

PRESENT : **Smt.Shilpa K.S,**
B.A.L, LLM,
VI Addl. District and Sessions Judge,
Tumakuru

Com.A.P.06/2025

Dated this the 12th day of June 2026

Petitioner : D. Narasamma, W/o B N Mayanna,
A/a 63 years, R/at Kotipura,
Kasaba Hobli, Kunigal Taluk,
Tumakuru District.

(By Sri. M.M., Advocate)

V/s

Respondents :

1. Arbitrator (NH-48) and Deputy Commissioner, Tumakuru District, Tumakuru.
2. Project Director, (Project Implement Unit) NHA1, Behind Siddivinayaka Temple, Indiranagara, Sathyamangala Extension, Hassan.
3. Special Land Acquisition Officer and Competent Authority, NH 48, (Nelamangala-Hassan Section), B.M. Road,



Kunigal, Tumakuru District.

(R1 -Exparte, R2 & 3 by Sri. M.K.N, Advocate)

J U D G M E N T

The petitioner has filed this petition U/sec.34 of Arbitration and Conciliation Act R/w section 3G(6) of National Highways Act seeking for enhancing the compensation amount aggrieved by the order 13.11.2024 passed by the respondent No.1 in LAQ/ARB/75/CR/03/2020.

2. The averments of the petition is as under:

The certified copy was delivered on 12/11/2024, hence the petition is in time from the date of order as contemplated U/s 34(3) of the Arbitration and Conciliation Act 1996. That the Special Land Acquisition Officer and Competent Authority, Nelamangala-Hassan road (NH-48), Kunigal on the request made by the 2nd respondent had acquired the land bearing Sy.No.36/2 of Kotipura village to an extent of 3092 square meter (0.30) guntas of garden land owned by the petitioner for the purpose of widening of



Nelamangala-Hassan (NH-48) from 28 to 110 k.m. The respondent No.3 had passed an award dated 17/06/2009 in case No.SLAO & CANH 48/38/2006-07. At the time of acquiring the garden land by the 3rd respondent in the area acquired by them, there was an irrigation pipeline of 500 mts, tube well with IP set, 46 fruit yielding coconut trees aged 15 years, 30 fruit yielding mango trees aged 12 years, 70 fruit yielding coconut trees aged 15 years, 30 fruit yielding mango trees aged 5 years and 70 teak trees aged about 10 years which was recorded by the 3rd respondent in award takthe. But 3rd respondent failed to consider the notification for fixation of loss of market value pertaining to the trees as per the notification issued by the Horticulture department during the year 2008 and failed to pass an award in respect of the fruit bearing trees along with other malkies as per the prevailing market value as on the date of acquisition. The respondent No.1 had not taken into consideration of the said fact in the impugned award. Hence there is miscarriage of justice in not properly



considering the market value of the land and also the market value of the above stated malkies situated on the acquired land together with Borewell, IP set and Pipeline of 500 mtrs. The petitioner challenging the award passed by the 3rd respondent had filed a petition U/s 3(G)(5) of the National Highways Act, seeking enhancement of the compensation in respect of the land and other malkies situated upon the land and to pass an award as per the market value prevailed on the date of acquisition in respect of the land and also the fruit bearing trees situated upon the acquired area of the land. The acquired property situated near Kunigal Town at the distance of 2.80 km and the market value of the property was on higher side which was not taken into consideration by the SLAO while passing the impugned award. While assessing the market value of the property, the petitioner had produced the registered sale deed dated 27/09/2007 wherein the market value of the land was sold at the rate of Rs.22,220/- per gunta, which was not taken into consideration as market value as



on the date of notification by the respondents No.1 and 3 while passing award by the 3rd respondent. The petitioner preferred an appeal in Arb.C.No.21/2018 and it had set-aside the order of the 1st respondent as per order dt.30.11.2019. After setting aside the order passed the 1st respondent the petitioner had filed further petition before the 1st respondent as contemplated U/sec.3(G) (5) of NHA I Act, 1956, seeking enhancement of compensation in the light of the findings recorded by the Court in the case No.LAQ/ARB/CR/03/2020 by producing documents before the 1st respondent and claimed total market value of the property and the malkies and to award sum of Rs.88,95,000/- by deducting the compensation already paid with interest at the rate of 12% per annum. That neither the 3rd respondent nor the 1st respondent have taken into consideration of the notification issued by the Horticultural department, Government of Karnataka for assessing the loss of market value of fruit bearing trees issued in the year 2008 as the acquisition had been made during the year 2009. That



as contemplated under section 3(G)(7) the competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5) shall take into consideration of the market value of the land as on the date of notification, the damage sustained to the person who had interest upon the land while taking possession of the land which is injuriously affecting his other immovable property or his earnings of which had not been taken into consideration by the SLAO and Arbitrator. That as contemplated under sec.3(G)(2), it is very clear that where the right of user or any right in the nature of an easement on any land is acquired under the National Highways Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in the land acquired has been affected in any manner, whatsoever by reason of such acquisition an amount calculated at 10% of the amount determined under sub-section (1) for that land shall be paid to the owner of the land of which had been ignored by the SLAO and also by the 1st respondent, while passing the



award in respect of the land of the petitioner. Hence, there is miscarriage of justice. The petitioner has produced certified copy of the registered Sale deed dt.27.09.2007 to substantiate the claim that the market value of the land was Rs.22,220/- per gunta as on the date of acquiring though the document was produced in the initial stage itself during the case No.LAQ/ARB/CR/07(4)/2016-17 itself, the 1st respondent had failed to appreciate the same and also the Government notification issued by the horticultural department for assessing the market value of the fruit bearing tree situated on the property owned by the petitioner. The 1st respondent failed to appreciate the real market value as on the date of acquisition and pass an award by enhancing the compensation amount and without recording any reasons had confirmed the award passed by the 3rd respondent which is against principles of law and also against records placed before it. Hence the same is liable to be set-aside. The 1st respondent failed to exercise right of awarding enhanced compensation to enhance



4 times the amount awarded by the SLAO, but failed to do the same while passing the impugned order. The then Arbitrator/Deputy Commissioner, Hassan, while considering the Arbitration case pertaining to the Hassan District in the same NH-48 has passed an order to enhance the award 4 times of the market value assessed by the SLAO of which the amount had been paid to the land owners by the 3rd respondent in case No.LAQ/ARB/NH-48/CR/46/2010-11 dt.10/05/2013. The same has not been taken into consideration by the 1st respondent while passing the impugned order, hence the impugned order is not in accordance with law. That while assessing the market value of the land and trees, tubewell with IP set and 500 mtrs pipeline, the respondents No.1 and 3 have not taken into consideration of the prevailed market value of the landed property as well as the fruit bearing trees with malkies, thereby failed to award the proper compensation towards market value of the same, thereby caused loss and damage to the petitioner. Hence this petition before this



court to determine and fix the proper market value of the landed property as well as the fruit bearing trees and other malkies on the following grounds :-

a. The 1st respondent had not given fair opportunity to present the case and opportunity of being heard was also not given by the 1st respondent to the petitioner prior to passing the impugned award. Hence the impugned arbitration award is not in accordance with law.

b. The 1st respondent had failed to consider the reasons given by the petitioner seeking enhancement of the compensation and also not looked into the records placed by the petitioner before the 1st respondent and come to a wrong conclusion that the petitioner had filed the application for enhancement of compensation without producing any records though the records were placed before the 1st respondent. Hence there is a miscarriage of justice in passing the impugned order/award.



c. That while passing the award by the competent authority as well as by the arbitrator/Deputy Commissioner, have not taken into consideration of sec.3(G)(7) of the National Highways Act 1956 as well Right to Fair Compensation and Transparency in Land Acquisitions, Rehabilitation And Re-Settlement Act 2013, which came into force on 01.01.2014 and thereby failed to determine the correct market value of the land and malkies on the date of publication and failed to assess the damage caused to the petitioner while taking possession of the land acquired.

d. That while passing the award by the competent authority as well as the Arbitrator/Deputy Commissioner, have not taken into consideration of the registered sale deeds pertaining to the market value of the land, while determining the market value as on the date of notification and failed to award the proper market value of the land and fruit bearing trees pertaining to the land of the petitioner. Hence there is a miscarriage of justice in awarding compensation by the respondents No.1 and 3, thereby they erred



in awarding proper compensation to the petitioner in respect of the acquired land.

e. The impugned award passed by Arbitrator/Deputy Commissioner, as well as the award passed by the competent authority under the National Highways Act is otherwise opposed to law facts and probabilities of the case.

3. After service of notice, the respondent No.1 did not appeared before this court and hence they were placed absent. However the respondents No.2 and 3 have appeared before this court through their counsel and filed objections.

4. The averments of the objections of the respondents No.2 and 3 are as under :-

That this petition filed by the petitioner is barred under Section 34 (3) of the A & C Act and is liable to be dismissed in limine. The petitioner has not made out any grounds for challenging the Arbitral Award as contemplated under Section 34 (2) of the A & C Act. That enhancement of the compensation



amount is not a ground for challenging the Arbitral Award. It is well settled that the Arbitral Award can be challenged only on the grounds which are enumerated under Section 34 (2) of the A & C Act. Except to the matters which are specifically admitted, all other contention taken in the Petition are denied by these respondents. That the present Commercial Arbitration Petition pertains to Land Acquisition and same is not commercial dispute in view of Section Definitions under section 2(1) (c) (i) to (xxii) of the Commercial Courts Act, 2015. That the claim Application under Section 3G(5) of National Highways Act, R/w Section 23 of the Arbitration and Conciliation Act is not filed within the outer limit of 7 years from the date of Award by Special Land Acquisition Officer & Competent Authority, Nelamangala - Hassan Section, NH-75 old NH-48) NHAI. The limitation has commenced from 16-03-2009, as on the date of the award No.LAQNH:48:CA:CR38/2006. The application for enhancement of compensation has been filed after the lapse 7 years from the date of the award dt.16-03-2009. Hence, the



application filed is beyond the period of Limitation. The petitioner having accepted the compensation as determined by the SLAO without any objection, cannot again be permitted file fresh petition and claim for enhancement after lapse of three years. Hence, same is barred under Article 137 of the Limitation Act. That as per the provisions of the National Highways Act, the compensation amount has to be determined as on the date of issuance of preliminary notification under Section 3A(1) of the National Highways Act. The compensation amount was determined by the respondent No.1 in accordance with law and the claim petition filed by the land owner on 13-07-2018 in LAQ/ARB/CR/07(4)/2016-17. That in so far as the limitation is concerned, this respondent draw the attention of this court to the Judgment of Hon'ble High Court of Karnataka in W.A. No.31066/2012 & 31094-96/2012 (GM-RES). In the said Judgment the Hon'ble High Court held that in any case for enhancement of compensation will be time barred if the same is filed beyond the



period of three years. The same view has taken by Hon'ble High Court of Kerala in W.A. No.226/15 dated 30-03-2015. The National Highways Authority of India was constituted by an Act of Parliament, "The National Highway Authority of India Act". The respondent No.2 is responsible for Development, Maintenance and Management of National Highway entrusted to it and for matters connected or incidental thereto, as per the provision of the National Highways Act (As Amended) 1997. The respondent No.2 carries out its functions through various Project implementation units and in the instant matter is represented by Project implementation unit, Hassan. The respondent No.2 was entrusted with the up-gradation and widening, National Highway-75 (48) falling within the stretch of land from 28 to 191 k.m (Nelamangala Hassan Section) in Tumkuru & other Districts. The respondent No.3 the Special Land Acquisition Officer, NHAI, NH-75 (old NH-48), Nelamangala Hassan Section, NHAI, Kunigal appointed by the Central Government under Section 3 (a) of the



National Highways Act, ("NH Act") for the purpose of acquisition of land and matters incidental thereto for the aforesaid project to perform the such functions as a Competent Authority. The Central Government had issued the Preliminary Notification vide No.S.O.840(E) dt.01-06-2006 as Competent Authority for Land Acquisition. Subsequently, published in the Gazette of India vide S.O.503(E) dt.14-03-2008, under section 3-A(1) of NH Act declaring its intent to acquire lands covered under various survey numbers including agricultural & non agricultural lands in the Kotipura village. That the final declaration/Notification as per section 3D(1) was published in the Gazette of India vide No. S.O.2711(E) dt.21-11-2008 and the same was published in 2 Newspapers "Kannada Prabha" & "Times of India" on 16-01-2009. Subsequent thereto, the respondent No.3 conducted award enquiry under Section 3G(3) & (4) of the NH Act and after hearing the parties concerned as per award dt.16-03-2009 notices were issued to all the land losers/interested persons on 02-02-2009 and enquiry was held as



per law, during which sufficient opportunity was given to the land losers to make their submission and to submit any documentary evidence in support of their claim for higher compensation. That the respondent No.3 had acquired the dry land measuring 3092 Sq.Mtrs, in Sy.No.36/2 of Kotipura Village by awarding compensation of Rs.4,75,376/-. The said compensation amount is already paid to petitioner & the same is acknowledged by the petitioner vide payment voucher dt.27-06-2009 & compensation in proportion was paid accordingly, which are not subject matter in this petition. The respondent No.3 passed an Award bearing No.LAQNH:48:CA:CR38/2006-07 dt.16-03-2009 in respect of above acquired land in Kotipura village. The petitioner not being satisfied by the compensation awarded by the respondent No.3 in respect of the acquired land, preferred an claim under Section 3G(5) of the NH Act for enhancement of compensation before the Arbitrator & Deputy Commissioner at Tumakuru District. The said case was registered as proceedings bearing LAQNH:48:CA:CR38/2006-07.



The Arbitrator after hearing the land owners and respondents, rightly dismissed the claim Application & passed an Arbitral Award dt.13-11-2024. That being aggrieved by the Arbitral Award dt.13-11-2024 passed by the respondent No.1, the petitioner had preferred the present petition. The respondent No.3 has determined the compensation amount payable to the petitioner in respect of the acquired land under the aforesaid award dt.16-03-2009 by taking into consideration of the parameters prescribed under the provisions of section 3G(7) of National Highways Act. That in absence of any other reliable method to arrive at the market value, CALA has relied on the sales statistics and guidance value provided by concerned Sub-Registrar, as on the date of 3A Notification i.e., 14-03-2008 as applicable to Kotipura village & award dt.16-03-2009 passed by CALA is in consonance with the provisions of Section 3G (7) of National Highways Act. That with regard to claiming higher compensation in the matters of land acquisition the onus probandi is on the claimant to prove the



market value of the lands as on the date of publication of preliminary Notification dt.14-03-2008. As such the present petition is liable to be dismissed. The respondent No.3 has acquired only a small portion of lands in Kotipura village and major portion is in the possession of the petitioner. The CALA has acquired land for the public purpose of widening of NH-75 (48) passing through Kotipura village. The CALA has acquired the lands under National Highway Act and determined the compensation in consonance with National Highway Act. The CALA has passed considered order after duly appreciating the law and facts of the case. The CALA is empowered compensation only under section 3G(7) of the National Highway Act and CALA has duly considered all criteria laid down in the said provision. That any other provision or act dealing with determination of compensation would not apply to the acquisition of land under National Highway Act. The respondent No.3 has determined the compensation amount taking into consideration of the relevant factors as contemplated



under NH Act & the respondent No.1 rightly dismissed the claim petition. Thus, looking from any angle the petitioner is absolutely failed to prove the market value of the acquired land more than what is determined by respondent No.3. Therefore, there is no Justification in the grounds urged by the petitioner challenging the Arbitral award dt.13-11-2024. Without prejudice to the above, these respondents reply to the rest of the averments in the petition as under :-

a. That the compensation awarded for trees/structure are based on the valuations carried out by the approved valuers of PWDSSR Government of Karnataka. While valuing the trees/structure the approved valuers have taken into account the age of the trees/structure, quality of its construction etc., for estimating the compensation amount. The compensation cannot be awarded either based on the present cost of construction or private valuations.



b. That the petitioner is claiming that the compensation awarded is too low and not in tune with the market value is denied. That in absence of any other reliable method for arriving at the market value CALA has relied on the sales statistics/guidance value as provided by Sub-Registrar, as on the date of 3A Notification i.e., 14-03-2008.

c. The petitioner is claiming under not conducting proper enquiry by the respondent No.1. The respondent No.1 given sufficient opportunity to the land losers to make their submission and to submit any documentary evidence in support of their claim for higher compensation.

d. That the petitioner is claiming higher compensation as per Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (shortly RFCTLARR Act), since the award of CALA was passed on 16-03-2009 i.e., before passing of the RFCTLARR Act by Parliament. The



compensation for the earlier acquisition cannot be determined as per the RFCTLARR Act.

e. The petitioner is claiming higher compensation but the respondent No.3 followed the provisions of Section 3 G (7) (a) of the NH Act. That the market value has to be determined, as per the provisions of Section 3 G (7) (a) of the NH Act, as on the date of notification issued under section 3 A (1) of the NH Act. Accordingly, the respondent No.3 obtained the details of sales statistics from the Office of Sub-Registrar, Kunigal Taluk in respect of Dry, Garden and Converted land. Further, the respondent No.3 has also considered the CVC guidelines (Guidance Value) with respect to market value as of the date of notification issued under Section 3 A (1) of the NH Act. After detailed analysis, the respondent No.3 has adopted guidance value to determine the market value of dry land since market rate of the dry land is much lesser as per the sales transactions during the relevant period i.e three years preceding the date of 3-A Notification dt.14-03-2008. Upon



detailed consideration the respondent No.3 fixed the market value as per Law.

f. That as per well settled law section 34(2) of the A & C Act cannot be invoked for enhancement of the compensation amount. The arbitral award can be challenged only on the grounds provided under Section 34 (2) & (2A) of the A & C Act and not otherwise.

g. That Hon'ble High Court of Karnataka in its decision reported in ILR 2010 KAR 3811 in the case of H.M.Shankarmurthy V/s National Highway Authority of India held that a provision for setting aside an award contending that the award is not sustainable in law on any one of the grounds as indicated above can never be construed as a provision enabling the land owner for seeking enhancement of the compensation amount as determined by the respondent No.1.

h. The Arbitral 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 A & C Act. Changes were aimed at restricting courts from interfering with the arbitral award except 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".

I. The explanation makes it clear that in no way court be entitled to review the award on merits of the dispute nor re-appraise the evidence unless petitioner able to establish grounds enumerated under the provision of law. The petitioner never pleaded as to how the award is against the provisions of section 34(2) (2-A) of A & C Act nor made out any established grounds to assail the award. The Arbitral Award dt.13-11-2024 not suffers from patent illegality or against public policy.

j. The averments made in the petition are without any basis, made for the sole purpose of getting unlawful gain. Thus, viewed



from any angle, the above petition is meritless and not maintainable and deserves to be dismissed.

5. That in order to prove the case the petitioner has got examined herself as PW.1 and got marked 14 documents as per Ex.P.1 to 14 and closed her side.

By way of rebuttal the respondents No.2 and 3 have not adduced any evidence.

6. The records were summoned. Heard both sides. The respondents No.2 and 3 have filed written arguments.

7. The following points have arisen for my consideration:

1. Whether the petition is time barred ?
2. Whether the petitioner has made out grounds as set aside the impugned award No.LAQ/ARB/75/CR/03/2020 dt.13.11.2014 passed by the respondent No.1 in Arbitral proceedings ?
3. What order ?

8. My answer to the above points are as under:

Point No.1 : In negative

Point No.2 : In affirmative

Point No.3 : As per final order for the following:



REASONS

9. Point No.1: The petitioner has filed this petition U/sec.34 of Arbitration and Conciliation Act R/w sec.3G(6) of National Highway Act seeking the relief to call for the records in LAQ/ARB/75/CR/03/2020 and to set aside the award passed by the respondent No.1. The respondents No.2 and 3 have contended that the petition is time barred. According to them the claim Application under Section 3G(5) of National Highways Act, R/w Section 23 of the Arbitration and Conciliation Act is not filed within the outer limit of 7 years from the date of Award by Special Land Acquisition Officer & Competent Authority, Nelamangala-Hassan Section, NH-75 old NH-48) NHA. The limitation has commenced from 16-03-2009, as on the date of the award No.LAQNH:48:CA:CR38/2006. The application for enhancement of compensation has been filed after the lapse 7 years from the date of the award dt.16-03-2009. Hence, the application filed is beyond the period of Limitation.



10. Further it is contended that as the petitioner having accepted the compensation as determined by the SLAO without any objection, cannot again be permitted file fresh petition and claim for enhancement after lapse of three years. Hence, same is barred under Article 137 of the Limitation Act. The impugned order passed by the respondent No.1 same were sent for obtaining legal opinion, after receipt of the opinion it is observed that the impugned award passed was erroneous which requires to be challenged. After obtaining the legal opinion, it was decided to challenge the impugned order by filing the petition. The petitioner has contended that if there is delay in filing the arbitration petition may be condoned or else he will be put to irreparable financial loss and injury which cannot be compensated in terms of money. If the application is allowed no hardship will be caused to the other side.

11. That as sec.34(3) of A & C Act the arbitral award has to be challenged within three months from the date on which the party



making the application had received the arbitral award or if a request had been made U/sec.33, from the date on which the request had been disposed off by the arbitral tribunal. In the case on hand, admittedly the award had been passed on 13.11.2024. Under section 34 of Arbitration & Conciliation Act the petition is to be filed within 03 months from the date of receipt of award. On perusal of the check slip of the petition reveals that the petitioner has filed this petition on 06.01.2025 which is registered on 24.01.2025. Hence, the petition filed by the petitioner is within time. Hence I answered the **point No.1 in negative.**

12. **Point No.2** : Further the petitioner has filed this petition seeking setting aside of the arbitral award and to enhance the award amount. The arbitral award may be set aside by the court only on the grounds set out in Sec.34(2) of A & C Act. Therefore, it is necessary to extract Sec.34 of A & C Act which reads as under;

(A) Sec.34 Application for setting aside arbitral awards.

1)....



2) “An arbitral award may be set aside by the Court only if”

(a) the party making the application furnishes proof that-

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of appointment of an arbitrator or of Arbitral proceedings or otherwise unable to present his case;

(iv) the Arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the Arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or



(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

Explanation 1. *For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,-*

a) the making of the award was induced or affected by fraud or corruption or was in violation of Sec.75 or Sec 81; or

b) it is in contravention with the fundamental policy of India law; or

c) it is in conflict with the most basic notions of morality or justice.

Explanation 2. *For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of India law shall not entail a review on the merits of the dispute.*



2(A) An arbitral award arising out of arbitrations other than international commercial arbitrations may also be set aside by the court, if the court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the grounds of an erroneous application of the law or by re-appreciation of evidence.

13. Further the Hon'ble High Court of Karnataka in the case of **Union of India V/s M/s Warsaw Engineers and others in Com.A.P.No.25/21 decided on 17.04.2021** had an occasion to deal with the ambit and scope of Sec.34 of A & C Act by referring to the decisions of the Hon'ble Supreme Court as ***"We have given careful consideration to the submissions. As far as the scope of interference in a petition under Section 34 of the said Act of 1996 is concerned, the law is well settled. As far as the approach and scope of interference is concerned, we may make a reference to the decision of the Apex Court in the case of DYNA TECHNOLOGIES***

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1- in paragraphs 24 and 25, the Apex Court held thus ' There is no dispute that Section 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. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 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 Court 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".



14. In several decisions it is observed 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 Section 34 of the Arbitration Act. The court should not interfere 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. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 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.”***

15. The petitioner in order to prove the case has got examined herself as PW.1 by reiterating all the averments of the



petition in her affidavit. It is pertinent to note that the respondents No.2 and 3 submit no cross examination. Thereby the oral evidence of the PW.1 has remained intact and unimpeached.

16. Further the PW.1 has got marked the orders of the D.C, copy of notice, judgment and decree in A.S.No.21/2018, copy of award, copy of notification, copy of sale deed dt.27.09.2007 as per Ex.P.1 to 14. So on perusal of these documents it is noticed that the respondents have passed the award which is not under dispute. But the petitioner has contended that the respondents while passing the award by the competent authority as well as by the arbitrator/Deputy Commissioner, have not taken into consideration of sec.3(G)(7) of the National Highways Act 1956 as well Right to Fair Compensation and Transparency in Land Acquisitions, Rehabilitation And Re-Settlement Act 2013, which came into force on 01.01.2014 and thereby failed to determine the correct market value of the land and malkies on the date of



publication and failed to assess the damage caused to the petitioner while taking possession of the land acquired.

17. Further it is contended by the petitioner that while passing the award by the competent authority as well as the Arbitrator/Deputy Commissioner, have not taken into consideration of the registered sale deeds marked as Ex.P.8 pertaining to the market value of the land, while determining the market value as on the date of notification and failed to award the proper market value of the land and fruit bearing trees pertaining to the land of the petitioner. Hence there is a miscarriage of justice in awarding compensation by the respondents No.1 and 3, thereby they erred in awarding proper compensation to the petitioner in respect of the acquired land.

18. So on perusal of the said award as rightly contended by the petitioner it is not in accordance and not passed the award with the prevailing market value. The respondent no.1 has not



looked into the documents produced before them and straight away rejected the petition. So it needs to be set aside.

19. The next question arises as to whether the compensation can be enhanced if the arbitral award is set aside. That as per law if the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration it can be set aside. In the present case the matter cannot be remanded back to the arbitrator as they remains functus officio. In the present case the petitioner has contended that the respondents No.1 and 3 have grossly erred in not following the procedures and the provisions of the N.H.Act U/Sec.3G(7)(A), the substantive law while passing the impugned award which is contrary to the provisions of Sec.28 of A & C Act and accordingly the impugned Arbitral Award is not maintainable either in law or on facts and the same is required to be set aside by this court. The respondents No.1 and 3 have utterly



failed to follow the mandatory procedure prescribed U/Sec.A & C Act, thereby the impugned arbitral award is not maintainable and sustainable either in law or on facts. The respondents No.1 and 3 have not assigned or discussed in its order nor assigned any reasons for re-determining compensation which is against the law and procedure as contemplated under the Act. The respondents have not even examined the pleadings of the parties and the subject land which was acquired.

20. Per contra the respondents contended that they have relied upon subsequent guidelines and the average of the sale statistics and the guidance value they have determined the market value which was in accordance with Sec.3G(7)(A) of N.H.Act. Hence, the compensation fixed by them is proper and in accordance with law. It is true that the petitioner has produced the documents which were produced before the respondent No.1 but they have not looked into those documents and formally came to the conclusion that no documents were produced by the present



petitioner. Even the respondents have contended that the subject land or the acquired land belonging to petitioner is not having potentiality and was not developed land and therefore the petitioner is not entitled for any further enhancement.

21. That I have perused the arbitral records furnished by the petitioner. Admittedly, the respondent No.1 has passed the award on 13.11.2024 by dismissing the petitioner and the respondent No.3 had passed the award which is not in accordance with law. So the determination of compensation to the present petitioner with regard to the acquisition of the land for the development, maintenance, management upgradation of N.H road is not proper. Being aggrieved by the said award the petitioner has filed application before the respondent No.1 who had dismissed the application.

22. Further the petitioner is seeking to set aside the impugned arbitral award is that the enhancement of compensation made by the respondent No.1 is in violation of



Sec.3G(7)(a) of N.H.Act. According to the petitioner, the respondents No.1 and 3 have not at all considered the market value of the property acquired prevailing on the date of notification and the registered sale deeds and the award passed by the respondent No.1 enhancing the compensation was without any basis and documents and as such it is against the statutory provisions of law.

23. As could be seen from the impugned award, respondent No.1 has not enhanced the compensation based upon the registered sale deeds. As per Sec.3G(7)(a) of N.H.Act the arbitrator while determining the amount under sub section (5) of the said Act, he shall take into consideration the market value of the land on the date of publication of the notification U/sec.3A of N.H.Act. The impugned arbitral award does not disclose that the respondent No.1 has considered the documents showing the market value of the land as on the date of notification issued U/sec.3A of N.H.Act which was more than the value fixed by the



respondent No.3 while determining the compensation. It appears that the impugned arbitral award has been passed on the basis of assumption and presumption without basis of any documents. The respondent No.1 has not even looked into the documents produced before them showing the market value of the land for the purpose of enhancing the compensation amount. The award passed by the respondent No.3 enhancing the compensation amount in favour of petitioner is against the provision of section 3G(7) (a) of N.H.Act. Therefore, the impugned arbitral award is not sustainable in law and the same is required to be set aside.

24. So now the next question is that whether this court can enhance the compensation as claimed by the petitioner when the arbitral award is set aside. As per settled principle of law the respondent No.1 has become functus officio and if the case is remanded to them no purpose will be served. Admittedly the respondent No.3 had already passed an award. The petitioner in support of her case has relied upon decision reported in :



a. **Spl(c).No.10338/2023 - Bernard Francis Joseph V/s**

Government of Karnataka – It is observed that the market value of the acquired lands has to be taken as on the date of preliminary notification.

b. **Civil Appeal.No.4671/2022 - National Highway**

Authority of India V/s P.Nagaraju @ Cheluvaiah – It is observed that the claimants would be entitled to higher amount that what was awarded by Spl.LAO based upon the guideline and sale deeds.

25. So relying upon the above preposition and looking into the nature of the present petition I am of opinion to redetermine the compensation. Admittedly the respondents have acquired Sy.No.36/2 measuring 3092 sq.mtrs (0.30 guntas) situated at Kotipura village but has not awarded the proper compensation. Hence under these circumstances it is just and proper to award Rs.14,000/- per gunta for acquired lands bearing Sy.No.36/2 measuring 3092 sq.mtrs (0.30 guntas) situated at Kotipura village.



26. Further it is noticed that the respondents have not awarded compensation to the trees situated in the acquired land. Hence the petitioner is also entitled for total Rs.23,20,000/- enhanced compensation towards value of 116 coconut trees at the rate of Rs.20,000/- per coconut tree, Rs.9,00,000/- enhanced compensation towards value of 60 mango trees at the rate of Rs.15,000/- per mango tree, Rs.7,00,000/- enhanced compensation towards value of 70 teak trees at the rate of Rs.10,000/- per teak tree situated at Kotipura village, Kasaba Hobli, Kunigal Taluk by deducting the earlier payment if made with all benefits and interest to the enhanced amount. Even the petitioner is entitled for an interest at the rate of 09% p.a for the year in which the acquisition is done and further years at the rate of 15% p.a. The petitioner is also entitled for all the benefits U/s 23 of the Land acquisition Act. Hence I answered the point No.2 in **affirmative**.

27. **Point No.3:** For the reasons stated and discussed as above, I proceed to pass the following:

**ORDER**

The petition filed by the petitioner U/sec.34(2)(a), (i), (ii), (iii), 34(b)(ii) of Arbitration & Conciliation Act R/W sec.3G(6) of N.H.Act is hereby allowed.

The Arbitrary award dated 13.11.2024 passed by the respondent No.1 in Arbitral Proceedings No.LAQ/ARB/75/CR/03/2020 is hereby set aside and modified by enhancing the compensation in respect of acquired land.

Consequently it is ordered that the petitioner is entitled for compensation at the rate of Rs.14,000/- per gunta for acquired lands bearing Sy.No.36/2 measuring 3092 sq.mtrs (0.30 guntas) situated at Kotipura village, Kasaba Hobli, Kunigal Taluk.

The petitioner is also entitled for total Rs.23,20,000/- enhanced compensation towards value of 116 coconut trees at the rate of Rs.20,000/- per coconut tree, Rs.9,00,000/- enhanced compensation towards value of 60 mango trees at the rate of Rs.15,000/- per mango tree, Rs.7,00,000/- enhanced compensation towards value of 70 teak trees at the rate of Rs.10,000/- per teak tree situated at Kotipura village, Kasaba Hobli,



Kunigal Taluk by deducting the earlier payment if made with all benefits and interest to the enhanced amount.

The petitioner is entitled for an interest at the rate of 09% p.a for the year in which the acquisition is done and further years at the rate of 15% p.a.

The petitioner is also entitled for all the benefits U/s 23 of the Land acquisition Act.

The petitioner is directed to pay necessary court fees, if not sufficiently paid.

Parties to bear their own costs.

Draw award accordingly.

Transmit the trial court records along with the copy of this judgment forthwith.

(Dictated directly to the Stenographer Grade-1, got typed by her, printout taken by her, corrected, signed and then pronounced in open court on this the 12th day of June, 2026)

(SHILPA. K.S)

VI Addl. Dist & Sessions Judge,
Tumakuru.

**ANNEXURE****List of witnesses examined for the appellants:**

P.W.1 - Narasamma

List of documents marked on behalf of the appellants:

- Ex.P.1 - Copy of order of DC
- Ex.P.2 - Copy of notice
- Ex.P.3 - Copy of order and decree in AS No.21/2018
- Ex.P.4 - Copy of order in ARB/CR/10/2008-09
- Ex.P.5 - Copy of order sheet in ARB/CR/3/2020
- Ex.P.6 - Copy of order sheet in
LAQ.ARB/CR/7/2016-17
- Ex.P.7 - Award statement
- Ex.P.8 - Digital copy of sale deed dated 27.09.2007
- Ex.P.9 - Copy of notification
- Ex.P.10 - Letter dated 24.1.2025
- Ex.P.11 - Copy of proceedings
- Ex.P.12 - Award statement
- Ex.P.13 - Gazette notification
- Ex.P.14 - Notification

List of witnesses examined for the respondents:

-Nil-

List of documents marked on behalf of the respondents:

-Nil-

**VI Addl.District & Sessions Judge
Tumakuru.**

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