

KAKL010031552025



Presented on : 03-11-2025
Registered on : 03-11-2025
Decided on : 12-06-2026
Duration: 7 months 10 days

**IN THE COURT OF PRINCIPAL DISTRICT AND
SESSIONS JUDGE AT KOLAR**

DATED THIS THE 12TH DAY OF JUNE 2026

PRESENT

SHRI V.M. ANANDASHETTI

PRINCIPAL DISTRICT & SESSIONS JUDGE, KOLAR

A.P./288/2025

PETITIONER:

Narayanappa
S/o. Late Chikkamuniyappa,
(since dead by LRs)

a) Rathnamma
W/o. Late Narayanappa,
Aged about 65 years,

b) N. Raju @ Venkateshappa
S/o. Late Narayanappa,
Aged about 41 years,

c) N. Ravichandra
S/o. Late Narayanappa,
Aged about 38 years,

d) Veena
D/o. Late Narayanappa,
Aged about 35 years,

All are resident of

Ithandahalli Majara
Kalkere village, Kasaba Hobli,
Bangarpet Taluk, Kolar District.

(Rep. By **Sri.C.V.Raghavendra**,
Advocate)

VS

RESPONDENTS:

1. The Arbitrator & Deputy Commissioner,
Bengaluru - Chennai Express Way,
Deputy Commissioner Office,
Kumbarahalli, Kolar District, Kolar.

2. The Special Land Acquisition Officer
and competent authority NHAI,
Bengaluru-Chennai Expressway,
Nirubavi Kempanna Layout,
Hebbala, Bengaluru - 24.

3. The Deputy General Manager (Technical)
& Planning Director NHAI,
P.I.U. No.84/11, Uttarahalli Main Road,
Kengeri, Bengaluru - 60.

(R1 Reptd., by
District Government Pleader)

(R2 & 3 Reptd., by **Sri.Shobith N. Shetty**,
Advocate)

J U D G M E N T

This is an arbitration petition filed under Section 34(2) of the Arbitration and Conciliation Act, 1996, assailing the order of respondent No.1/arbitrator in Arbitration Proceeding No.ARB/BCE/BPT/96/2021-22, dated 30.08.2025. By the impugned order the respondent No.1/arbitrator has rejected the application of the land loser/claimant filed under Section 3G (5) of National High Ways Act, 1956 seeking re-determination of

compensation for the land acquired, on the ground of it being barred by limitation.

2. The facts necessary for disposal of this petition are thus;

For construction of Bengaluru – Chennai express way an extent of 177 square meters of land in Sy.No.55/7 (55/15) belonging to the petitioner was acquired by the Central Government. The respondent No.2/competent authority passed an award determining the compensation. Finding the said compensation unacceptable the petitioner/land loser approached the respondent No.1/arbitrator through application under Section 3G (5) of NH Act, 1956. The respondent No.1/arbitrator finding that the respondent No.2 had passed the award on 31.01.2017 and issued notice under Section 3E and 3H(2) of NH Act on 12.07.2017 and the application is filed by the petitioner on 12.07.2021 and since he should have filed the said application within 3 years from 31.01.2017, proceeded to hold that the application moved to him by the petitioner is barred by limitation and consequently dismissed it.

3. Heard.

4. The award is assailed on the ground of being in conflict with public policy of India and being vitiated by patent illegality appearing on the face of award.

5. The only short point arising for my consideration in this petition is;

“Whether the arbitrator has properly computed the limitation period?”

6. My finding to the aforesaid point is in the negative, for the following

REASONS

7. From the impugned award of Arbitrator it transpires that the competent authority/respondent No.2 passed the award determining market value on 31.01.2017. The notice under Section 3E and so also under Section 3H(2) of National Highways Act, 1956 (for brevity NH Act) is issued by the 2nd respondent on 12.07.2017. The application under Section 3G(5) of NH Act to the Arbitrator is filed on 12.07.2021. These facts are not disputed.

8. There is no provision in the NH Act stipulating the time within which statutory arbitration has to be invoked by the party. Absence of such provision has vexed the Courts so much that there are two division bench decisions of our Hon’ble High Court taking different view as to applicability of Limitation Act to an application under Section 3G(5) of NH Act. Since this matter is heard along with other matters of like nature, I have come across both two authorities. One authority in case of T.Yunis Vs. NHAI (ILR 2012 KAR 6055) is referred to by the counsel for the petitioner. In the said decision it is held that Article 137 of Limitation Act governs the time period within which a party can move the Arbitrator under Section 3G(5) of NH Act. The other decision is in case of NHAI Vs. Uday Kumar (ILR 2017 Kar 1204), which is also division bench decision, wherein it is held that

general law of limitation is not applicable to an application under Section 3G(5) of NH Act in view of Section 2(4) of Arbitration and Conciliation Act, however such an application has to be filed within reasonable time. Three circumstances are enumerated therein in which cases it could be held that approaching the Arbitrator is not within reasonable time. The Hon'ble High Court of Kerala in case of NHAI Vs. P.V.George (WA 1600/2022) also had occasion to expound the proposition in this regard and opined that Limitation Act, 1963 is not applicable to statutory arbitration under Section 3G(5) of NH Act. The Hon'ble High Court of Bombay at Nagpur Bench in case of Suresh Chandra Mahendra Agarwal (AIR online 2019 BOM 894) and the Hon'ble High Court of Madhya Pradesh at Jabalpur in WP No.1607/2021 in case of Gansham Gupta Vs. State, took the view that Article 137 of Limitation Act is applicable to statutory arbitration under Section 3G(5) of NH Act. The Hon'ble High Court of Madhya Pradesh in the above case even held that the arbitrator is entitled to entertain an application under Section 5 of Limitation Act to condone the delay caused in approaching him. The Hon'ble High Court of Madras in case of Project Director, PIU Vs. K.Periswamy and others (WA No.308/2016, Madras Bench, dated 25.04.2018) had an occasion to probe deeper into this aspect and after considering the above authorities aligned with the view that Limitation Act, 1963 is not applicable to an application under Section 3G(5) of NH Act. However, the Hon'ble Apex Court has stayed this judgment and order of the Hon'ble High Court of Madras. In view of the same I am of the opinion that it would be not proper to opine that

no limitation is applicable to an application under Section 3G(5) of NH Act.

9. Since the counsel for petitioner has relied upon the decision of our Hon'ble High Court in case of T.Yunis, wherein it is held that Article 137 of Limitation Act applies and even the respondents take refuge under the said article of Limitation Act, I am of the opinion that it would be proper to decide the present petition holding that Article 137 of Limitation Act applies to the application under Section 3G(5) of NH Act.

10. The Arbitrator in the impugned award has referred to an order of under Secretary to the Government of India regarding applicability of Article 137 of Limitation Act. In the said order of the Government, which is extracted in the impugned order it is stated that Article 137 of Limitation Act is applicable for invoking arbitration which is 3 years from the date of cause of action. The said Government order, as extracted by the Arbitrator in the impugned award, seems to define the point of cause of action by stipulating the date of award by competent authority for land acquisition. Thus, the Arbitrator referring to the date of award of SLAO/CALA/respondent No.2 dated 31.01.2017 computed the period of 3 years and held the invocation of arbitration on 12.07.2021 as barred by limitation.

11. The learned DGP for respondent No.1/Arbitrator and the learned counsel for respondents No.2 and 3 have vehemently justify the point of limitation as reckoned by arbitrator with reference to above Government order.

12. The learned counsel for the petitioner referring to computation of limitation by the Arbitrator in some other cases, as they were heard simultaneously, submitted that in such cases the date of notice under Section 3E and 3H(2) of NH Act is considered as starting point for limitation. If same is applied to this case then the application filed by the petitioner under Section 3G(5) of NH Act on 12.07.2021 would be within limitation as it is protected even by the decision of Hon'ble Apex Court in case of Suo-Moto writ petition (c) No.3/2020, In Re; cognizance for extension of limitation, wherein for the purpose of computing limitation the period from 15.03.2020 to 28.02.2022 is ordered to be excluded.

13. During course of hearing when I queried the learned DGP as to whether the respondent No.2 competent authority after hearing the parties or their pleaders under Section 3G(4) of NH Act would notify specific date on which he determines the compensation amount. The learned DGP submitted that no such specific date would be notified by the respondent No.2 intimating the claimants as to determination of the compensation amount.

14. I have examined the scheme of determination of compensation under the NH Act. After making of declaration of acquisition under Section 3D of NH Act in the Gazette the competent authority is supposed to issue public notice under Section 3G(3) of NH Act inviting claims from all the persons interested. Under Section 3G(4) the competent authority is supposed to hear the nature of respective interest of the parties and determine the amount. Thereafter there is nothing in the NH Act to show that if the competent authority does not determine the

amount on the date of hearing the parties or their pleaders it is required to notify the date on which it would make public the amount of compensation determined by it. If on later date the amount is determined by the competent authority then the Act does not envisage any publications of the same either in the Gazette or in the News Papers. There is nothing on record to show that in this case the competent authority has determined the compensation on the very date on which it has heard the interested parties. Looking to the number of cases and awards passed by the competent authority on the same day, as disclosed from the matters before this Court, it is highly unlikely that the competent authority has determined the compensation amount on the very date of hearing the interested parties and in their presence. There is nothing on record to show that the competent authority notified any specific date on which it would make public the amount of compensation determined by it. Such being the case it would be highly improper, leading to illegality, if the date of award of by the competent authority is to be reckoned as the starting point for limitation. Hence, the prescription of starting point of limitation as the date of award by CALA in the Government order referred supra does not withstand legal scrutiny more so when the statutory support to it not being brought to my notice.

15. According to Article 137 of Limitation Act the 3 years time commences from the arising of cause of action. In the light of discussion in the preceding para and absence of any material to show notifying of date of determination of compensation by the

competent authority to the claimants in my opinion the date on which either the amount is paid to the claimants or the date on which the notice under Section 3E is served on the claimant/land loser could be considered as the date on which cause of action arises and hence, a point to reckon running of limitation. Of these two instances which is the first one could be the starting point for limitation. Coming to the case on hand as per the records the notice under Section 3E, which also has with it Section 3H(2), is dated 12.07.2017. The date on which it is served on the party is not available on record. Even if this date i.e., 12.07.2017 is considered as the date on which cause of action arises the last date of limitation would be 13.07.2021. As rightly submitted by the learned counsel for the petitioner as there was COVID-19 pandemic at that time and in view of decision of Hon'ble Apex Court in case of In Re cognizance for extension of limitation the limitation available for petitioner would be 90 days from 01.03.2022. The petitioner has filed the application under Section 3G(5) before the Arbitrator on 12.07.2021. Hence, the said application was well within limitation. Therefore, the computation of limitation by the Arbitrator is not as per law and hence, a patent illegality calling for interference under Section 34 of A & C Act, 1996.

16. It would be not out of context to observe that it would be proper on the part of Arbitrator to decide the applications under Section 3G(5) on merits as well as on the point of limitation. This is for the reason that if the Arbitrator had decided the present application on merits then there was scope for severing

the unsustainable part of award regarding limitation and could have decided the award within the ambit of other permissible grounds urged within the scope of Section 34 of A & C Act. Failure to do so results in duplication of work by the Arbitrator as consequential to setting aside of the impugned award by this order he would be required to recommence the arbitration process upon the application which is already filed and held to be within limitation by this Court.

17. With these observations and in the light of reasoning supra I answering the aforesaid point in the negative proceed to pass the following;

ORDER

The petition is allowed and the award of respondent No.1 in Arbitration Proceeding No.ARB/BCE/BPT/96/2021-22, dated 30.08.2025 is hereby set aside.

The Arbitrator shall decide the application under Section 3G(5) of NH Act filed by the land losers/claimants on merits.

No order as to cost.

(Dictated to the Stenographer directly on the computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the **12TH DAY OF JUNE 2026**)

(V.M. ANANDASHETTI)
PRL. DISTRICT & SESSIONS JUDGE, KOLAR.