

KADG010010752025



Presented on : 27-03-2025
Registered on : 27-03-2025
Decided on : 26-03-2026
Duration :0years, 11months, 27days.

**IN THE COURT OF
PRL DISTRICT AND SESSIONS JUDGE DAVANGERE AT
DAVANGERE,**

Presided Over by SMT. VELA D.K.

A.P/4/2025

Petitioner/s:

1: K Shivamma
Aged 90 years,
W/o Late K Shiva Reddy,
R/o No.554, 3rd Main, 13th Cross,
K.I.J Nagar, Davanagere – 570002.

2: B Veema Reddy
Age: 72 years,
S/o Late Guruva Reddy
R/o No.3672/A, 10th Main
MCC B Block, Davanagere – 570004.

(By Sri. Shankar Rao.M, Advocate)

-VERSUS-

Respondent/s:-

1. The Deputy Commissioner and Arbitrator, appointed by Government of India, Harihara Road, Karur, Davanagere, Karnataka.

2. The Special Land Acquisition Officer, NH-48 and NH-50, Pillekerenhalli village, Bapuji Nagar (Near Bapuji School) National Highway No.50, 1st Main, Chitradurga.

3. The National Highway Authority of India, Rep. By Project Director At Chitradurga, Near JMIT Campus, Chitradurga.

(R.1 by D.G.P)

(R.2 and 3 by Sri S.Siddaveerappa, Advocate)

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JUDGEMENT

1. The Petitioners have filed this petition U/Sec. 34 (2) of Arbitration and Conciliation Act, 1996 (A & C Act) seeking to set aside the Judgment dated 19.12.2024 passed by the Respondent No.1 - Arbitrator and Deputy Commissioner, Davanagere, in Arbitration Case No.ARB: CR:36/2022-23 dated 19.12.2024, wherein the Application filed under Sec.3(G)(5) of National Highway Act, 1956 has been dismissed. The copy of the judgment was delivered on 15.01.2025 and there has been common observation of NA potentiality is not proved, that was never even contested by the counsel and common order has been passed.

2. The grounds enshrined are as follows : -

- The sale deed of similar type of land at Shamanur village were not taken into account and if same is not available the sale deed of village of acquisition if less than Guideline value, then the guideline value of same village is appreciated. The NA Commercial rate or residential rate abutting NH-48 is not available.
- The rate of land abutting national highway to be not available exclusively by the Sub-Registrar Davanagere. The Guideline value for Vinayaka Nagara is taken in to account and assessed at ₹ 4,900/- per Sq.Mtr., as fair market value. It is an assumed rate by the NHAI, and the commercial NA land is not considered. Guideline Value is derived at fair rate.
- The value of the Sy.No.154/2 was not mentioned and specific relief was sought so as to add 50% additional weightage as per Special Instructions issued by the Revenue Department additional 40% value also to be added when no specific value has been given.
- The assessment of the abutting National Highway was to be assessed with additional 50% over and above basic value when the value of the property was not specifically mentioned by the Sub-Registrar of the district and 40% over and above the value to be added

with no specific value given for NA Commercial land abutting national highway.

- Respondent No.1 dismissed the Application by observing an immature reason by stating that some Sq.Mtr., to be acquired and that the road has already formed, therefore the compensation paid by the NHAI to be justified.
- The compensation that was sought for by the petitioner is as per revenue department, wherein the revenue has to be calculated for NA Commercial land, when no specific value is mentioned by the Sub-Registrar of the district, and in the same manner when the land acquired by the government to be compensated as per same protocol.
- The NA Potentiality of the land has been appreciated with the irrelevant to the case on hand. The reference to be made in regard to the order passed in AP.02/2023 and AP.03/2023 by the Prl., District and Sessions Judge, Mysore and all the documents were admissible. The evidence of the acquisition marked before the Arbitrator are said to be under the National Highway Act, 1956 and RFCTLARR Act, 2013.
- The Respondent No.1 is said to have cited reason for discard of the vital documents and draw conclusion as to why the vital documents were discounted as

acquisition of the both lands were similar acquisition under the National Highway Act, 1956.

- The observation made in the Arbitral Award is said to be without relevant document and based on own assumption of the law, and that is unacceptable and to be set aside as patent illegality.
- The guidelines issued by the Revenue Department has been produced to show as to how collect the compensation with reference to the lands where value of the guideline value has not been fixed. Those documents and the provisions of RFCTLARR Act have not been considered by the Arbitrator and hence it has to be set aside and to re-determine the Award as per provisions of RFCTLARR Act and the guideline issued by the competent authority.
- The Respondent No.1 is said to have adopted new practice of discounting the vital documents and jump to conclusion to dismiss the case. The order of Respondent No.1 is therefore suffer from fraud and corruption and ignorance of documents so as to make benefit to the NHAI.
- The land of the Appellants bearing Sy.No.154/2 acquired by Respondents 2 and 3 to the extent acquired is 746.23 Sq.Mtr., vide Notification SLAO/NHAI/ CTA/CTA/-

HVR Section Supplementary Awards / NH-48 6 Laning/NH-24-B/2019-20.

- The land acquired being NA Commercial property, the Tax Paid Receipt have been enclosed and the property layout has been demarcated. That demarcated portion of the property as NA Commercial by the NHAI is said to have been totally discounted by the Arbitrator.
- The DUDA (Davanagere Urban Development Authority) is said to have been issued Map illustrating Sy.No.154/2 to be abutting National Highway but the Respondents to have assessed the NA Residential rate of Vinayaka Badavane as ₹4,900/- per Sq.Mtr., and ₹6,890/- per Sq.Mtr., for NA Commercial land assessed no specific value and the NHAI has considered ₹4,900/- per Sq.Mtr. The Sub-Registrar Davanagere has not stated that it is the rate of land abutting national highway, whereas in reality those are the rate of Vinayaka Badavane and not the rates of land abutting National Highway.
- The Sub-Registrar Davanagere for Shamanur village has not issued any National Highway rate and in reality Sy.No.154 to 165 are said to have assessed with the same rate, and Sy.No.156 to 165 to have been located in interior part of Vinayaka Layout and the same is recorded in CDP Town Planning.

- Prior to the passing of the Award the petitioner had requested land acquisition authority for higher award by urging various grounds, but that objection has not been considered and the Respondent No.2 has passed meager compensation of ₹4,900/- per Sq.Mtr., to the Appellants NA Commercial converted land. None of the grounds urged by the Appellant to have been considered. Formal objections were filed by Respondents No.1 and 2 without any evidence and the prayer was to re-determine the compensation and to enhance from 4,900/- Sq.Mtr., to ₹10,290/- per Sq.Mtr., with statutory benefits of RFCTLARR Act, 2013 and NH Act 1956. Why the documents cannot be taken into account has not been discussed or narrated in the order of the Arbitrary.
- Norms of the Government of Karnataka in determining the market value of the land acquired for construction / widening of the National Highways and payment of the compensation, unique technique approved by the NHAI is established.
- Under Sec.26 of RFCTLARR Act 2013, guideline value prevailing on the date of notification under Sec.3-A to be obtained from the Sub-Registrar with comparison of the average value of 3 years sale deeds. No value is fixed for NA Commercial land or NA industrial land by Sub-Registrar at Davanagere for lands abutting NH.

- The Award proceedings being incomplete and infructuous as has ignored the sale deeds of 3 years of Vinayaka Layout, and only taken in to account the Guideline value of Vinayaka Layout as ₹4,900/- per Sq.Mtr. If the sale deeds of Vinayaka Layout not available then in view of Sec.26(1(b) of RFCTLARR Act, 2013 the sale deeds of the vicinity village to be taken in to account, and that is also not considered by the Respondents.
- Though land acquired in 2019-20, but treated as land acquired in 2016-17 as it is considered as supplementary Award. Hence prevailing market value of 2019 to be eligible to petitioners.
- Additional 50% to be assessed as per Law and 40% additional to be assessed, as the land is a NA Commercial Land. In terms of the guideline value furnished, there is value for the sites situated within the local city planning authority or the city corporation limits, but there is no specific value for the NA Commercial lands or NA site land situated adjacent to the National Highway.
- As per special instructions of the Government market value of the NA site land to be ₹17,850/- per Sq.Mtr, and the market value for NA Commercial or Industrial land to be ₹12,750/- per Sq.Mtr., and hence the market value needs to be re-determined.

- As per the special instructions of Government market value of the NA Site Land need to be Rs:-7,350/- Per Sq Mtrs (Rs:-4,900 Per Sq Mtrs+ Rs:-2,450 Per Sq Mtrs) (50% of Rs:-4,900/- Per Sq Mtrs) and also market value need to be for NA Commercial or Industrial land need to be at Rs:-10,290/- Per Sq Mtrs (Rs:-7,350 Per Sq Mtrs +Rs:-2,940 Per Sq Mtrs) (40% of Rs:-7,350/- Per Sq Mtrs). So as accordingly the "Market value need to be Re-determined" as per Law of Justice and Equity.
- The Arbitrator is said to have not appreciated the vital documents that are Government documents and available on public domain.
- The rate accepted by the Respondent No.1 as published by the Sub-Registrar Davanagere in levy and collection of stamp duty and Registration Fee administered at the Government level by the Prl.,Secretary, Reveue Department. There is separate instruction for valuation of properties abutting National Highway, State Highway, Ring Road and other main roads. The agricultural lands and other sites identified and assigned separate values higher than the value of other properties in the vicinity.
- The Award has been silent about the provision, order, Rule, Manual, guidelines, circular, Notification so as to debar the claim of the petitioner.

- Special instructions has been that in the absence of specific value not mentioned to the land abutting National Highway then over the basic rate additional 50% shall be added and valued. Further if no specific value is not mentioned for NA Commercial land then over the residential rate assessed shall be added by 40% and the total value shall be assessed. That has been followed by the Statement Government and Revenue department for the collection of revenue. Therefore, the Award needs to be set aside and it comes under Patent Illegality. The land comes under DUDA and there is only one valuation available. Indeed the rate from district to district are different but the general instruction is same to the entire State, and that has to be followed in order to collect the tax.
- The Award is said to be silent on assumption and basics of the assumption shall not disclose about why no such enactment is permissible as per National Highway Act.
- Further learned counsel for the petitioner has referred to the average sale price of three years of the various villages namely Kelagote, Pillekerenahalli, Mallapura, Guddadharangavanahalli, Madanayakanahalli village.
- Average value and special instruction was relied and market value of site in Shamanur village guide line

by Rs.4,900/- per Sq.Mtr. Was considered as fair value for NA residential lands adopting the guideline value as fair market value. Rs.4,900/- per Sq.Mtr., is the rate for all site of Vinayaka Layout and not a specific survey number abutting NH. Additional 50% to be assessed as per law and 40% additional as the land is NH commercial land.

- Under special instructions Annexure -2 where no guideline value specified to enhance the rate applicable for such particular area by 50% for NA site. Further that to fix rate of commercial and non-residential site by enhancing the rate applicable for residential sites of such area by 40%.
- Ignored the earlier order passed in AP.02/2023 by Prl.District Judge, Mysore.
- Other documents, Award proceedings of Kelagote village, Pillekerenahalli village, Mallpura, GR Halli, Maddanayakanahalli are intentionally not stated in order sheet.
- The award passed for the land acquired being 746.23 Sq.Mtr., and therefore the compensation is said to be inadequate and improper and contrary to the RFCTLARR Act, and hence sought to enhance the market value of the Shamanur village by ₹10,290/- per Sq.Mtr.,

to levy penalty of ₹ 1,00,000/- as cost. Hence has sought to allow the Petition.

3. In response to the notices issued, the Respondent No.1 appeared through DGP, and filed objection. In the objection the Respondent No.1 has contended that, the compensation paid by the NHAI to be justified. The petition to be not maintainable under Sec.34(2) of A & C Act,1996. The petitioner to have not complied with the mandatory provisions of the Act. Some portion of the land of the petitioner situated at Shamanur village, for the purpose of widening the National Highway. Considering all these aspects only the prayer of the applicant / appellant to have been rejected. Hence sought for dismissal of the petition and to confirm the Award.

4. Respondent No.2 and 3 have filed objection to the above petition contending that, the petition to be not within the grounds enshrined under Sec.34 of A.C Act. The petitioner to have not complied with the mandatory provisions of Sec.34(5) A & C Act, 1996, and hence the petition to be not maintainable. The portion of the land in Sy.No.154/2, measuring 746.23 Sq.Mtr., situated at Shamanur village Davanagere, vide Notification dated 29.1.2016 (3A) and 27.1.2017(3D) was acquired by the SLAO. The rate of NA land abutting NH to be not available exclusively by the Sub-Registrar for Vidyanagara, Bapuji

Nagara, LIC Colony, Teachers Layout, but assessed at ₹4,900/- per Sq.Mtr. The nature of the petition is based on own assumption of law, and unacceptable and hence it is patently illegal. The petitioners are said to mislead the court in order to make unlawful gain at the cost of public exchequer, and has sought for enhancement of the compensation that is outside the scope of A & C Act, 1996. The arbitrator to be Quasi Judicial authority has taken into consideration the relevant documents. The petitioners are said to have not produced relevant documents to the satisfaction of either SLAO or the Arbitrator in order to show that the acquired property to have market value of ₹10.290/- per Sq.Mtr., as on the date of notification of the acquisition. The Respondents are said to have considered average market value of the sale transactions and the SR Guidelines whichever is higher that was prevailing as on the date of acquisition and it was considered as true market value vide Sec.26 of RFCTLARR Act. The market value fixed by the SLAO to have been confirmed by the Arbitrator as just and proper in the eye of law and to have rightly rejected the petition filed under Sec.3G(5) of NH Act. The SLAO had acquired the portion of the property bearing Sy.No.154/2, Site No.67, measuring 746.23 Sq.Mtr., and the petitioner has been paid compensation.

5. After acquisition of the said portion of the land the petitioner has been paid with compensation of ₹36,56,527/-

@ ₹4,900/- per Sq.Mtr., ie., factor 1 time, Plus ₹36,56,527/- as 100% solatium for the land,, Plus ₹14,10,117/- as 12% Addl., market value, and the compensation received in total of ₹36,56,527/- without protest. The assessment of the compensation as per nature of the land that was reflected in the Revenue Records and the benefit in terms of the provisions of RFCTLARR Act worked out nearly 3 to 3.5 times the market value prevailing on the date of Notification of acquisition. In fact the petitioner is said to have been benefited in several aspects in view of newly widened and highly developed National Highways by the side of their acquired property ie., remaining portion of the property after acquisition to have gained highest value, that is beneficial to the petitioner.

The Respondent had appeared in the proceedings before the Arbitrator and contested the matter and thereafter the Arbitrator had found that there was no supporting documents produced by the petitioner to prove that the market value of the acquired property was more than the market value assessed by the SLAO. The compensation assessed and paid by the SLAO is in terms of the market value prevailing as on the date of Notification.

6. Further, that there is no violation of principles of law and several opportunities have been given to the parties to submit their objections, evidence and materials in support of their contention. Sec.24 of A & C Act envisages the

ground to set aside the Award and further has referred to the ruling of the Hon'ble High Court of Karnataka in a case National Highways Authority of India Vs Mahadevi and others, reported in 2018 (2) Civil.L.J p.96, wherein it is held that, Sec.34(2) of A & C Act 1996 permits the court to set aside the alleged arbitral Award only upon satisfaction of the specified conditions envisaged under Sec.34 of the enactment, and therefore it cannot it cannot partake the character of a Civil Suit.

In the case of H.M.Shankara Murthy Vs National Highways Authority of India reported in 2011(2) Kar.L.J p.282 (DB), wherein it is held that, the petition to be not maintainable for enhancement of the compensation. In the judgment dated 22.11.2017 passed by Hon'ble High Court of Karnataka, Dharwad Bench, in a case NHAI Vs Shankarappa & another, in MFA 23159/2011 Clubbed with 23288 to 23294/2011, wherein it was held that the Appeals filed under Sec.34 of A & C Act, 1996 can only be set aside, but cannot be remanded or modified by enhancing the compensation. In 2014 (1) Kar.L.J p.34 (S.C), (Basavaraj and ano., Vs SLAO), wherein it is held that, the settled legal proposition of law being the Article 14 of the Constitution of India, not meant to perpetuate illegality or fraud. Enhancement of the compensation or modification of the order is not tenable unless the petitioner to establish and satisfy to reconsider the ground of assessment.

Accordingly, the petition is said to be not maintainable and hence sought to dismiss the petition.

7. Heard arguments on both sides and perused the records.

8. On hearing both sides, the points that arise for consideration are as follows :-

1. Whether there are grounds made out under Sec.34 of A & C Act by the petitioners to set aside the order passed by Respondent No.1 dismissing the Arbitration Case No.ARB/CR/36/2022-23 dated 19.12.2024 ?

2. If so, what is the relief entitled to by the petitioner ?

3. What order ?

9. The above points are answered as follows :-

Point No.1 : In the Affirmative,

Point No.2 & 3: As per final order, for the following:-

REASONS

10. **Point No.1 :-** Written arguments have been filed by the learned counsel for the petitioner. In the written arguments the petitioner has referred to the ruling reported in Broom Vs Cassell and Co., wherein it is observed that, ignoring the vital documents to have made the Award Patent Illegality. The valuation prepared by the Sub-Registrar Davanagere there has been no value is specified for the lands abutting the National Highway, and therefore in such circumstances 50% additional value to be calculated for NA residential land and 40% additional value for NA Commercial land, and that is not found in any portion of the order of the Arbitrator.

In S.L.P No.15336 - 15337 of 2021 (Gayatri Balasamy Vs M/s.ISG Novasoft Technologies Ltd.), wherein the Hon'ble Supreme Court of India has held that, the jurisdiction conferred under Sec. 34 of A & C Act,1996 not to distinguish between statutory and non-statutory arbitration and the scope of courts power of review. When the Award is severable, by serving the invalid portion from the valid portion of the Award, and the Arbitrator to have not discussed the special annexure issued by the Revenue Department, Government of Karnataka, then why NHAI discounted its applicability to Davanagere district, though the NHAI had adopted special annexure issued by the

Revenue Department, Government of Karnataka in many parts of Karnataka namely Chitradurga and Tumkur.

11. Further referred to the judgment passed by the Prl.District and Sessions Court Mysore in AP.02/2023 and AP 03/2023. Further referred to the decision of the Hon'ble Himachal Pradesh High Court in a case Ram Lal Vs NHAI, dated 13.06.2023, Bench - Satyen Vaidya, Arbitration Appeal No.2/2023 along with Arbitration Appeals No.3 to 8, 10, 12 to 14, wherein it is held that , the conclusion arrived by the Arbitrator when based on no evidence, by ignoring the vital documents, can be set aside on the ground of patent illegality.

In the case Patel Engineering Ltd., Vs North Eastern Electric Power, dated 22.05.2020 the Hon'ble Supreme Court of India, wherein the Hon'ble Supreme Court of India has held that, construction of the terms of a contract is primarily for an arbitrator to decide unless the arbitrator construes the contract in such a way that it could be said to be something that no fair minded or reasonable person could do. In another decision of the Hon'ble High Court of Judicature at Madras dated 15.5.2020 in O.P.No.613/2014 (M/s Resistoflex Dynamics Pvt., Ltd., Vs Controller of Stores), it has been observed that, the Arbitrator to have ignored the vital evidence to arrive at his conclusion and therefore the Award suffers from perversity and is patently illegal.

12. Further, it is contended that the sale deeds of same type of lands at Shamanur village were not taken into consideration, and in case it is not available the vicinity village sale deed to be appreciated. The order passed by the Arbitrator is therefore prejudice, biased and partial predisposition towards the persons who have lost their land. There was earlier said to be remand in AP.2/2023 and AP.3/2023 and since it was not followed to the letter and spirit and again the matter was dismissed and again the Appeal was preferred before P.D.J at Mysore in AP.01/2025 and AP.02/2025.

Further, the guidelines issued by the competent authority being not taken into account. The sum and substance of special annexure has been that, where as per the guideline values furnished there is value for sites situated within the local city planning authority or city corporation limits, and there are no specific value for such NA lands situated adjacent to Highway or abutting Highway in the village and no guideline values are exclusively for such NA lands. The rate of land abutting NA to be not available exclusively by the sub-registrar at Davanager for Vidyanagara, Bapuji Nagara, LIC colony, and Teacher Layout, and only on assumption the assessment has been made at ₹4,900/- per Sq.Mtr.

13. Respondent No.1 has also filed written arguments in terms of the objections and contended that the petition to be not maintainable in law under Sec.34(2) of A & C Act, that some portion of land belonged to the petitioner situated at Shamanur village, Davanagere taluk for the purpose of widening of National Highway. Only after considering all such aspects the Respondent to have passed the Award and therefore it is adequate. Course of action will be taken against the petitioner regarding defamatory sentences made against the Respondent No.1.

14. The Respondents No.2 and 3 in the written arguments, reiterated in terms of their objections and submitted that the compensation awarded to the petitioners by the Respondent has been ₹36,56,527/- @ ₹4,900/- per Sq.Mtr. ie., factor 1 time, Plus ₹36,56,527/- as 100% Solatium, Plus ₹14,10,117/- as 12% Addl., Market value, in total ₹87,23,171/- on 05.01.2021 as per Award dated 09.7.2019. The average sale transactions for 3 previous years of 3(A) Notification or S.R guideline value as on the date of 3(A) Notification whichever is higher as stipulated under RFCTLARR Act to have been considered by the SLAO, hence it is said to be in accordance with the provisions of Law. Further, the petitioner to have failed to prove that the market value of the acquired land was worth ₹10,290/- per Sq.Mtr., on the date of Notification of the acquisition. That the judgment and Award passed in respect

of various other villages like Pillekerenahalli, Mallapura, of Chitradurga District., to be irrelevant to the present case. That the Arbitral Award could be set aside only if the grounds therein have been proved under Sec.34 of A & C Act. Further has referred to the ruling reported in 2018(2) Civil.L.J p.96, (NHAI Vs Mahadevi & Others,) wherein it is stated that the Arbitral Award can be set aside only if specified conditions are satisfied.

Further in the written arguments Respondents No.2 and 3 have referred to the ruling passed by the Hon'ble High court of Karnataka, Dharwad Bench on 22.11.2017 in the case "NHAI Vs Shankarappa and another" in MFA No.23159/2011 Clubbed with 23288 to 23294/2011.

15. In the additional written arguments the Respondents No.2 and 3 have submitted that the acquired land to fall under Section Shabanur as per notes of guideline value of City Municipal Corporation relating to Shabanur village, including various Wards, Blocks and street number The Sales Statistical value for NA land/ site situated at Shamanur village not available and the SR Guideline value for NA land/ site situated at Shamanur village not available. Since the site No.67 formed in the acquired property in Sy.No.154/2 was converted for residential purpose situated in City Municipal Corporation Vinayaka Badavane, the guideline value was fixed at ₹4,900/- per Sq.Mtr. The

average sale price referred while determining the market value under Sec. 26 of RFCTLARR Act to be not indicative of the actual market value of the actual prevailing market value as explained under Sec.4 of Sec.26 of the said enactment. Therefore, the SLAO has considered the indicative market value prevailing on the date of acquisition of the said property.

16. It is the admitted fact by the Respondents about claim of the petitioners that, portion of the land of the petitioner bearing Sy.No.154/2, Site No.67, measuring 746.23 Sq.Mtr., situated at Shamanur village, Davangere taluk, was acquired by the Respondents for widening the National Highway by widening the existing road in terms of the Notification dated 29.1.2016 (3A) and 27.1.2017 (3D) under the National Highways Act. Further it is also undisputed fact that the SLAO to have awarded compensation @ ₹4,900/- per Sq.Mtr., and that the petitioners to have been paid in total compensation of ₹87,23,171/- on 05.01.2021 as per Award dated 09.7.2019.

Learned counsel for the petitioners vehemently submitted that the Award to be by ignoring the vital documents and that is patent illegality. Since the exclusive value of the land in Sy.No.154/2 to have been not mentioned, so the specific relief was sought to add 50% additional weightage in terms of special instructions of

Revenue Department and additional 40% to be added, when no specific value is provided for N.A Commercial land. This aspect to have been ignored by Respondent No.1 and that ignorance is vital document amounting to patent illegality. About calculation of the compensation amount filed by Respondents No.2 and 3, it is submitted that the SLAO to have awarded compensation for the acquired property considering about the rates as mentioned by the Sub-Registrar.

17. At the very out set it is necessary to note that, the description of the land and the related aspects, in this regard learned counsel for the Respondents No.1 and 2 have produced copy of the Award passed by the SLAO and it is No.SLAO/NHAI/CTA/Chitradurga- Haveri Section Main Award/NH-48, 6 lane/24/2018-19, dated 10.12.2018.

In the written arguments submitted by all the parties, the description of the land has been Sy.No.154/2, measuring 746.23 Sq.Mtr., situated at Shamanur village, Davanagere taluk vide notification dated 29.1.2016 (3A) and 27.1.2017 (3D). It was during Covid-19 said Award has been passed as it is dated 04.05.2020. In this Award the extent of the land at Col.No.8 pertaining to the notification the extent of the land acquired, the details has been provided. In this regard Sy.No.154/2 it is described as Site No.67 and the type of land as provided in Col.No.10

pertaining to the determination of the compensation. Certain important factors that has been stated as follows : -

As per notification u/s 3D, some of the extents required in few of the Sy.Nos have been notified with nature of land mentioned as 'Dry/NA', 'NA/ Site' and 'NA'. Compensation for these extents is to be determined at the rate admissible for Non-agricultural lands wherever necessary. However, some of the Sy.Nos, though notified with nature of land as 'Dry' are found to have been converted for non-agriculture use, earlier before the preliminary notification, the fact of which was ascertained on verification of documents and during spot inspection. Hence, the extents acquired in these Sy. Nos is to be considered as non-agricultural NA lands converted for various purposes and compensation for these lands is also to be determined at the rate admissible for NA lands.

18. It is also discussed in that Award that the guideline value of the property of the City Municipal Corporation relating to Shamanuru village is categorized as Section Shamanuru includes various Wards, Blocks and streets, and it reads as follows : -

As required under section 26(1)(a) of RFCTLARR Act, 2013, the concerned Jurisdictional Sub-Registrar, Davanagere, has been requested to furnish the Guideline Value of similar type of lands of the village under acquisition as on 29.01.2016, date of reference, on which the preliminary notification under section 3A(1) of NH Act, 1956 was published in the Gazette of India.

The Guideline values particularly for of NA lands of the village Shabanur are not mentioned in the Guideline value Gazette Notification published vide No:CVC/24/13-14, Bangalore, Dated: 15.02.2014. However, only the Guideline values of Sites used for Residential and Commercial purpose, existing in the village Shabanur are furnished.

19. The SLAO has further stated that the guideline value for specifically for NA land of the Shamanur village is not mentioned in the guideline value Gazette Notification. In this regard it is further stated that -

In the above context, In order to match the disparity between the Guideline values of Sy.Nos which are situated in one single stretch along the National Highway-48, it is appropriate

to assigned common rate uniformly for all these Sy.Nos falling under acquisition, by choosing the highest Guideline value available amongst the various of groups of Sy. Nos/area/Extensions as furnished by the Sub-Registrar, i.e., ₹4900/- per Sq.m which has been assigned to Ranganatha Badavane and Vinayaka Badavane of Vidyanagara, as above.

The average sale price of the site as calculated relying on sale statistics of sites furnished by Sub-Registrar for the period from 29.01.2013 to 29.01.2016 of Shabanur village, as calculated above, is worked out to ₹4091/- per Sq.m.

As such, relying on the aspects mentioned above, I have fixed the market value of the Sites, falling under acquisition in the village Shabanur at ₹4900/- per Sq.m., which is more in comparison with the Average market price of ₹4091/- per Sq.m, derived at as above, which, I considered to be just, fair and reasonable.

Relying upon Sec.26(1) (b) of RFCTLARR Act, 2013, taking into consideration the sale transaction for similar type of NA/ Site in the village was obtained under acquisition preceding 3 years from the date of acquisition,

i.e., for the period from 09.08.2016 to 09.08.2019 were obtained. It is also stated that the guideline value of the land under acquisition converted for residential use but remained un-developed for the purpose of conversion are not readily available in the Guideline value notification furnished by the Sub-Registrar. Guideline Value for such property has to be fixed as per special instructions issued along with guideline value Gazette Notification. One such Special Instructions was issued to fix the Guideline value of the land converted residential use but remained undeveloped, at the equivalent rate furnished for residential site if the extent is less than 0.05 guntas. With regard to land pertaining to the petitioners it is discussed at Sl.No.10 that the extent of land to be 185.48 Sq.Mtr., of Sy.No.152/2 has been acquired. In the Arbitral Award it is stated that in view of the extent of the land acquired the compensation granted by the SLAO Award to be adequate. Since the land in question has been acquired for the purpose of widening the National Highway, the factors to be considered for determination of the market value as provided under Sec.3G (7) of the N.H.Act.

20. The provision under **Sec.3G(7) of N.H.Act**, specifically provides for determination of the compensation amount by taking into consideration certain factor **Section 3G(7) in The National Highways Act, 1956** reads as follows : -

The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration —

(a) the market value of the land on the date of publication of the notification under section 3A ;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

Thus the market value of the land has to be as on the date of publication of the Notification under Sec.3A under the Act.

In the SLAO Award it is clear that, the Guideline Value specifically for NA land situated at Shamanur Village was not available in the Guideline Value, Gazette

Notification. In the SLAO Award it is further stated that, the Executive Engineer PWD Division Davanagere, in the letter No.EE/PWD /AE-1/2017-18/2039 dated 21.11.2017 had given information that Shamanur village is within the limits of Davanagere City Corporation. When in the year 2017 itself this Shamanur village was within the limits of City Corporation Davanagere, yet the SLAO has referred and relied upon the Guideline Value of the property of the City Municipal Corporation relating to the Shamanur village categorized as Section Shamanur including Ward, Block, Street Number, etc., then what is the basis for the Guideline arrived at SLAO and confirmed by the Arbitral Award, when the document about the location of the land, etc., has been already placed before the Arbitral, it means that the relevant documents about the situation of the land, location of the land and its surroundings have not been considered.

21. In this regard it is relevant to refer to the ruling relied upon by the learned counsel for the petitioner in Civil Appeal No...../12025, (Arising out of S.L.P (C) Nos.15336 to 15337/ 2021) (Gayatri Balasamy Vs M/ s. ISG Novasoft Technologies Ltd.,) wherein it has been held as follows : -

Accordingly, the questions of law referred to by Gayatri Balasamy (supra) are

answered by stating that the Court has a limited power under Sections 34 and 37 of the 1996 Act to modify the arbitral award. This limited power may be exercised under the following circumstances:

1. when the award is severable, by severing the "invalid" portion from the "valid" portion of the award, as held in Part II of our Analysis.

II. by correcting any clerical, computational or typographical errors which appear erroneous on the face of the record, as held in Part IV and V of our Analysis;

III. post award interest may be modified in some circumstances as held in Part IX of our Analysis; and/or

IV. Article 142 of the Constitution applies, albeit, the power must be exercised with great care and caution and within the limits of the constitutional power as outlined in Part XII of our Analysis.

Further, learned counsel for the petitioners has also enclosed documents consisting of -

1) *The Judgement and Order sheet of ARB:CR-37/2022 is annexed as Annexure - A.*

2) *The "Tax Paid Receipt" as it is assessed as "Commercial Property" the necessary paper is annexed as Annexure B.*

3) *And property layout plan which is demarcated the portion of the property as NA Commercial which is now acquired by NHAI is also placed as Annexure - C*

4) *The CDP Plan (Town Planning) Plan is cited as Annexure. D.*

5) *The Document published by Karnataka State Government, Revenue Department on Statistical value/rate of the area along with special instructions. is cited as Annexure- E.*

6) *The special instruction is marked as Annexure-F.*

7) *The relevant copy of "Award Proceedings" of Kelagote Village SLAO/NHAI/CTA/Addl-Exnt-Main-Award/NH-50/37/2016-17 is marked as Annexure-G.*

8) *The relevant copy of "Award Proceedings" of Pillekerenalli Village SLAO/NHAI/CTA/Addl-Exnt-Main-Award/NH-50/36/2016-17 is marked as Annexure- H.*

9) *The relevant copy of "Award Proceedings" of Mallapura Village SLAO/NHAI/CTA/Addl-Exnt-Main-Award/NH-50/35/2016-17 is marked as Annexure I.*

10) *The relevant copy of "Award Proceedings" of GR Village SLAO/NHAI/CTA/Addl-Exnt-Main-Award/NH-50/34/2016-17 is marked as Annexure J.*

11) *The relevant copy of "Award Proceedings" of Maddanayakanahalli Village SLAO/NHAI/CTA/Addl-Exnt-Main-Award/NH-50/33/2016-17 is marked as Annexure- K.*

22. In the TCR, the aforesaid documents have been produced before the Arbitrator. Therefore, it means that the documents to have been relied upon in the course of arguments by the learned counsel for the petitioner, were already placed before the Arbitrator. Those documents have not been considered by the Arbitrator in the order. In the Arbitral Award it is stated as follows : -

- ಅರ್ಜಿ ದಾರರು ಮತ್ತು ಎದುರುದಾರರ ಲಿಖಿತ ವಾದ, ಪ್ರತಿವಾದ ಹಾಗೂ ಮೌಖಿಕ ವಾದ ಮಂಡನೆಯನ್ನು ಸಹ ಆಲಿಸಲಾಗಿದೆ. ಈ ಪ್ರಕರಣಗಳನ್ನು ಇತ್ಯರ್ಥ ಪಡಿಸಲು ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಕಾಯ್ದೆ 1956 ರ 3(ಜೆ) (5) ರಡಿ ಹೆಚ್ಚುವರಿ ಪರಿಹಾರ ನಿಗದಿಪಡಿಸಲು ಕೋರಿರುವ ಅರ್ಜಿ ಯನ್ನು ಸದರಿ ಕಾಯ್ದೆಯ ಕಲಂ

3 (ಜಿ) 7 (ಎ) (ಬಿ) (ಸಿ) ಮತ್ತು (ಡಿ) ರ ಅನ್ವಯ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಪರಿಹಾರ ನಿಗದಿಪಡಿಸಿ ಪಾವತಿಸಿರುವರೇ ಇಲ್ಲವೇ ಎಂಬುದನ್ನು ಪರಿಶೀಲಿಸಿ ಪರಿಗಣಿಸಬೇಕಾಗುತ್ತದೆ. ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಕಾಯ್ದೆ 1956 ರ 3 (ಜಿ) (5) ರಡಿ ಈ ನ್ಯಾಯ ಪಂಚಾಯತಿಗೆ ಭೂ ಪರಿಹಾರವನ್ನು ಮಾತ್ರ ಹೆಚ್ಚುವರಿ ಮಾಡಲು ಅವಕಾಶವಿರುತ್ತದೆ. ಮರ, ಮನೆ ಇತ್ಯಾದಿ ಮಾಲ್ಕಿಗಳಿಗೆ ಹೆಚ್ಚುವರಿ ಪರಿಹಾರ ನಿಗದಿಪಡಿಸಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ.

- ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಕಾಯ್ದೆ 1956 ರ 3 (ಜಿ) (5) ರಡಿ ಹೆಚ್ಚುವರಿ ಪರಿಹಾರ ನಿಗದಿಪಡಿಸಲು ಕೋರಿರುವ ಅರ್ಜಿ, ಲಿಖಿತ ವಾದ, ಪ್ರತಿವಾದ ಹಾಗೂ ಮೌಖಿಕ ವಾದಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ. ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಕಾಯ್ದೆಯ ಕಲಂ 3 (ಜಿ) 7(ಎ) (ಬಿ) (ಸಿ) ಮತ್ತು (ಡಿ) ರ ಅನ್ವಯ ಹಾಗೂ ಹೊಸ ಭೂಸ್ವಾಧೀನ ಕಾಯ್ದೆ-2013 (RFCTLARR Act-2013) ರನ್ವಯ ಸಂತ್ರಸ್ಥರಿಗೆ ಸೂಕ್ತ ಪರಿಹಾರ ನಿಗದಿಪಡಿಸಿರುವುದನ್ನು ಗಮನಿಸಿದೆ. ಅರ್ಜಿದಾರರು ಮೇಲ್ಮನವಿಯೊಂದಿಗೆ ಸಲ್ಲಿಸಿರುವ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿದೆ. ಮುಂದುವರೆದು ಅರ್ಜಿದಾರರುಗಳು ತಮ್ಮ ಸ್ವತ್ತುಗಳಿಗೆ ಹೆಚ್ಚುವರಿ ಪರಿಹಾರ ನಿಗದಿಪಡಿಸಲು ಕೋರಿರುತ್ತಾರೆ. ಅದಕ್ಕೆ ಪೂರಕವಾಗಿ ಸಲ್ಲಿಸಿರುವ ಸಂಬಂಧಿತ ಇತರೆ ಎಲ್ಲಾ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದೆ. ಎದುರುದಾರರು ಅವಾರ್ಡ್ ರಚಿಸುವ ಕಾಲಕ್ಕೆ ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳ ಕಛೇರಿಯ ಮಾರ್ಗಸೂಚಿ ದರಪಟ್ಟಿಯನ್ನು / ನೋಂದಣಿ ವಹಿವಾಟುಗಳನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡು ಆಯಾ ಜಮೀನು/ಸ್ವತ್ತುಗಳ ಸ್ವರೂಪಕ್ಕೆ ನುಸಾರವಾಗಿ ದರ ನಿಗದಿಪಡಿಸಿ ಪರಿಹಾರ ಪಾವತಿಸಿರುವುದನ್ನು ಗಮನಿಸಿದೆ.

- ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ-48 (ಚಿತ್ರದುರ್ಗ-ಹಾವೇರಿ ವಿಭಾಗ)ರ ರಸ್ತೆ ಅಗಲೀಕರಣ ಕಾಮಗಾರಿಗೆ ಭೂಸ್ವಾಧೀನಪಡಿಸಿರುವ, ಕೋಷ್ಠಕದಲ್ಲಿ ವಿವರಿಸಿರುವ ಗ್ರಾಮಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಹೆಚ್ಚುವರಿ ಪರಿಹಾರ ಕೋರಲಾಗಿರುವ ಅರ್ಜಿದಾರರು

ಜಮೀನುಗಳು/ಸ್ವತ್ತುಗಳು, ಒಂದೇ ಯೋಜನೆಗಾಗಿ ಒಂದೇ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿ ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಂಡಿರುವ ಜಮೀನು/ಸ್ವತ್ತುಗಳಾಗಿರುತ್ತದೆ. ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು, ಭೂಸ್ವಾಧೀನ ಸಂತ್ರಸ್ಥರಿಗೆ ಹೊಸ ಭೂಸ್ವಾಧೀನ ಕಾಯ್ದೆ ಭೂಸ್ವಾಧೀನತೆಯಲ್ಲಿ ಪಾರದರ್ಶಕತೆ ಮತ್ತು ಉತ್ತಮ ಪರಿಹಾರ ಹಕ್ಕು, ಪುನರ್ ವಸತಿ ಮತ್ತು ಪುನರ್ ವ್ಯವಸ್ಥೆ ಕಾಯ್ದೆ -2013* ರನ್ವಯ ಉತ್ತಮ ಪರಿಹಾರ ನೀಡಿರುವುದು ಕಂಡುಬರುತ್ತದೆ.

- ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು ನಿಯಮಾನುಸಾರ ನೋಂದಣಿ ಇಲಾಖೆಯಿಂದ ಮಾರ್ಗಸೂಚಿ ಬೆಲೆ ಮತ್ತು ನೋಂದಣಿ ವಹಿವಾಟುಗಳನ್ನು ಆಧರಿಸಿ ಆಯಾ ಸ್ವತ್ತುಗಳ ಸ್ವರೂಪಕ್ಕನುಸಾರವಾಗಿ ದರ ನಿಗದಿಪಡಿಸಿ ಪರಿಹಾರ ನೀಡಿರುತ್ತಾರೆ.

- ಅರ್ಜಿದಾರರು ಪರಿಹಾರ ಪಡೆಯುವ ಸಂದರ್ಭದಲ್ಲಿ ವಿರೋಧ ವ್ಯಕ್ತಪಡಿಸದೇ ಪರಿಹಾರ ಪಡೆದಿರುತ್ತಾರೆ. ಅರ್ಜಿದಾರರ ಸ್ವತ್ತುಗಳನ್ನು ಸಾರ್ವಜನಿಕ ಉದ್ದೇಶ ಅಂದರೆ ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಅಗಲೀಕರಣಕ್ಕಾಗಿ ಭೂಸ್ವಾಧೀನ ಮಾಡಲಾಗಿದ್ದು, ಈಗಾಗಲೇ ರಸ್ತೆ ನಿರ್ಮಾಣವಾಗಿರುತ್ತದೆ. ಈ ಯೋಜನೆಗಾಗಿ ಅರ್ಜಿದಾರರ ಸ್ವತ್ತುಗಳ ಪೈಕಿ ಅತೀ ಕಡಿಮೆ ಸ್ವತ್ತುನ್ನು ಮಾತ್ರ ಅಂದರೆ ಕೇವಲ ಚ.ಮೀ ಲೆಕ್ಕದಲ್ಲಿ ಪ್ರದೇಶವನ್ನು ಭೂಸ್ವಾಧೀನ ಪಡಿಸಲಾಗಿದೆ.

- ಮೇಲೆ ವಿವರಿಸಿದಂತೆ ಪ್ರಕರಣಗಳಲ್ಲಿ ಅರ್ಜಿದಾರರ ಕೋರಿಕೆ ಪರಿಗಣಿಸತಕ್ಕ ಯಾವುದೇ ಸೂಕ್ತ ಅಂಶಗಳು ಇಲ್ಲದೇ ಇರುವುದರಿಂದ ಕೋಷ್ಟಕದಲ್ಲಿ ಕಾಣಿಸಿರುವ ಎಲ್ಲಾ ಆರ್ಬಿ ಟ್ರೇಷನ್ ಅರ್ಜಿಗಳನ್ನು ವಜಾ ಮಾಡಲು ತೀರ್ಮಾನಿಸಿ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶ ಹೊರಡಿಸಲಾಯಿತು.

-: ಆದೇಶ:-

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಕಾರಣಗಳಿಗಾಗಿ ಕೋಷ್ಠಕದಲ್ಲಿ ವಿವರಿಸಿರುವ ಅರ್ಜಿಗಳನ್ನು ವಜಾಗೊಳಿಸಿ ಆದೇಶಿಸಿದೆ.

ಜಿಲ್ಲಾ ಧಿಕಾರಿಗಳು ಹಾಗೂ ಅರ್ಜಿ ಟ್ರೇಟರ್,
ಚಿತ್ರದುರ್ಗ-ಹಾವೇರಿ ವಿಭಾಗ (ರಾಹೆ-೪೮).

23. At this juncture Memo has been filed by the counsel for the Respondents No.2 and 3 in furtherance of their arguments stating that on account of non-availability of the Guideline Value specifically for NA land of Shamanur village, the Guideline Value of the Municipal Corporation relating to Shamanur villge was categorized as Section Shamanur. The average Sales Statics rate for the dry land abutting NH-48 has been at 1853-20 per Sq.Mtr. There was no SR value fixed by the Sub-Registrar for the particular period. The rate of land abutting NH is said to be work out at ₹1853-20 per Sq.Mtr + Additional 50% ie., ₹926.50 + Additional 40% for residential ie., ₹741.20, totally ₹3,520.00 per Sq.Mtr, is lesser than the amount awarded by the SLAO when compared to ₹8,900/- awarded by the SLAO. Same being higher value awarded for the property of the petitioner abutting NH road. This is said to be in terms of Sec.26 of RFCTLARR Act.

Vehemently learned counsel for the petitioners has argued that, the memo of calculation of the compensation submitted by the Respondents to be not in accordance with the market value. In this regard, learned counsel for the petitioner has referred to the Award passed by the Deputy Commissioner/ Arbitrator at Chitradurga in the proceedings bearing No.SLAO/NHAI/CTA/1549/2616/17. That matter is pertaining to the acquisition of the lands for the construction of 4 lanes of NH-50 (Old NH-13) Hospet - Chitradurga Section vide Notification No.SO537(E) dated 19.2.2016 under Sec.3D(1) of N.H.Act.

24. The land in question being treated as NA land converted for commercial purpose, therefore the method of calculation adopted for determination of the market value for the admissible extent has been based on dry land, NA land, and NH Commercial land. The component for the compensation has been under various categories namely, market value of the land, factors for which market value to be multiplied, value of the asset attached to the land, applicable market value of the land, solatium and final market value of the land to be awarded.

There is discussion about special instruction that was given along with the guideline value report, in

order to calculate the market value of such properties, where no guideline value has not been specified by enhancing the concerned rates for particular area by 50%. The concerned portion of the Annexure has also been discussed as to fix the rate of commercial and non-residential sites by enhancing the rate applicable for residential sites of such area by 40%. Similarly, in the present case also guideline value is not furnished as per Award of the SLAO above noted. Under such circumstances, there is force in the arguments submitted by the counsel for the petitioners that the document pertaining to the special instructions for calculation of the market value has not been taken into consideration.

25. In the Award passed by the SLAO since the guideline value is absent in the Gazette Notification, then the guideline of urban area has been adopted for computation of the market value. What is the yardstick about the land acquired to have the basis for urban area and thereby the market value to be computed, and what the documents that has been produced by the petitioners before the Arbitrator, all these aspects are not forthcoming in the Award passed by the Arbitrator.

Based on the nature of the documents that was made available, hence the calculation of the market

value as submitted vide memo by the counsel for the Respondents No.2 and 3 in furtherance of their arguments, cannot be accepted. The details of the non-availability of the guideline value in reference to Shamanur village for NA Land and in view of the location of the land as discussed in SLAO Award, it means that the said documents have not been considered by the Arbitrator in the order. In view of the judgment referred by the counsel for the petitioner, it is necessary to set aside the Award passed by the Arbitrator in rejecting the claim of the petitioner, and the matter needs to be remanded to the Respondent No.1 / Arbitrator to re-determine the Award as per guidelines issued by the competent authority R/w., provisions of RFCTLARR Act,2013 and NH Act. Therefore, I answer Point No.1 in the Affirmative.

15. **Points No.2 and 3** : In view of the foregoing reasons on point No.1, I proceed to pass the following :-

ORDER

The petition filed by the petitioners U/Sec.34 (2) of the Arbitration and Conciliation Act, 1996 is hereby allowed.

The order passed by the Respondent No.1 in Arbitration Case No.ARB: CR:36/2022-23 dated 19.12.2024, is hereby set aside.

The matter is remanded to Respondent No.1 to re-consider the Award as per provisions of the Guidelines issued by the Competent Authority R/w. Provisions of the RFCTLARR Act, 2013, and Sec.3G(7) of N.H.Act.

The parties to bear their own cost.

Send TCR to the concerned respondent along with the copy of this judgment.

(Dictated to Stenographer Gr.I, directly on the computer, transcript corrected, signed and then pronounced by me in the open Court this the 26th day of March, 2026.)

(Vela.D.K.)

Prl. District & Sessions Judge,
Davanagere.