

Dated this the 12th day of June 2026

Com.A.P.05/2025

(By Sri. M.M., Advocate)

V/s

(R1 -Exparte, R2 & 3 by Sri. T.R.A, 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/05/2020.

2. The averments of the petition is as under:

That the Special Land Acquisition Officer and Competent Authority, Nelamangala-Hassan road (NH-48), Kunigal the respondent No.3, on the request made by the 2nd respondent had acquired land bearing Sy.No.36/3 & 36/4 measuring 410 sq.mt (0.4 guntas) and 307 sq.mt (0.3 guntas) respectively of Kotipura village, Kasaba hobli, Kunigal Taluk, Tumakuru District, 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 dt. 17/06/2009 in No.SLAO & CANH 48/38/2006-07. At the time of acquiring the land by the



3rd respondent in the area acquired by them, there were 25 coconut trees aged 12 years, 17 fruit yielding mango trees aged 10 years, 2 tamarind trees aged 20 years, 10 teak trees aged 12 years, 2 jack fruit trees, 2 neem trees, 22 mango trees aged 5 years, 1 guava tree and also one tubewell which was recorded by the 3rd respondent in award takthe. The 3rd respondent failed to consider the notification for fixation of loss of market value pertaining to the trees issued by the Horticulture department during the year 2008 and for the purpose of agriculture by the petitioner and to pass an award in respect of the fruit bearing trees as stated above which was also not considered by the 1st respondent who is an arbitrator against the award passed by the 3rd respondent. Both the 3rd and 1st respondent failed to take the market value of the land and other malkies, situated upon the said lands and to award prevailed market value of the property under acquisition as on the date of notification. 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 lands and other malkies situated upon the lands and to pass an award as per the market value prevailed on the date of acquisition in respect of the lands and also the fruit bearing trees situated upon the acquired area of the lands but the 1st respondent failed to appreciate the documents and also contention raised in the arbitration petition placed before the 1st respondent and came to wrong conclusion in rejecting the award enhancement. The acquired properties are situated near to Kunigal Town at the distance of 2.80 km and also it is very near to the industrial area acquired by the KIADB, Bengaluru and the market value of the properties was on higher side, which was not taken into consideration by the SLAO Arbitrator/Deputy Commissioner, Tumakuru, while passing the impugned award/order. That while assessing the market value of the properties, the petitioner had produced the registered sale deed dt.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 1st and 3rd respondents and passed an award by the 3rd respondent and subsequently by the 1st respondent respectively pertaining to the market value of the landed properties. 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. Hence there is miscarriage of justice in not assessing and awarding the correct market value of the properties acquired. 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 as well as the



Arbitrator/Deputy Commissioner, Tumakuru. 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, while passing the award in respect of the lands of the petitioner. That the 1st respondent failed to exercise his 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 2nd 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. That while assessing the market value of the lands and trees situated thereon together with one tubewell, the 3rd respondent and the 1st respondent have not taken into consideration of the prevailed market value of the landed properties as well as the fruit bearing trees and other accessories, thereby failed to award the proper compensation towards market value of the properties, thereby caused loss and damage to the petitioner. The following grounds to set aside the award as under :-

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 came to 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 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 as 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 lands and malkies on the date of publication and failed to assess the damage caused to the petitioner while taking possession of the lands 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 lands, 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 lands and malkies of the petitioner. Hence there is miscarriage of justice in awarding compensation by the 1st respondent as well as the 3rd respondent, thereby they erred in awarding proper compensation to the petitioner in respect of the acquired lands and malkies together with tubewell.

e. The award passed by the 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 but not filed objections.

4. That in order to prove the case the petitioner has got examined himself as PW.1 and got marked 12 documents as per Ex.P.1 to 12 and closed his side.

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

5. The records were summoned. Heard the counsel for petitioner. That the respondents No.2 and 3 inspite of giving sufficient opportunity did not argued and hence their arguments is taken as not addressed.

6. The following points have arisen for my consideration:

1. Whether the petitioner has made out grounds as set aside the impugned award No.LAQ/ARB/75/CR/05/2020 dt.13.11.2014 passed by the respondent No.1 in Arbitral proceedings ?

2. What order ?



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

Point No.1 : In affirmative

Point No.2 : As per final order for the following:

REASONS

8. Point No.1: 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.

9. 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 PRIVATE LIMITED V/s CROMPTON GREAVES LIMITED-(2019) 209 SCC 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".

10. 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."

11. The petitioner in order to prove the case has got examined himself as PW.1 by reiterating all the averments of the petition in his 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.

12. Further the PW.1 has got marked the orders of the D.C, copy of notice, judgment and decree in A.S.No.17/2018, copy of



award, copy of notification, copy of sale deed dt.27.09.2007 as per Ex.P.1 to 12. 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.

13. 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.6 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.

14. 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.

15. 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.



16. 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.

17. 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.

18. 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 No1 enhancing the compensation was without any basis and documents and as such it is against the statutory provisions of law.

19. 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.



20. 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.

21. 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 lands bearing Sy.No.36/3 measuring 410 sq.mtrs (0.4 guntas) and land bearing Sy.No.36/4 measuring 307 Sq.mtrs (0.3 guntas) situated at Kotipura village but not awarded proper compensation. Hence under these circumstances it is just and proper to award Rs.14,000/- per gunta for acquired lands.

22. Further it is noticed that the respondents have acquired the land with trees but no proper compensation is paid and hence the petitioner is also entitled for total Rs.5,00,000/- enhanced compensation towards value of 25 coconut trees at the rate of Rs.20,000/- per coconut tree, Rs.5,85,000/- enhanced compensation towards value of 39 mango trees at the rate of Rs.15,000/- per mango tree, Rs.10,000/- enhanced compensation towards value of 02 tamarind trees at the rate of Rs.5,000/- per tamarind tree, Rs.1,00,000/- enhanced compensation towards value of 10 teak trees at the rate of Rs.10,000/- per teak tree, Rs.10,000/- enhanced compensation towards value of 02 jackfruit trees at the rate of Rs.5,000/- per jackfruit tree, Rs.10,000/-



enhanced compensation towards value of 02 neem trees at the rate of Rs.5,000/- per neem tree, Rs.5,000/- enhanced compensation towards value of 01 guava tree at the rate of Rs.5,000/- per guava tree, situated at Kotipura village by deducting the earlier payment if made with all benefits and interest to the enhanced amount. The petitioner is also 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.**

23. **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/05/2020 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.36/3 measuring 410 sq.mtrs (0.4 guntas) and land bearing Sy.No.36/4 measuring 307 Sq.mtrs (0.3 guntas) situated at Kotipura village, Kasaba Hobli, Kunigal Taluk.

The petitioner is also entitled for total Rs.5,00,000/- enhanced compensation towards value of 25 coconut trees at the rate of Rs.20,000/- per coconut tree, Rs.5,85,000/- enhanced compensation towards value of 39 mango trees at the rate of Rs.15,000/- per mango tree, Rs.10,000/- enhanced compensation towards value of 02 tamarind trees at the rate of Rs.5,000/- per tamarind tree, Rs.1,00,000/- enhanced compensation towards value of 10 teak trees at the rate of Rs.10,000/- per teak tree, Rs.10,000/- enhanced compensation towards value of 02 jackfruit trees at the rate of Rs.5,000/- per jackfruit tree, Rs.10,000/- enhanced compensation towards value of 02 neem trees at the rate of Rs.5,000/- per neem tree, Rs.5,000/-



enhanced compensation towards value of 01 guava tree at the rate of Rs.5,000/- per guava 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 - G.R.Ramegowda

List of documents marked on behalf of the appellants:

Ex.P.1 - Copy of order of DC
Ex.P.2 - Copy of application
Ex.P.3 - Copy of order sheet in petition No.5/2020
Ex.P.4 - Copy of order in AS No.17/2018
Ex.P.5 - Copy of award
Ex.P.6 - Copy of sale deed dated 27.09.2007
Ex.P.7 - Copy of gazette notification
Ex.P.8 - Copy of proceedings
Ex.P.9 - Copy of valuation details
Ex.P.10 - Copy of guidelines
Ex.P.11 - Copy of letter dated 24.09.2025
Ex.P.12 - 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.**