

KACB010017612024



Presented on : 21-10-2024

Registered on : 12-09-2025

Decided on : 03-08-2026

Duration : 1 year 9 months 13 days

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
AT CHIKKABALLAPURA**

Dated this the 3rd day of August 2026

Present:

Sri. T.P.RAMALINGE GOWDA,

B.Sc., LL.M., M.B.A.

***Principal District & Sessions Judge,
Chikkaballapura.***

A. S. No.13 OF 2025

Plaintiff/s :
Petitioner/s

C.H.Rajendraprasad
s/o late Hanumanthappa,
aged about 67 years,
r/at Gundapura village,
Kadalveni post,
Kasaba hobli,
Gowribidanur taluk – 561208.
Chikkaballapura District.
(Represented by Sri V.K.G., Advocate)

- V e r s u s -

Defendant/s :
Respondent/s

1. The Special Land Acquisition Officer
and Competent Authority,
Madugiri-A.P. Border Section (NH-234)
National Highways,
K.R.Circle,
PWD Compound,
Bengaluru – 560001.
2. The Executive Engineer,
PPP Cell, National Highway Division,
Bengaluru Division,
Arvind Bhavan,
Nrupathunga road,
Bengaluru – 560001.

3. The Deputy Commissioner
& Arbitrator,
National Highway – 234,
(Madugiri-A.P. Border Section
NH – 234),
Sidlaghatta road,
Chikkaballapura – 562101.
Chikkaballapura District,
(Represented by DGP for R3, R1 & R2 - Absent)

Date of Institution of the suit : 12.09.2025

Nature of the suit [suit on pro-note, suit for :Enhance the arbitral award
declaration and possession suit for amount tot he land of the
injunction etc.] petitioner

Date on which the judgment was : 03.08.2026
pronounced

Total Duration	Year/s	Month/s	Day/s
	00	10	22

J U D G M E N T

This is the petition filed by the petitioner against the respondents under Section 34 of the Arbitration & Conciliation Act, (herein after referred to as ‘A & C Act’) with a prayer to enhance the arbitral award amount to the land of the petitioner as per the prevailing market value for the acquired land or in accordance with the RACTALARR-Act-2013 and Arbitral award passed by the 3rd respondent in order No.LAQ/ARB/NH-234/CR/04/2017-18, dated 05.08.2019.

2. Along with the petition an application under Section 5 of the Limitation Act is also filed for condoning the delay if any in filing the petition.

3. The brief facts of the petitioner's case as averred in the petition are as under:

The petitioner's father by name Hanumanthappa is the absolute owner in possession and enjoyment of the lands bearing Sy.No.28/2 measuring 0-10,8 guntas and Sy.No.28/2 measuring 0-04 guntas (out of 3 acres 10 guntas), Sy.No.46 measuring 0-06 $\frac{3}{4}$ guntas situated at Gundapura village, Kasaba hobli, Gowribidanur taluk. On 20.11.2006 the children of late Hanumanthappa and late Smt.Narasamma, by name C.H.Rajendraprasad (petitioner herein), C.H.Devaiah and C.H.Prakash have partitioned the aforesaid lands among themselves by entering into a registered panchayath parikathu. In the said partition Sy.No.28/2 measuring 0-39 guntas and Sy.No.46 measuring 1 acre 19 guntas and other properties were fallen tot he share of the petitioner. As such the petitioner is in peaceful possession and enjoyment of the said properties and all the revenue documents are standing in his name. As such, the petitioner succeeded and inherited the aforesaid lands. He is cultivating the aforesaid properties by growing ragi, jola, avare, thogari, coconut and mango trees by digging a borewell. The said agricultural activities are carried for more than 80 years from his forefathers. All the members of the petitioner's family are depending upon the said cultivation for their livelihood.

4. Further it is contended that the above said lands were acquired by the National Highway Authority of India for the purpose of formation of national highway by issuing notification under Sections 3(A), 3(D) and 3(G) of the N.H. Act, 1956 and the same is notified by the National Highway Authority, Bengaluru vide SO.No.2015(E), dated 29.08.2011. Further preliminary notification was issued vide No.LAQ/NH-234/CR-10/2013-14, dated 17.03.2014 as per Section 3(A) of N.H.Act. Thereafter final gazette notification No.SO.3910(E), dated 27.12.2013 was issued. The 1st respondent has published the gazette notification in Kannada and English daily newspapers on 19.06.2014 as per Section 3(G) of the N.H. Act. In pursuance of the said acquisition, the 1st respondent passed an award in respect of the petitioner's land vide order No.LAQ/ARB/NH-234/CR/10/2013-14, dated 31.10.2015.

5. Further it is contended that the area where the properties of the petitioner is situated is fully developed area. Most of the colleges and residential layouts are situated near the acquired property. Said property is only 1 ½ kilometers away from Gowribidanur town. Further the state Government vide Notification dated 24.02.2014 has included the lands of petitioner within the limits of local planning area as per the provisions of Section 4-A of

Karnataka Town and Country Planning Act, 1961. The 1st and 2nd respondents without following the procedure grossly deviated from the principles of passing fair award. Hence, passing of the award in respect of petitioner's lands is to be prima facie liable to be enhanced. Therefore, the petitioner has filed an appeal before the 3rd respondent in No. LAQ/ARB/NH-234//CR/03/2017-18, dated 05.08.2019. The 3rd respondent without giving sufficient opportunity to the petitioner to produce the documents and without hearing the petitioner passed the impugned award, dated 05.08.2019.

6. Being aggrieved by the said arbitral award dated 05.08.2019 the petitioner preferred this petition by assailing the legality and correctness of the said award on the following grounds;

That the impugned award passed by the 3rd respondent is not based on the proper appreciation of the facts and circumstances of the case. The 3rd respondent has not considered the trees grown up on the land of petitioner. Though the possession of the land of petitioner took place in the year 2013, the 1st respondent has passed the award without looking into the said aspect. The 3rd respondent without looking into Section 26 to 30 of the RACTALAR Act passed the arbitral award mechanically and without following the procedure adopted and prescribed under law. He has not considered Section

69(1), (2) and (3) of RACTALAR Act before passing the arbitral award and fixed ₹.6,750/- per gunta when compared to the market value of the land of the petitioner per guntas and also adjutant land of the petitioner ₹.65,000/- per gunta considered, but the 3rd respondent has considered only under Section 28 of the RACTALAR Act and has not considered any other section of the act before passing the Arbitral award. The 3rd respondent has not considered Section 60 of the RACTALAR Act before passing the arbitral award. The arbitral award having been passed without the tribunal indicating that it would pass such an award, the petitioner did not have proper notice or opportunity to present his case and violated the provisions of Section 24(2) and (3) of the Act. The arbitral award is not the result of a settlement as contemplated under Section 30 of the Act and is not an arbitral award within the meaning of Section 31 of the Act. The arbitral award is not in consonance with the provisions of Part III of the Act, petitioner has not agreed to the conciliation, even if there was an agreement for conciliation by parties the tribunal acting as conciliator ought to have followed the procedure prescribed under Section 73 of the Act, but did not do so and the arbitral award is not a settlement agreement and has not partaken of the character of an arbitral award as contemplated under Section 74

of the Act. The 3rd respondent while passing the impugned order without looking into the notification of the state government dated 24.02.2014 has not considered an important aspect of the identical development area of the nearest villages of the petitioner, eventhough the 1st and 2nd respondent had not informed the said notification of the development area and have failed to intimate to the petitioner. The arbitral award is tainted by extraneous considerations amounting to fraud and corruption in favour of the respondents and is illegal. Hence, prayed to allow the petition and to enhance the arbitral award, dated 05.08.2019.

7. After filing of the petition, the notices were sent to the respondents. Inspite of service of notices the respondent Nos.1 and 2 remained absent and they have been placed exparte. The respondent No.3 appeared through D.G.P. and produced the arbitral records.

8. Since the counsel for petitioner / plaintiff has remained absent his argument is taken as nil and thereby perused the record.

9. Upon perusal of the materials available on record, the following points arise for my consideration:-

1. Whether the petitioner/plaintiff has made out grounds to allow application filed under Section 5 of the Limitation Act ?

2. Whether the petitioner/plaintiff has made out grounds to set-aside the impugned award ?
 3. What order and decree
10. My findings on the above points are as follows:
- Point No.1 : ***In the Negative.***
- Point No.2 : ***Does not survive for consideration.***
- Point No.3 : As per final order for the following;

REASONS

11. **Point No.1:** In the affidavit annexed to the application filed under Section 5 of Limitation Act, the petitioner has contended that he has made numerous efforts to contact the respondents on various occasions to know about the status of the impugned award, but the same was not informed to him. On 05.08.2019 the 3rd respondent has passed the impugned award in his favour without his knowledge and after three years respondents had called him and shown him the award amount and taken his signature and had transferred the amount to his bank account in the year 2022 through RTGS. He had applied for copy of the impugned award in respect of his property and after receiving the certified copy of the award he approached the advocate to prefer the appeal. In the meantime due to agricultural activities and to look after the aged parents and other family commitments he has not preferred the appeal in time. So, the

delay is not intentional and deliberate one. Hence, prayed to allow the application.

12. Considering the submissions I have carefully perused the materials on record. Admittedly, the present petition was filed on 12.09.2025 against the award dated 05.08.2019. In this context, I would like to refer to Section 34 (3) of Arbitration and Conciliation Act, which prescribes the period of limitation within which the application is required to be filed to set-aside the award.

“34. Application for setting aside arbitral award-

(1) *****

(2) *****

(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.”

13. On bare reading of aforesaid provision it is ample clear that an application for setting aside the arbitral award shall be made

by a party within 3 months from the date of service of award and if sufficient reason is shown that the party was prevented from making application within the said period of 3 months, then the Court may entertain the application within the further period of 30 days, but not thereafter. It means the Court shall have no power to extend the period of time in filing the application beyond the period of 120 days.

14. As noted supra, the petitioner/plaintiff has filed application under Section 5 of Limitation Act, 1963 on 12.09.2025. Admittedly, the award was passed on 05.08.2019 and the respondent has not placed any material before the court to show, when the award was served on the petitioner. However, even as per his own affidavit averments he got the knowledge about this award, about three years back when the 3rd respondent called him and transferred the award amount to his bank through RTGS in the year 2022. Therefore, even as per the knowledge of petitioner / plaintiff the limitation commenced from the date of receiving of award i.e., in the year 2022 and the prescribed time limit of 90 days has been elapsed as the present application was filed on 12.09.2025, which is very well beyond the prescribed period of 120 days for preferring an application for setting aside the award. Further the petitioner

nowhere in his affidavit has stated as to from when the period of limitation has commenced nor as to for how many days delay was caused in preferring this application.

15. Be that as it may, in this case petitioner has not filed the requisite application as required under Section 34(3) of A & C Act for condonation of delay. Rather he has filed an application U/Sec.5 of the Limitation Act. Here the question that would arise for consideration is whether application filed under Section 5 of Limitation Act is maintainable in view of a specific provision enshrined under Section 34(3) of A & C Act. In this respect it is useful to place reliance on a decision of Division Bench of the Hon'ble High Court of Karnataka in case of *M/S Serve And Volley Outdoor Advertising Pvt. Ltd., vs The Bangalore Mahanagara Palike dated 08.01.2021*, wherein their lordships have held at para No.19 that;

“Consolidated Engineering Enterprises vs. Prl. Secretary, Irrigation Department [(2008) 7 SCC 169], (Consolidated Engineering Enterprises), is a judgment of a three Judge Bench of the Hon'ble Supreme Court on the proviso to Section 34(3) of the Arbitration Act, which has considered the Arbitration Act to be a special law as compared to Limitation Act. In the said case, after referring to Section 34 of the Arbitration Act, and considering the same in light of Section 29(2) of the Limitation Act, it was observed that when any special statute prescribes certain period of limitation as well as provision for extension up to

specified time limit on sufficient cause being shown, the period of limitation prescribed under the special law shall prevail and to that extent, the provisions of Limitation Act shall stand excluded. This because of the intention of the Parliament in enacting sub-section(3) of Section 34 of the Act of 1996. That an application for setting aside the award must be made within three months and the period can be further extended on sufficient cause being shown by another period of thirty days, but not thereafter. Hence, Section 5 of the Limitation Act is inapplicable as it stands excluded under Section 29(2) of the Limitation Act.”

(underlined by me and given emphasis)

16. In view of the aforesaid provision of law coupled with ratio laid down by the Hon’ble Division Bench in my considered opinion, application for condonation of delay must be filed under Section 34(3) of A & C Act and not under Section 5 of the Limitation Act. Consequently I.A filed U/Sec.5 of the Limitation Act is liable to be dismissed. Accordingly, I answer the ***point No.1 in the Negative.***

17. **Point No.2:** *In view of my finding on point No.1 point No.2 does not survive for consideration.*

18. **Point No.3:** In view of my findings on point No.1 and 2, I proceed to pass the following:

ORDER

Application filed under Section 5 of Limitation Act is dismissed.

The application filed under Section 34 of Arbitration and Conciliation Act is dismissed.

Consequently, the order passed by the 3rd respondent dated 05.08.2019 in arbitration case No.LAQ/ARB/NH-234/CR/04/2017-18 is hereby confirmed.

No order as to costs.

(Dictated to the STENOGRAPHER GRADE-III, directly on computer and computerized by him, revised and corrected by me, signed and then pronounced in the open court on this the 3rd day of August 2026)

(T.P. RAMALINGE GOWDA)
Prl. District and Sessions Judge,
Chikkaballapura.