act. Considering all these aspects, I found no reason to say that, impugned award suffers from patent illegality in order to interfere and intervene by this court. No grounds, as set out under Sec.34(2) of the Arbitration Act and laid down in above referred decisions, are made out for the interference of this court with the impugned award. Therefore, I answer point No.1 **in the Negative**.

32. **Point No.2:-** In view of my findings on the above point, petition is liable to be dismissed. Accordingly, I proceed to pass the following:

O R D E R

The petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 is dismissed.

I direct both the parties to bear their respective costs.

(Dictated to the Stenographer Grade-III, directly on computer, print out taken by him, corrected, signed and then pronounced by me in the Open Court, on this **04th day of July, 2026)**

(Manjunath Nayak),
Prl. District & Sessions Judge,
BELAGAVI.