

KAHS010038922024



Presented on : 15-06-2024  
Registered on : 18-06-2024  
Decided on : 27-03-2026  
Duration : 1 year 9 months 9 days

IN THE COURT OF PRINCIPAL DISTRICT &  
SESSIONS JUDGE, HASSAN.

Dated this the 27<sup>th</sup> day of March 2026

PRESENT

**Smt. Hemavathi**, BBM, LL.B.  
Principal District & Sessions Judge,  
Hassan.

**AP No.82/2024**

Petitioner: Shanthamma,  
W/o late K.B. Rajashekhara,  
Aged about 75 years,  
By her GPA Holder,  
B.R. Manjunath,  
S/o late K.B. Rajashekhara,  
Aged about 40 years,  
R/o Banavase Village,  
Belagodu Hobli,  
Sakaleshapura Taluk,  
Hassan District.

*(Represented by Sri. Sujith D.K., Advocate)*

Vs.

- Respondents:
1. Arbitrator & Deputy Commissioner,  
Hassan.
  2. Project Director,  
National Highways Authority of India,  
Address at:  
Project Implementation Unit,  
No.44/1A1,  
Kuvempu Road, 1<sup>st</sup> Main Road,  
Sathyamangala,  
Indra Nagar,  
Hassan.
  3. Special Land Acquisition & Competent Authority,  
National Highways Project Hassan,  
(Hassan – Bantwala)  
Opp. KSRTC Bus Stand,  
KHB Colony,  
Channapattana,  
Hassan.
- (R1 – Represented by D.G.P.  
R2 & R3 – Represented by Sri. K.G.V., Advocate)*

## **JUDGMENT**

This petition is filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 read with Section 3G of National Highways Act, 1956 praying to set aside the award dated 16.02.2024 bearing No.CR.50/2019-20 passed by

the respondent No.1 and direct the respondent No.1 to reassess the compensation amount and also give fair and competent compensation to the land owner acquired by the respondents No.2 and 3 and also to pay 12% interest annually.

2. The brief facts of the case is that the petitioner was the owner of the alienated land bearing Sy.No.14/7 measuring 2 acres 17 guntas Situated at Banavase Village, Belagodu Hobli, Sakaleshapura Taluk and it was alienated as per the order of Deputy Commissioner, Hassan in favour of one Shanthamma on 01.04.2016. She obtained layout plan. There was a condition to develop the land within two years. In the meanwhile, the respondent No.2 issued notification dated 14.02.2017 acquiring the land bearing Sy.No.14/07 measuring 5564 sq. mtrs. wherein it is mentioned that it is NAK. The said acquisition is made within one year from the date of alienation order issued by Deputy Commissioner, Hassan. The petitioner has passed the award. Later it was challenged before the

Arbitrator and Deputy Commissioner, Hassan in CR No.50/2019-20, which was allowed on 16.02.2024.

3. Being aggrieved by the said award dated 16.02.2024

this petition is filed on the following grounds:

- a) The order passed by the Arbitrator is not sustainable either in law or on facts.
- b) While passing the order, the Arbitrator did not follow Sections 26 to 28 and 20 of Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation Act, 2013.
- c) The Arbitrator did not look into actual aspects and facts of the case.
- d) The Arbitrator enhanced the compensation amount to Rs.1,660/- per sq. mtrs. which is very meager and the said compensation determined by the Arbitrator considering that the acquired land is a plantation land ignoring the notification issued by the respondent No.2 stating that it is NAK land.
- e) The compensation enhanced by the Arbitrator is very meager. Arbitrator should have enhanced the compensation to the acquired land in terms of

market value of the property. The acquired land is situated nearby the western ghats. It is improved area. So many resorts, hotels and schools are situated nearby the said land. Yattinahole project is taken up. On that project, the government has given higher compensation to the land losers. Without considering all these facts, Arbitrator has enhanced meager compensation.

Hence, prayed to allow the petition.

4. Though the respondent No.1 appeared before the Court through DGP, did not file objections to the petition.

5. The respondents No.2 and 3 appeared before the Court through their counsel and filed objections to the main petition stating that the petition is filed beyond the statutory period of 90 days, which cannot be entertained after 30 days. So the petition is barred by limitation. The petitioner has not approached the Court with clean hands. The petitioner has sought for enhancement of compensation, which is outside the scope of Section 34 of A & C Act. The petitioner has not made

out any grounds for interference of this Court. As per the decision reported in ***ILR 2010 KAR 3711*** (*H.M. Shankar Murthy vs. National Highways Authority of India and Others*), provision for setting aside the award is not sustainable in law on any one of the grounds as indicated under Section 34 of A & C Act. So this suit is not maintainable. Unless the award is in conflict with public policy of India, the same cannot be interfered with and set aside. In the present case, the petitioner has sought for enhancement of the compensation, which is not maintainable. The scope of Section 34 of A & C Act is very limited. Only on the grounds mentioned in Section 34 (2)(a) and (b) of A & C Act, the award can be set aside. Arbitrator after considering the documents passed the impugned order enhancing the compensation awarded by the respondent No.2. No grounds are made out for interference of this Court. Hence, prayed to dismiss the petition.

6. IA No.I is an application filed under Section 34(3) of A & C Act praying to condone the delay of 120 days in

preferring the appeal on the grounds mentioned in the sworn affidavit that Arbitrator passed the award on 16.02.2024, but it was not conveyed to this petitioner in time. Later he came to know about the award. In the meanwhile there is civil vacation to the Court from April to May. Hence, there is delay of 120 days in preferring this appeal. It is neither intentional nor deliberate. Hence, prayed to allow the application.

7. The respondents No.2 and 3 filed objections stating that the application is not maintainable either in law or on facts. The petition is barred by limitation. No grounds are made out for delay in filing this petition. The reason given by the petitioner cannot be accepted. Hence, prayed to dismiss the application with costs.

8. Heard both the sides.

9. Now the points that arise for my consideration are:

- 1) *Whether there is a ground to condone the delay in filing this petition?*

- 2) *Whether the petitioner complied with Section 34(5) of Arbitration and Conciliation Act, 1996?*
- 3) *Whether the petitioner has made out sufficient grounds to set aside the impugned arbitral award as provided under Section 34(2) of Arbitration and Conciliation Act, 1996?*
- 4) *What order?*

10. My findings on the above points are as hereunder:

Point No.1: Affirmative,

Point No.2: Affirmative,

Point No.3: Negative,

Point No.4: As per final order

For the following:

### **REASONS**

11. **POINT No.1:** The respondents contended that the petition is not maintainable. There is delay in filing the petition. The petitioner filed IA No.I under Section 34(3) of A & C Act for condonation of delay.

12. Section 34(3) of A & C Act says that the application under Section 34 of A & C Act must be made within 3 months from the date of applicant received the award. Here the contention of the petitioner that he has not received duly signed copy of award from the Arbitrator/ respondent No.1. The trial Court records received from the Arbitrator reveals that the award was passed on 16.02.2024. There is no order to send duly signed copy of the same to the parties. Even the order sheet do not disclose that copy of the same has been sent to the petitioner. Even it is not the contention of the respondents No.2 and 3 that they have received duly signed copy of award from the Arbitrator. So it shows that the Arbitrator has not sent duly signed copy of award to the petitioner.

13. The award was passed on 16.02.2024. The period of 90 days starts from the date of delivery of duly signed copy of award. When the copy has not been delivered to the petitioner, the period of limitation starts from the date of knowledge. It is

stated in the application that the petitioner came to know about the award later. But not stated when she came to know. Since the petitioner participated in the proceedings before the Arbitrator, it can be said that she is aware about the award passed on 16.02.2024. So even if the date of passing the award is taken into consideration, the period of limitation to complete the period of 90 days expires on 16.05.2024. Admittedly, there was civil vacation during the month of May 2025. That period is to be excluded to complete the limitation. If that period is excluded, 90 days expires on 15.06.2024. This petition is filed on 15.06.2024 within the period of limitation. So there is no limitation in filing this petition. Hence, IA No.I is deserves to be allowed. Accordingly, I answer this point in the affirmative.

14. **POINT No.2:** Before filing the petition under Section 34 of A & C Act the party must issue prior notice to other party as provided under Section 35(5) of A & C Act. Here it is not stated whether the notice under Section 34(5) of A & C Act has been served on the respondents. No document

has been produced for having served the said notice. So it shows that the petitioner has not issued any prior notice intimating the respondents about filing this petition. However the respondents have not assisted the maintainability of the petition on the ground of non-compliance of Section 34(5) of A & C Act.

15. In the decision reported in *AIR 2018 SC 3862 (State of Bihar v. Bihar Rajya Bhumi Vikas Bank Samiti)* wherein it is held that “Section 34(5) of A & C Act is directory nor mandatory”. So non-compliance of Section 34(5) of A & C Act is not fatal to this case. Hence, I answer this point in the affirmative.

16. **POINT No.3:** It is the contention of the petitioner that the land acquired by the respondent No.2 is alienated land, which is having market value more than the non-alienated land and plantation land. Without considering the same, the respondent No.2 passed meager compensation. So, the petitioner had challenged the same before the respondent No.1

to enhance the compensation. The respondent No.1 has also enhanced the meager compensation without considering that the said property is acquired one year earlier to the notification for acquisition of land has been issued. This petitioner had obtained approved layout plan. So it fetches the market value of alienated properties.

17. The impugned arbitral award reveals that Arbitrator had enhanced the compensation from 01.01.1986 determined by the respondent No.2 to 1660 per sq. mtrs. The record of the arbitration reveals that the petitioner has produced the sale deed dated 16.09.2016 to her claim for enhancement of compensation wherein the market value of the land is shown as Rs.12,00,000/- for 6.06 x 9.144 mtrs. site formed out of 16 guntas in Sy.No.16/2A of alienated land. Further the petitioner had sought for enhancement of compensation at the rate of Rs.2,000/- per sq. feet. The learned Arbitrator/ Deputy Commissioner in the award observed that this land is plantation land situated beside the National Highway and it is

undeveloped converted land. Hence, enhanced the compensation to the extent of 40% on the compensation already awarded by the respondent No.2. Before passing the award, Arbitrator had obtained legal information from the legal adviser office of Deputy Commissioner wherein it is stated that if the approved layout plan is not obtained and the layout is not formed, the award can be done by considering the said property as non-agricultural property and if the layout plan is obtained, layout is formed, the compensation can be awarded in sq. feet excluding, road, parks and the place reserved for CA.

18. The petitioner herein though contended that she had prepared for development of land and obtained layout plan, she has not produced any such plan. The trial Court record also reveals that before the Arbitrator also she has not produced the said plan. Further sale deed produced by the petitioner relying upon for enhancement of compensation is pertaining to the land situated at Ballupete Village, Belagodu Hobli which

reveals that after conversion, the site has been formed. Here no material has been produced by the petitioner to show that she had improved the land after conversion. The document produced by the petitioner reveals that on 01.04.2016 the Deputy Commissioner had issued order permitting her to convert the land as non-alienation purpose. The notification was issued by the Government of India on 14.12.2017. As per the conversation order, the petitioner should have used the said land for the purpose of conversion within two years. So she has to commence the work of development of land. But the document produced by her do not reveal that she had commenced the work of development in the area. So the petitioner has failed to show that the acquired land was fetching market value of Rs.2000/- per sq. mtrs.

19. It is their argument that the sale deed produced by the petitioner is dated 16.09.2016. The alienation order was issued on 01.04.2016. Since the petitioner has not carried out any improvement based on the said conversion order, I opine

that the compensation enhanced by the Arbitrator considering that it is undeveloped alienated land is proper. So I do not find any reason to interfere with the arbitral award passed by the Arbitrator. The learned Arbitrator has taken into consideration the geographical history of the land and use of land while enhancing the compensation. So, the award passed by the Arbitrator is proper and reasonable. I do not find any reason to interfere with. Hence, I answer this point in the negative.

20. **POINT No.4:** In view of the above discussions, I proceed to pass the following:

### **ORDER**

IA No.1 filed by the petitioner is hereby allowed.

Consequently, the delay in filing the petition is condoned.

The petition filed by the petitioner is hereby dismissed.

Consequently, the arbitral award passed by the respondent No.1 in CR No.50/2019-20 dated 16.02.2024 shall stand confirmed.

Parties are directed to bear their own costs.

The office shall return the records along with copy of this judgment to the concerned Arbitrator for information and for further steps in the matter accordingly forthwith.

*(Dictated to the Stenographer Grade-I, transcribed by her, corrected and then pronounced by me in Open Court on this **the 27<sup>th</sup> day of March 2026**)*

**(Hemavathi)**  
Principal District & Sessions Judge,  
Hassan.