KADK010025602025

Presented on : 10-06-2025
Registered on : 13-06-2025
Decided on : 06-08-2026

IN THE COURT OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE AT MANGALURU.

Present :

Sri.Vinay Devaraj, B.Com., LL.M., ACS.
I Addl. District & Sessions Judge,
D.K., Mangaluru.

Dated this the 06th day of August, 2026.

A.P./81/2025

Petitioner:

1 National Highways Authority of India
PIU-Mangalore
Door No.3-29, Bethel,
Tharethota, Near Pumpwell (NH.66)
Mangalore 575005,
Rep.by its DGM (Tech) &Project Director

By Sri. S.N.S., Advocate

Vs.

Respondents:

1 Smt.Amba(since dead)
W/o late Chandayya Sapaliga
Manibettu House
Gurupura, Mangaluru

2 Smt.Lakshmi
W/o late Laxman Sapaliga
Barke House
Gurupura, Mangaluru

3 Smt.Vijay
D/o late Chandayya Sapaliga
Manibettu House
Gurupra, Mangaluru

4 Smt.Tulasi
W/o Dayananda
Kollya, Someshwara, Mangaluru

5 Sri.Rakesh
S/o Shekar Sapaliga
Aranathakodi, Ulaibettu, Mangaluru

6 Smt.Chandrakala H
D/o late Chandayya Sapaliga
Barke House
Gurupura, Mangaluru

7 Smt.Mamatha,
D/o.Late Chandayya Sapaliga
Padu Bondanthila Village
Mangaluru

8 The Competent Authority & the Special Land
Acquisition Officer, Mangaluru,
National Highway - 66
NGO Building, Near Clock Tower,
Mangaluru, D.K.District 575001.

9 The Deputy Commissioenr & Arbitrator
Dakshina Kannada District, Mangaluru-575008.

R2 to 7: By Sri.P.K., Advocate
R8: Absent
R9: By D.G.P., Mangaluru

JUDGMENT

The Petitioner has preferred this petition U/s.34 of Arbitration and Conciliation Act assailing the award dated 18.3.2025 passed by the learned Arbitrator and Deputy Commissioner, D.K. District, in C.DIS.ARB(4)NH.LAQ.CR. 21/2022-23.

2. The petition averments in brief are that, the petitioner - authority was constituted by National Highway Authority of India Act, 1988 by parliament and was entrusted with the task of development of National Highways. The petitioner was entrusted with the work of widening of National Highway No.169 (old NH-13). The Central Government has approved and issued preliminary notification for acquisition under section 3A(1) of the National

Highways Act. Under the said notification, amongst other lands, the land in Sy.No.21/3 measuring 1336 sq.mtr (33.01 cents) of Mulur village, Mangalore Taluk belongs to the respondent No.1 was also acquired. The competent authority for land acquisition determined the amount of compensation as per sub section (1), (2), (3), (4) of section 3(G) of National Highways Act. The competent Authority/Spl. Land Acquisition Officer awarded compensation of Rs.28,571/- per cent for the lands in Sy.No.21/3 measuring 1336 sq.mtr (33.01 cents) of Mulur village, Mangalore Taluk including all benefits.

3. The respondents No.1 being dissatisfied with the amount awarded by the Spl.LAO, filed application before the Hon'ble Arbitrator and Deputy Commissioner, Mangaluru under section 3G(5) of National Highways Act. The Deputy Commissioner by impugned order dated 18.3.2025, enhanced the compensation shall be paid in terms of award passed by the 2nd respondent in No.SLAO & CA/NH/A1/Puthige/LAQ/SR.12/2020-21 dated 17.12.2020 and No.SLAO&CA/NHAI/Padumarnadu/ LAQ.SR. 16/2020-221 dated 31.12.2020.

4. Petitioner -NHAI being aggrieved by the award, has approached this Court under Section 34 of the A & C Act, challenging the award passed by the Arbitrator on the following grounds:

i) The impugned award passed by the learned arbitrator is contrary to well settled principles of law laid down by the courts including the Hon'ble Supreme Court for determining the compensation payable for acquisition of land.

ii) The learned arbitrator failed to note that the SLAO, i.e. defendant No.8 determined the compensation U/s. 3G(7) of N.H.Act 1956 based on the market value of the land as on the date of 3A Notification and it was very much fair, proper and was in accordance with the natural justice, the learned arbitrator overlooking that aspect once again ordered for payment of compensation at the rate in terms of award passed by the 2nd respondent in No.SLAO & CA/NH/A1/Puthige/LAQ/SR.12/2020-21 dated 17.12.2020 and No.SLAO&CA/NHAI/Padumarnadu/ LAQ.SR. 16/2020-221 dated 31.12.2020 along with all other benefits admissible under the provisions of the RFCTLARR Act 2013 and also with 9% interest at present market value much against to the provisions of Section 3G(7) of the N.H.Act, 1956.

iii) The impugned award passed by the learned arbitrator was purely based on presumptions and surmises which is not tenable under law and further the learned arbitrator erred in holding that, in the present case, the 8th respondent had determined the award based on the provisions of Sec.3G(7) of N.H.Act. As per the revenue records the acquired land of the applicants are dry agricultural land. The respondent No.8 has fixed Rs. 706/- per sq.mtr (Rs. 28,571/- per cent). In this award the 8th respondent has not considered the sale deed registered below 12.5 cents of agriculture lands while taking the average market value. In the award passed by the respondent No.8 in in No.SLAO & CA/NH/A1/Puthige/ LAQ/SR.12/2020-21 dated 17.12.2020 and No.SLAO &CA/NHAI/Padumarnadu/ LAQ.SR. 16/2020-221 dated 31.12.2020 has taken into account the sale deed registered below 12.5 cents of agricultural land for taking the average market value. These awards have been upheld by the arbitrator and NHAI have agreed to the above said arbitral orders and already take action for payment of compensation to the respective land losers. The acquired land of the applicants are similar in nature of award passed in No.SLAO&CA/NHAI/Puthige/LAQ.SR.12.2020-21 dated 17.12.2020 and SLAO & CA/NHAI/Padumarnadu/LAQ. SR.16/2020-21 dated 31.12.2020, etc., as it is evident that land in question not at all converted or alienated land, resulted in miscarriage of justice.

iv) The learned arbitrator has not at all considered the statement of objections and evidence on record while enhancing the compensation in impugned award, which is very much clear on the impugned award. The learned arbitrator & DC further enhanced the land value without any reason or documents on record as mentioned in the award which is much contrary to law and resulted in miscarriage of Justice, as such is not tenable in the eye of law.

v) The learned arbitrator considered for further enhancement on acquired land without any reason or documents/evidence on record as mentioned in the award which is very much contrary to law and resulted in miscarriage of Justice, as such it is not tenable in the eye of law.

vi) The RFCTLARR Act 2013, Section 26, defined the criteria for assessing and determining the market value of land. The respondent No.8 while determining the market value of land followed the above defined provisions of RFCTLARR Act 2013 and passed the award. The arbitrator in the impugned order is not found any arbitrary or illegal in passing 3G award of SLAO. Petitioner is disbursing the compensation to land loser for their land and all of its assets attached to land, which is 3 to 4 times of the market value in compliance of RFCTLARR Act 2013. For paying compensation public money is utilized hence, petitioner is required to adhere with the provisions of Act.

vii. The learned arbitrator and DC further enhanced the land value from Rs. 28,571/- per cent to in terms of award passed in No.SLAO&CA/NHAI/Puthige/LAQ.SR.12.2020-21 dated 17.12.2020 and SLAO & CA/NHAI/Padumarnadu/LAQ. SR.16/2020-21 dated 31.12.2020 along with all other benefits admissible under the provisions of the RFCTLARR Act 2013 an also with 9% interest on acquired land without any reason or documents/evidence on record as mentioned in the award and which is much contrary to law and resulted in miscarriage of justice, as such is not tenable in the eye of law.

viii. The learned arbitrator and DC further enhanced the land value from Rs. 28,571/- per cent to in terms of award passed in No.SLAO&CA/NHAI/Puthige/LAQ.SR.12.2020-21 dated 17.12.2020 and SLAO & CA/NHAI/ Padumarnadu/LAQ. SR.16/2020-21 dated 31.12.2020 with 9% interest to the respondents No.1 to 7 stating that the land acquired has good potential for future development. Market value of Rs. 28,571/- per cent is determined as per RFCTLARR Act 2013, and and enhancement of market value in terms of the award passed in No.SLAO&CA/ NHAI/Puthige/ LAQ.SR.12.2020-21 dated 17.12.2020 and SLAO & CA/NHAI/Padumarnadu/LAQ.SR.16/2020-21 dated 31.12.2020 along with all other benefits admissible under the provisions of the RFCTLARR Act 2013 and also with 9% interest to respondents No.1 to 7 is base do assumption and arbitrary without any justified grounds, supporting evidence and nonconformity with provisions of law. Further, the compensation will also proportionately enhance as it directly linked with the market value. Deviation from the defined guidelines without any specific reasons and based on only assumptions will be misutilization of Govt. exchequer.

ix. The learned arbitrator has not applied his judicial mind in determining the compensation and as such it is illegal and without jurisdiction.

x. The land of respondents No.1 to 7 are not a commercial land as claimed by them, therefore, the claim of respondent No.1 is untenable in the eye of law. The finding given by the learned Arbitrator is against the observation made by the Hon'ble High Court that, in determining the market value the use/category of the land as on the date of acquisition alone can be taken into account.

xi. The learned arbitrator ought to have considered the category of acquired land, but he ignored such legal aspect. The learned arbitrator has not assigned any proper reason to enhance the compensation, the reasons assigned are false and not sustainable under law.

xii) The award dated 18.3.2025 is contrary to the substantive provisions of law and is patently illegal which is required to be set at naught, therefore the award dated 18.3.2025 is liable to be set aside. The award dated 18.3.2025 is in conflict with the public policy of India and hence the same is liable to be set aside.

xiii) The award dated 18.3.2025 is against the well settled law of fixation of compensation. Public exchequer should not be put under burden by excess valuation. It is the statutory duty of the court to maintain the balance between diverse interests, therefore the award dated 18.3.2025 is liable to be set aside.

5. Since the respondent No.1 died, her L.Rs are brought on record as respondents No.2 to 7. The respondent No.8 remained

absent. The respondent No.9 appeared through learned DGP and submitted the records.

6. After admission of the petition and in answer to summons, respondent No.2 to 7 appeared through their counsel and filed counter statement contending that the petition is unsustainable both at law and on points of facts. The petitioner is guilty of suppression of true facts and as such he is disentitled for any favour orders form the hands of this court. The acquired land is dry agricultural land. The respondent No.8 had fixed Rs.3,50,000/- per cent for the adjacent converted lands while the rate fixed for the acquired land belonging to these respondents is only Rs.92,000/- per cent. All these facts are not considered by the respondent No.8 at the time of passing award. These respondents are entitled for enhanced compensation. The acquired lands are wet lands but due to typographical mistake crept in while drafting the order dated 18.3.2025 by the respondent No.9 stating that it is to be dry lands. Hence prayed to dismiss the petition.

7. Heard the arguments and perused the arbitral records. The learned counsel for the petitioner filed notes of arguments.

8. The following points would arise for my consideration:

1. Whether the petition is within time as prescribed under Section 34(3) of Arbitration and Conciliation Act 1996?

2. Whether petitioner has complied Sec.34(5) of the A & C Act?

3. Whether the petitioner has made out grounds to set aside the arbitral award as provided under section 34 of Arbitration and Conciliation Act 1996?

4. What order ?

9. My answer to the aforesaid points are as follows :

Point No.1 : In the Affirmative.

Point No.2 : In the Affirmative

Point No.3 : In the Negative.

Point No.4 : As per final order for the following:

R E A S O N S

10. **Point No.1**: Section 34(3) provides a limitation for assailing the arbitral award wherein it is clearly stated that "the arbitration award has to be challenged within 03 months from the day on which the party making that application had received the arbitral award, provided that if the Court is satisfied that applicant was prevented by sufficient cause from making the application within a period of 03 months it may entertain the application within the further period of 30 days, but not thereafter".

11. Perusal of Section 34(3) clearly places embargo to challenge the arbitral award after 3 months and 30 days of the

receipt of arbitral award by the party. The impugned award was passed on 18.3.2025. Copy of the award served on 26.3.2025. This petition is filed on 10.6.2025. Thereby, petition is filed within a period of three months as provided under Section 34(3) of Arbitration and Conciliation Act. Hence point No.1 taken up for consideration is held in **Affirmative.**

12. **Point No.2:-** In the 2015 amendment which has come into effect from 23.10.2015, sub section(5) has been inserted to section 34, wherein application for setting aside of award under this section is to be filed after issuing prior notice to the other party. In this case no averment has been made by the petitioner with regard to issuance of notice to the defendants prior to the institution of the petition. Notice dated 9.4.2025 is produced to establish that they complied Section 34(5) of the A & C Act. Postal receipts dated 15.4.2025 are produced to substantiate that notice was sent to the respondents prior to institution of this petition. In view of the aforesaid, point No.2 taken up for consideration is held in **affirmative.**

13. **Point No.3**:- The Hon'ble Supreme Court in its decision reported in **AIR 2021 SC 4661 – PSA SICAL Terminals Pvt.Ltd. Vs. Board of Trustees**, observed that:

> "In an application U/s. 34 of the Act, court is not expected act as an appellate court and re-appreciate evidence. Scope of interference would be limited to

> grounds provided U/s. 34 of the Act. Interference would be so warranted when award is in violation of "Public Policy of India", which has been held to mean " Fundamental Policy of Indian Law". A judicial intervention on account of interfering on the merits of the award would not be permissible. However, the principles of natural justice as contained in Sec.18 and Sec.34(2)(a)(iii) of the Arbitration Act would continued to be the grounds of challenge of an award. The ground of interference on the basis that award is in conflict with justice or morality is now to be understood as a conflict with the "most basic notions of morality or justice". It is only such arbitral award that shock the conscience of the court, that can be set aside on the said ground. An award would be set aside on the ground of patent illegality appearing on the face of the award and as such, which goes to the roots of the matter. However an illegality with regard to a mere erroneous application of law would not be a ground for interference. Equally re-appreciation of evidence would not be permissible on the ground of patent illegality appearing on the face of the award."

14. In view of the proposition of law laid down by the Hon'ble Supreme Court, this court has limited jurisdiction to interfere with the award only when petitioner has made out grounds enumerated under sub-section (2) or 2-A of Sec.34 of Arbitration and Conciliation Act.

15. The impugned award was passed after the Arbitration and Conciliation (amendment) Act, 2015 came into force. The said amendment brought about major changes to Sec.34 of the Act.

Changes were aimed at restricting courts from interfering with the arbitral award on the ground of “public policy”. Explanation-2 of Sec.34(2) states that:

> *“for the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian Law shall not entail a review on the merits of the dispute”.*

The explanation makes it clear that in no way court be entitled to review the award on merits of the dispute nor reappraise the evidence unless petitioner is able to establish grounds enumerated under that provision of law.

16. One of the main grounds urged by the petitioner is that, the arbitrator did not give valid reasons to enhance the compensation, and therefore as per S. 31(3) of the Act, the award was erroneous and perverse. Further, it is contended that, the **Hon’ble SC in the case of Associate Builders reported in (2015) 3 SCC 49**, it was held that, if an arbitrator does not assign reasons in the award, it would squarely fall under the category of ‘patent illegality on the face of the award’ and thereby the impugned award is to be set aside.

17. In this regard, it is pertinent to note that, the learned arbitrator at discussion on point no. 2 framed, elaborate discussion is made in justification for enhancement. The arbitrator has taken into account all the parameters suggested U/s.3G(7) of the NH Act

vis-a-vis various other judgments of the Hon'ble SC which are having the nature of binding precedent. To put it differently, it cannot be said that, the award is without reasons. At best, it can be said that, the reasons assigned by the arbitrator, in the opinion of the petitioner is not acceptable. Thus, the instant case cannot be classified under the category of contravention of S. 31(3) of the Act, and thereby the decision of Associate Builders is not applicable to the case on hand.

18. The Ministry of Road Transport and Highways by its notification dated 13.1.2016 clarified that in cases initiated under National Highways Act 1956 but award has not been announced by 31.12.2014, RFCTLARR Act 2013 will apply U/s. 24(1) of Act.

In this case evidently award was passed by the Spl.LAO on 27.1.2021 in No.SLAO&CA/NHAI/Mulur/LAQ.SR:10/2020-21. In view of the same, order of the Arbitrator awarding benefits under RFCTLARR Act 2013 is legally permissible.

19. Learned Arbitrator directed competent authority/Spl.LAO to pay compensation to the claimant on par with the compensation awarded to other landlosers of **Puthige and Padumarnadu village**, since the petitioner herein had already accepted the award passed by the DC (in other similar cases of Padumarnadu and Puttige villages) and NHAI had proceeded to

take action for payment of compensation to land losers therein. As the respondents herein were similarly placed as that of land losers of Padumarnadu and Puttige villages, the arbitrator passed the award in that manner.

20. In the instant case also, admittedly the land is 33.01 cents bearing Sy.No.21/3 Mulur Village, adjoining Padumarnadu and Puttige villages. Hence, no serious fault can be found in the impugned award, which is based on the principles of parity.

In this context, it is pertinent to note that, the Hon'ble Supreme Court in **(2017) 9 SCC 426 - Narendra and others Vs. State of Uttar Pradesh**, held that, the proper compensation has to be awarded to the land losers. It is further held that, while awarding compensation, it is to be kept in mind in the matter of compulsory acquisition of lands by government, villagers whose land get acquired are not willing parties. It is not their voluntary act, and are compelled to give land to state for public purpose. Consideration to be paid to them is also not of their choice. The Hon'ble Supreme Court further held that, duty is cast upon the Court to award fair compensation and fairness requires that all those similarly situate are treated similar. As such there is no illegality in the said direction issued by the learned arbitrator.

21. The contention raised by the petitioner is that, enhancement is without any evidence. In view of the same court is bound to examine parameters to be considered to determine compensation. The Hon'ble Supreme Court in the case of **National Highways Authority of India Vs. Sri.P.Nagaraju @ Cheluvaiah & Anr. Civil Appeal No.4671 of 2022** wherein it was held that;

> "...In that light, the limited scope available under Act, 1996 to assail an award as provided under Section 34 of the said Act is also to be kept in view even in these appeals. while doing so, what cannot also be lost sight of is the fact that the arbitration was not initiated based on an agreement entered into between the contracting parties under a contract but is under a statutory provision which provides for such arbitration in lieu of 'reference' under the regime for acquisition of land for public purpose. One of the parties to such arbitration proceedings would also be a land loser and the adjudication in the arbitration proceedings is not based on any definite terms of the contract providing for mutual obligations determinable under the contract but for determination of just compensation in respect of land which is compulsorily acquired for a public purpose."
>
> " It is contended that the factors to determine the compensation playable to the land loser as provided in Section 3G(7)(a) of the NH Act can only be the basis. In that view, it is contended that the parameters contained in Section 28 of RFCTLARR Act 2013 cannot be taken into consideration."
>
> "When land is acquired from a citizen, Articles 300A and 31A of the Constitution will have to be borne in mind since the deprivation of property

> should be with authority of law, after being duly compensated. Such law should provide for adequately compensating the land loser keeping in view the market value. Though each enactment may have a different procedure prescribed for the process of acquisition depending on the urgency, the method of determining the compensation cannot be different as the market value of the land and the hardship faced due to deprivation of the property would be the same irrespective of the Act under which it is acquired or th e purpose for which it is acquired. In that light, if Section 28 of RFCTLARR Act 2013 is held not applicable in view of Section 3J of NH Act, the same will be violative of Article 14 of the Constitution. In that circumstance, the observation in **Tarsem Singh** (Supra) that Section 3J of NH Act is unconstitutional to that extent though declared so while on the aspect of solatium and interest, it is held so on all aspects relating to determining of compensation. In any event, the extracted portion of the notification dated 28.8.2015 is explicit that the benefits available to the land owners under RFCTLARR Act is to be also available to similarly placed land owners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, among which NH Act is one. Hence all aspects contained in Section 26 to 28 of RFCTLARR Act for determination of compensation will be applicable notwithstanding Section 3J and 3G(7)(a) of NH Act.”

22. The petitioner has not made out any established grounds to assail the award. The impugned order does not suffer from patent illegality or against public policy.

Catena of decisions of the Hon’ble Apex Court on Sec.34 of the Act have now made it clear beyond any ambiguity that an award can be set aside U/Sec.34 of the Act by a District Court only when - (i) such an award is patently illegal on the face of it; (ii) the award was in contravention with the fundamental policy of Indian law; (iii) it is in conflict with the most basic notions of morality or justice; (iv) the award was induced or affected by fraud or corruption or was in violation of Sec.75 or Sec.81 of the Act and when the award shocks the conscience of the court.

a. In **(2015) 3 SCC 49 – Associate Builders v/s. Delhi Development Authority**, the Hon’ble Supreme Court observed that:

> It must clearly be understood that when a court is applying the "public policy" test to an arbitration award, it does not act as a court of appeal and consequently errors of fact cannot be corrected. A possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on this score. Once it is found that the arbitrators approach is not arbitrary or capricious, then he is the last word on facts. In P.R. Shah, Shares & Stock Brokers (P) Ltd. v. B.H.H. Securities (P) Ltd., (2012) 1 SCC 594, this Court held:

> "21. A court does not sit in appeal over the award of an Arbitral Tribunal by reassessing or reappreciating the evidence. An award can be challenged only under the grounds mentioned in Section 34(2) of the Act. The Arbitral Tribunal has examined the facts and held that both the second respondent and the appellant are liable. The case as put forward by the first respondent has been accepted. Even the minority view was that the second respondent was liable as claimed by the first respondent, but the appellant was not liable only on the ground that the arbitrators appointed by the Stock Exchange under Byelaw 248, in a claim against a non-member, had no jurisdiction to decide a claim against another member. The finding of the majority is that the appellant did the transaction in the name of the second respondent and is therefore, liable along with the second respondent. Therefore, in the absence of any ground under Section 34(2) of the Act, it is not possible to re-examine the facts to find out whether a different decision can be arrived at."

It is with this very important caveat that the two fundamental principles which form part of the fundamental policy of Indian law (that the arbitrator must have a judicial approach and that he must not act perversely) are to be understood.

b. In the case of **Dyna Technologies Private Limited Vs. Crompton Greaves Limited (2019) 20 SCC 1**, the Hon'ble Supreme Court observed that:

> 24. There is no dispute that Sec.34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various Courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Sec.34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Sec.34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the Courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.
>
> 25. Moreover, umpteen number of judgments of this Court have categorically held that the Courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The Courts need to be cautious and should defer to the view taken by the Arbitral Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Sec.34 of the Arbitration Act.

c. In the case of **MMTC Ltd. Vs. Vedanta Ltd. (2019) 4 SCC 163**, the Hon'ble Supreme Court observed that:

11. As far as section 34 is concerned, the position is well settled by now that the Court does not sit in appeal over the arbitral award and may interfere on merits on the limited ground provided under Section 34(2)(b)(ii), i.e. if the award is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the "fundamental policy of Indian law" would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and Wednesbury reasonableness. Furthermore, "patent illegality" itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract. It is only if one of these conditions is met that the Court may interfere with an arbitral award in terms of Section 34(2)(b) (ii), but such interference does not entail a review of the merits of the dispute, and is limited to situations where the findings of the arbitrator are arbitrary, capricious or perverse, or when the conscience of the Court is shocked, or when the illegality is not trivial but goes to the root of the matter. An arbitral award may not be interfered with if the view taken by the arbitrator is a possible view based on facts. (See Associate Builders v. DDA, (2015) 3 SCC 49). Also see ONGC Ltd. v. Saw Pipes Ltd., (2003) 5 SCC 705; Hindustan Zinc Ltd. v. Friends Coal Carbonisation, (2006) 4 SCC 445; and McDermott International v. Burn Standard Co. Ltd., (2006) 11 SCC 181). It is

> relevant to note that after the 2015 amendments to Section 34, the above position stands somewhat modified. Pursuant to the insertion of Explanation 1 to section 34(2), the scope of contravention of Indian public policy has been modified to the extent that it now means fraud or corruption in the making of the award, violation of section 75 or Section 81 of the Act, contravention of the fundamental policy of Indian law, and conflict with the most basic notions of justice or morality. Additionally, sub section (2A) has been inserted in Section 34, which provides that in case of domestic arbitrations, violation of Indian public policy also includes patent illegality appearing on the face of the award. The proviso to the same states that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.
>
> 12. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the Court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the Court under section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the Court under Section 34 and by the Court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings.

d. In the case of **Consolidated Construction Consortium Limited Vs. Software Technology Parks of**

India – 2025 Supreme(SC) 721, the Hon'ble Supreme Court observed that:

> 23. Scope of Sec.34 of the 1996 Act is now well crystallized by a plethora of judgments of this Court. Sec.34 is not in the nature of an appellate provision. It provides for setting aside an arbitral award that too only on very limited grounds i.e. as those contained in sub-sections (2) and (2A) of Sec.34. It is the only remedy for setting aside an arbitral award. An arbitral award is not liable to be interfered with only on the ground that the award is illegal or is erroneous in law which would require re-appraisal of the evidence adduced before the arbitral tribunal. If two views are possible, there is no scope for the court to re-appraise the evidence and to take the view other than the one taken by the arbitrator. The view taken by the arbitral tribunal is ordinarily to be accepted and allowed to prevail. Thus, the scope of interference in arbitral matters is only confined to the extent envisaged under Sec.34 of the Act. The court exercising powers under Sec.34 has perforce to limit its jurisdiction within the four corners of Sec.34. It cannot travel beyond Sec.34. Thus, proceedings under Sec.34 are summary in nature and not like a full-fledged civil suit or a civil appeal. The award as such cannot be touched unless it is contrary to the substantive provisions of law or Sec.34 of the 1996 Act or the terms of the agreement.
>
> 24. Therefore, the role of the court under Sec.34 of the 1996 Act is clearly demarcated. It is a restrictive jurisdiction and has to be invoked in a conservative manner. The reason is that arbitral

> autonomy must be respected and judicial interference should remain minimal otherwise it will defeat the very object of the 1996 Act.

Thus, in the considered opinion of this court, the reasoning of the learned arbitrator does not call for interference by this court as no grounds under Sub Section 2 or 2-A of Section 34 of the Arbitration and Conciliation Act have been made by the petitioner. Hence, Point No.3 taken up for consideration is held in the **negative.**

23. **Point No.4**:- For the foregoing reasons on Points No.1 to 3, I proceed to pass the following:

ORDER

The arbitration petition filed by the petitioner U/s. 34(2) of A & C Act r/w Sec.3G(5) of National Highways Act 1956 is dismissed.

Consequently, the impugned award passed by the learned arbitrator in C.DIS.ARB(4)NH.LAQ. CR.21/2022-23 dated 18.3.2025 is hereby confirmed.

Parties to bear their own costs.

Office to draw decree accordingly.

Send back the records to the concerned along with copy of this judgment.

(Dictated to the Stenographer Grade-1 directly on computer, typed copy corrected and then pronounced by me in the open Court on this 06th day of August, 2026)

(**VINAY. D**)
I Addl. District and Sessions Judge,
Mangaluru.

VINAY DEVARAJ

Digitally signed by VINAY DEVARAJ
Date: 2026.08.10 16:44:22 +0530