

MHTH010011172024 	Presented on: 05/03/2024 Registered on : 05/03/2024 Decided on : 06/01/2026 Duration : 01Y. 10M. 01D
---	---

IN THE COURT OF DISTRICT JUDGE-6 THANE, AT THANE.

(Presided over by G.G. Bhansali)

CIVIL M.A.NO.67/2024.

CNR NO.MHTH01-001117-2024.

Exh.15.

Project Director,
National Highways Authority of India,
Project Implementation Unit Thane,
MTNL Building, Opp.Babubhai Petrol
Pump, LBS Marg, Near Castle Mill Circle,
Thane (W)-400601.

..Applicant.

Vs.

- 1) Mr. Ashok Soma Gharat,
Age- Adult,
- 2) Mrs. Vanita Kamlakar Patil,
Age- Adult,
- 3) Mr. Kumar Soma Gharat,
Age- Adult,
All having address at village
Navsai, Taluka-Vasai, Dist-Palghar.
- 4) Ld. Arbitrator/Collector of Palghar,
Collector, office, Palghar.
- 5) The Competent Authority/
Sub-Divisional Officer,
SDO office, near Vasai Court,
Vasai West, Dist-Palghar-401201.

..Respondents.

**Application under section-34 of the
Arbitration & Conciliation Act, 1996.**

Appearances :

Ld. Adv. Mr. Macchindra Pawar/K.M. Singh for Applicant.

Ld. Adv. Mr. Yogesh Rawool/ Smt. Ujwala Moholkar for Respondent Nos. 1 & 3.

None appeared for Respondent No.2.

Respondent Nos. 4 & 5 are formal parties.

: J U D G M E N T :
(Delivered on 6th January 2026)

This is an application preferred u/s. 34 of Arbitration & Conciliation Act (hereinafter referred as 'A & C Act' for brevity). Applicant has challenged Award of Ld. Sole Arbitrator bearing Arbitration case No. 09/2021 dtd. 14/08/2023.

2) Before entering into the factual aspect, summary of land acquired in present case is mentioned in following table.

Village	Gat No.	Total area in Ha.	Acquired Land in Sq.m.
Navsai	18/1	0.44.50	4250
	18/2	0.35.20	3520
	49/10	1.17.10	3920

3) The Ministry of Road Transport and Highway Department of Government of India has acquired the properties for Mumbai-Vadodara Expressway i.e. 113 km. Initially, application is filed u/s. 3 G(5) of the National Highways Act, 1956. The first Award passed by the Competent Authority of Land Acquisition, Vasai (CALA) is dtd. 18/12/2019 wherein a compensation of Rs. 765/- per Sq. meter is granted. It was challenged before the Sole Arbitrator. The Central Government issued notification u/s. 3 A of the National Highways Act dtd. 06/03/2017. A notification u/s. 3D of N.H. Act is

dtd. 01/03/2018. Notices u/s.3 H & E of N.H. Act were issued by CALA on 28/01/2020. Ld. Sole Arbitrator has enhanced the compensation from Rs.765/- to Rs.1,120/- i.e. growth of Rs.355/- per Sq. meter is granted. Aggrieved by impugned enhancement, this is an application preferred u/s. 34 of the A & C Act.

4) Perused reply submitted by respondent nos. 1 & 3. Respondent Nos. 4 & 5 are formal parties. None appeared for Respondent No.2.

5) In view of aforesaid rival contentions, following points are framed for determination and my findings thereon with reasons are as follows:-

Sr.No.	POINTS	FINDINGS
1)	Whether order of Arbitrator in Arbitration Case no. 09/2021 dtd. 14/08/2023 needs interference?	In Negative
2)	What order?	As per final order.

: ARGUMENTS :

6) Ld. Adv. Pawar for applicant NHAI submits that proper procedure is not followed by Ld. Sole Arbitrator. He has referred extract of Index-II in regard to a Sale-Deed No.5449/2014 dtd. 14/09/2024 which is in respect of Survey No.341/5 for the consideration of Rs.967/- per Sq. meter. Without calling original Sale-Deed. Ld. Sole Arbitrator relied on value mentioned in Index-II. In second table, amongst first six Sale-Deeds, only three higher Sale-Deeds are considered by Ld. Sole Arbitrator. It is prayed to set aside the Award and remand it for hearing afresh.

7) Ld. Adv. Yogesh Rawool for respondent Nos. 1 & 3 submits that impugned notification u/s. 3A of the N.H. Act is dtd. 06/03/2017. Therefore, Sale-Deeds for preceding three years from 06/03/2014 came to be considered by Ld. Sole Arbitrator. When Index-II of Sale-Deed 5449/2014 about Sale-Deed dtd. 14/09/2014 is considered by the Sole Arbitrator, at the relevant time, no objection is raised by the Appellant/applicant. The scope is very limited u/s. 34 of the A & C Act. It is prayed to reject the application.

7A) Both side Ld. Advocates submits that there are various similar matters involving same issue in regard to same village. Therefore, it is requested that pleadings and arguments of other cases may be considered pari-materia in present case.

: R E A S O N S :

8) It is to note that all notifications u/s. 3A, 3D, 3H & 3E of N.H. Act and date of award issued by CALA are not disputed. Admittedly, growth of Rs. 355/- per sq. meter is granted by Ld. Sole Arbitrator. According to Ld. Adv. Machindra Pawar for applicant, Index-II of Sale-Deed No. 5449/2014 dtd. 14/09/2014 is referred by Ld. Sole Arbitrator without verifying alleged Sale-Deed of survey No. 341/1.

9) It would be appropriate to refer first table in para-11(viii) wherein highest six Sale-Deeds are considered by the Sole Arbitrator. It runs as follows:-

Sr.No.	Date of Document	Document No.	Survey No.	Area	Purchase price	Rate on the date
--------	------------------	--------------	------------	------	----------------	------------------

						of purchase Rs. Paise. Per Sq. meter.
1)	22/06/2016	3735/2016	412	10000	15100000	1510
2)	14/09/2014	<u>5449/2014</u>	341/5	310	300000	967
3)	04/02/2015	954/2015	50	1470	1300000	884
4)	17/12/2015	6383/2015	125	2930	2197500	750
5)	27/11/2015	10319/2015	210/3	47.5	3525000	742
6)	02/11/2016	6857/2016	201/2	09853	4000000	406

10) To draw average of 50% of aforesaid six sale instances, Ld. Sole Arbitrator has drawn average from first three sale instances, which comes to Rs.1120/- per Sq. meter. Second table of para-11(viii) is reproduced as follows:-

Sr.No.	Date of Document	Document No.	Survey No.	Area	Purchase price	Rate on the date of purchase Rs. Paise. Per Sq. meter.
1)	22/06/2016	3735/2016	412	10000	15100000	1510
2)	14/09/2014	5449/2014	341/5	310	300000	967
3)	04/02/2015	954/2015	50	1470	1300000	884
Total (Average of above three sale transactions) (price in per Sq. meters)						<u>1120</u> .

11) Accordingly, Rs.1120/- - Rs.765/- = Rs.355/- per Sq. meter growth is granted by Ld. Sole Arbitrator.

12) In 'Cement Corporation of India Vs. Purya [(2004) 8 SCC 270]' the Hon'ble Apex Court held that a Sale-Deed is to be believed only if there is no contrary evidence to rebut its contents. In given case, the respondent/State was failed to adduce any evidence to

rebut Sale-Deed, therefore, the Sale-Deed is considered as genuine.

13) In regard to scope of u/s. 34 of A & C Act, admittedly, there is a limited scope. The Hon'ble Apex Court in 'Delhi Airport Metro Express Pvt. Ltd. Vs. Delhi Metro Rail Corporation Ltd.' [(2022) 1 SCC 131] in para-28 & 29, it is observed that the powers of District Court are limited u/s. 34 of A & C Act i.e. it can be set aside if there is patent illegality or the Award is perverse and against the public policy. Para-28 & 29 are reproduced as follows:-

“28. This Court has in several other judgments interpreted Section 34 of 1996 Act to stress on the restraint to be shown by Courts while examining the validity of the arbitral awards. The limited grounds available to Courts for annulment of arbitral awards are well known to legally trained minds. However, the difficulty arises in applying the well-established principles for interference to the facts of each case that come up before the Courts. There is a disturbing tendency of Courts setting aside arbitral awards, after dissecting and reassessing factual aspects of the cases to come to a conclusion that the award needs intervention and thereafter, dubbing the award to be vitiated by either perversity or patent illegality, apart from the other grounds available for annulment of the award. This approach would lead to corrosion of the object of the 1996 Act and the endeavours made to preserve this object, which is minimal judicial interference with arbitral awards. That apart, several judicial pronouncements of this Court would become a dead letter if arbitral awards are set aside by

categorizing them as perverse or patently illegal without appreciating the contours of the said expressions.

29. Patent illegality should be illegality which goes to the root of the matter. In other words, every error of law committed by the Arbitral Tribunal would not fall within the expression "patent illegality". Likewise, erroneous application of law cannot be categorized as patent illegality. In addition, contravention of law not linked to public policy or public interest is beyond the scope of the expression "patent illegality". What is prohibited is for Courts to re-appreciate evidence to conclude that the award suffers from patent illegality appearing on the face of the award, as Courts do not sit in appeal against the arbitral award. The permissible grounds for interference with a domestic award under Section 34(2-A) on the ground of patent illegality is when the arbitrator takes a view which is not even a possible one, or interprets a clause in the contract in such a manner which no fair-minded or reasonable person would, or if the arbitrator commits an error of jurisdiction by wandering outside the contract and dealing with matters not allotted to them. An arbitral award stating no reasons for its findings would make itself susceptible to challenge on this account. The conclusions of the arbitrator which are based on no evidence or have been arrived at by ignoring vital evidence are perverse and can be set aside on the ground of patent illegality. Also, consideration of documents which are not supplied to the other party is a

facet of perversity falling within the expression "patent illegality".”

14) It is to note that Index-II of document No. 5449/2014 is relating to village Kashid Kopar adjacent to village Bhatane. There is no evidence given by applicant NHA1 to rebut genuineness of impugned Sale-Deed dtd. 14/09/2014. Index-II is concluding remark of alleged Sale-Deed. Therefore, there is no illegality committed by the Ld. Sole Arbitrator. Hence, point No.1 is replied in negative. In result, application is dismissed. Hence, the order.

: O R D E R :

- 1) Application is dismissed.
- 2) Cost will abide the cause.
- 3) R & P, if any, be returned to Ld. Arbitrator.

(Dictated and pronounced in open Court).

Date-06/01/2026.
Thane.

(G.G.Bhansali)
District Judge-6, Thane.