

KAVN010003632026



**IN THE COURT OF THE ADDL. DISTRICT & SESSIONS
JUDGE, HOSAPETE, VIJAYANAGARA DISTRICT**

PRESENT: **SRI D. P. KUMARA SWAMY**

B.Com., LL.M.,
Addl. District & Sessions Judge,
Hosapete, Vijayanagara District.

DATED THIS **9th** DAY OF **JUNE, 2026.**

ARBITRATION APPLICATION No.5/2026

(OLD ARBITRATION APPLICATION No.143/2025)

Petitioner: National Highway Authority of India
Project Implementation Unit
Project Director and DGM (Tech) C-10
Srinilaya, 1st Main, 2nd Cross,
Vivekanand Nagar, behind RTO Office
Hosapete - 583201

(By Sri. Sharanabasav Angadi -Advocate)

V/s

- Respondents :**
1. Sri. Indrajeet Kaur Kohli
age: Major, Occ: Agricultural
R/o N C Colony, Hosapete Tq.,
Vijayanagara District.
 2. The Arbitrator for National
Highways Authority of India,

NH-63 and Deputy
Commissioner,
Vijayanagara District,
Hosapete – 583201

3. Special Land Acquisition Officer,
NHAI – Hosapete – Bellary
Karnataka Border Section of
NH-63, 4th Main Road, 5th Cross,
Opp. Gangaparameshwari
Kalyana Mantapa, Vidyanagar,
Ballari

**(By Sri. H.M.Vijayakumar, Adv. for respondent No.1
By learned DGP for respondent No.2
respondent No.3 – absent)**

Date of Institution of Appeal : 16.08.2025

**Total Duration : Year/s Month/s Day/s
- 00 - - 09- -23-**

**(D. P. KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE
HOSAPETE, VIJAYANAGARA DISTRICT.**

JUDGMENT

This is an application filed by the National Highway Authority of India (for short, "**NHAI**") under Section 34 of Arbitration and Conciliation Act, 1996, (for short, "**1996 Act**") read with Section 3G(6) of National Highways Act, 1956, (for short, "**NH Act**") to assail the award passed by the respondent No.2 in LAQ/ARBN/358/2023-24, Ingalagi, DD on 26.03.2025 (for short, "**the impugned award**").

2. Brief facts leading upto the present situation may be summoned up as follows:

2.1. The Government of India has issued Preliminary Notification bearing No.S.O. 348(E), dated 14.02.2011, under Section 3A(1) of NH Act, regarding construction of Four – Lane road (NH – 63) from KM 280 + 080.00 to KM 375 + 450.00.

2.2. Subsequently, Final Notification bearing No. S.O 83(E) dated 19.04.2012 was published.

2.3. 637 square meters of land in Sy.No.226/A3/b2 of Ingalagi village, Hosapete Tq., Vijayanagara District (for short, "**the acquired land**") is acquired for the said purpose.

2.4. The respondent No.3 has fixed market value of the acquired land at Rs.41/- per square meter vide award in SLAO/NHAI/NH-63/3/REDOAWARD/HPT/2020-21, dated 23.12.2020.

2.5. The respondent No.1 challenged the said award (passed by the respondent No.3) before the respondent No.2 by way of Arbitration petition under Section 3G(5) of NH Act read with Section 23 of 1996 Act.

2.6. Vide the impugned award, the respondent No.2 has fixed the market value of the said acquired land at Rs.710/- per sq. meter alongwith consequential statutory benefits on difference market value under Section 30 of

Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.7. A copy of the award is served on the petitioner on 08.04.2025.

2.8. The present petition is filed on 16.08.2005.

2.9. Feeling aggrieved by the impugned award passed by the respondent No.2, the NHAI has filed this application before this Court.

3. The grounds of challenge maybe summarised to the following effect:

3.1. The impugned award is contrary to the provisions of law.

3.2. The impugned award is opposed to public policy of India.

3.3. The impugned award is in violation of principles of natural justice.

3.4. The impugned award is patently illegal.

3.5. The impugned award is passed without following the procedure prescribed in Sections 24, 28, and 31(3) of 1996 Act and under Section 3G(7)(a) of NH Act.

3.6. In the impugned award, market value of the said acquired land is fixed based on the market value of the lands for the period subsequent to preliminary notification which is impermissible. It is arbitrary and unjustified.

3.7. The respondent No.2 has failed to assign reasons for fixing market value at Rs.710/- per Sq. meter. Hence, the impugned award infringes the provisions contained in Section 31(3) of 1996 Act. Fixing of market value at Rs.710/- per Sq. meter is without any basis.

3.8. The impugned award is passed on surmises and conjectures.

3.9. The acquired land was still an agricultural land as on the date of preliminary notification; and the same is

situated at Ingalagi village. No development had taken place in and around the said land.

3.10. The present application is filed with delay of 90 days; and, hence, a separate interlocutory application is filed for condoning the delay in filing this petition.

3.11. The application may be allowed; the impugned award may be set aside; and any other further relief may be granted in the fitness of facts and circumstances of the case on hand.

4. The respondent No.1 has filed her objection statement to this application wherein the respondent No.1 has raised contentions to the following effect:

4.1. The petitioner has failed to furnish proof in support of this application as contemplated under Section 34(1) and (2) of 1996 Act.

4.2. The respondent No.2 has given full opportunity to the petitioner before passing the impugned award.

4.3. The impugned award is in accordance with law for the time being in force.

4.4. The grounds urged by the petitioner in the present application are baseless.

4.5. Fixing of market value of the acquired land at Rs.710/- per sq. meter by the respondent No.2 as against the market value fixed by the respondent No.3 at Rs.41 per sq. meter is justified in the facts and circumstances of this case. It is in accordance with the law for the time being in force.

4.6. The respondent No.1 did produce documents like NA order and registered sale deed before the respondent No.2. The same were considered by the respondent No.2 while passing the impugned award.

4.7. NH Act is a beneficial legislation. The land loser (the respondent No.1) should be adequately compensated for the loss of acquired land.

4.8. The respondent No.1 has categorically denied all other grounds urged by the petitioner in the application.

4.9. The petitioner has failed to file this petition within the period of limitation as provided in the provisions contained in Section 34(3) of 1996 Act.

4.10. The causes shown by the petitioner to the effect that the delay in filing this application is due to official work and out of station etc., are not sufficient. The petitioner has failed to show sufficient cause for condoning the delay in filing this application. Hence, the application may be dismissed not only on merits but also on the ground of delay.

4.11. The petitioner has not issued notice against the respondents as per the mandatory

requirements of the law under Section 34(5) of 1996 Act. On this ground also the present application is liable to be rejected.

4.12. Hence, the respondent No.1 has sought for rejection of the application with cost and exemplary cost.

5. Secured the entire records of the arbitration proceedings from the respondent No.2.

6. The learned Advocate for the petitioner has failed to appear before this Court to submit oral arguments. Copies of the judgments cited in the petition are not produced before this Court. Heard arguments of learned Advocate for the respondent No.1.

7. Perused the records.

8. In the facts and circumstances of the case on hand, the following points do arise for consideration of this Court in this judgment.

1. Whether the respondent No.2 is justified in determining the market value at

Rs.592/- per square meter based on of the acquired land based on market value of a commercial land as on 12.09.2013 which is referred to in the impugned award ?

2. Whether the respondent No.2 is justified in taking into consideration the fact that the lands in Sy.No.226/A3(P) and in Sy.No.231/P are converted for commercial purpose; and based on the said conversation, fixing market value of the acquired land ?

3. Whether the impugned award is bad for the reason that the respondent No.2 has failed to assign reasons for passing the impugned award ?

4. Whether the impugned award suffers from any of the infirmities under Section 34 of 1996 Act ?

5. Whether the claimant is entitled for condonation of delay of 129 days reckoned from 08.04.2025 (by excluding 08.04.2025) till 16.08.2025 ?

6. Whether the impugned award calls for interference ?

7. What order ?

9. Answers to the above points are as under:

Point No.1: in the negative

Point No.2: in the negative

Point No.3: in the negative

Point No.4: in the affirmative

Point No.5: in the negative

Point No.6: in the negative

Point No.7: As per final orders,
for the following:

REASONS

10. **Point Nos.1 to 6:** At the very outset it may be noted that the preliminary notification is published on 14.02.2011. The sale deed referred to in the award is dated 14.05.2007. The said sale deed is prior to the date of preliminary notification. The respondent No.2 has noted in the impugned award that the Deputy Commissioner, Ballari, has notified on 07.02.2005 that 90 cents of land in Sy.No.226/A3(P) and 1 acre 10 cents of land in Sy.No.231/P in Ingalagi village, Hosapete Taluk, is

converted from agricultural purpose to commercial purpose. The respondent No.2 has also noted that said 90 cents of land in Sy.No.226/A3(P) situated in Ingalagi village, Hosapete Taluk, was sold for Rs.2,70,000/- under a registered sale deed bearing document No.506/2007-08, dated 14.05.2007. The respondent No.2 has also noted that the said sale instance is prior to the preliminary notification. The respondent No.2 has noted that on 12.09.2013, the SLAO of NHAI has fixed market value of agricultural dry land at Rs.592/- per square meter.

11. 1 Cent is equal to 40.4686 square meters. 90 cents multiplied by 404686 square meters is equal to 3,642 square meters. The market value shown in the sale deed dated 14.05.2007 is Rs.2,70,000/-. Rs.2,70,000/- divided by 3642 square meters is equal to 74.135. The respondent No.2 has fixed market value of the acquired land at Rs.592/- per square meter. Hence, it becomes

clear that the market value of the acquired land at Rs.592/- per square meter is fixed not based on the said sale deed dated 14.05.2007.

12. It may be further noted that the respondent No.2 refers to fixation of market value of a commercial land as on 12.09.2013 at Rs.592/- per square meter. It may be noted that 12.09.2013 subsequent to the date of preliminary notification. The respondent No.2 has fixed the market value at Rs.592/- per square meter based on the said valuation dated 12.09.2013.

13. The clear mandate of the legislative enactment under Section 3-G(7)(a) of NH Act is that the market value of the acquired land should be fixed as on the date of preliminary notification. Hence, fixing of the market value at Rs.592/- per square meter for the acquired land based on market value as on 12.09.2013 (which date is subsequent to preliminary notification dated 14.02.2011) by the respondent No.2 is contrary to the clear mandate

of the legislative enactment under Section 3-G(7)(a) of NH Act. Hence, the impugned award suffers from any infirmity under Section 34(2)(ii) and (iii) and also under Section 34(2A) of 1996 Act.

14. At Para No.26 in (2005) 12 SCC 59 Ranvir Singh and another V/s Union of India, the Hon'ble Supreme Court has ruled thus:

“26. The market value of fully developed land cannot be compared with wholly underdeveloped land although they may be adjoining or situated at a little distance. For determining the market value, it is trite, the nature of the land plays an important role.”

15. In the case on hand, the respondent No.2 has not stated in the impugned award as to whether the acquired land is developed land. There are no materials on record to show that as on the date of preliminary notification, the acquired land was fully developed land and was capable of being compared with 90 cents of land

in Sy.No.226/A3(P) and 1 acre 10 cents of land in Sy.No.231/P in Ingalagi village, Hosapete Taluk.

16. As already indicated supra, the award is in conflict with the provision contained in Section 3-G(7)(a) of the NH Act. In that sense the impugned award is in conflict with public policy of India in the sense it is in conflict with most basic notions of justice under the said provision contained in Section 3-G(7)(a) of the NH Act. Hence, the impugned award is liable to be interfered with. It cannot be said that the respondent No.2 has not assigned reasons. But, the assigned reason is not acceptable.

17. In (2018) 9 SCC 472 State of Bihar and others V/s Bihar Rajya Bhoomi Vikas Bank Samithi, at para No.19, the Hon'ble Supreme Court has ruled thus:

“19. It will thus be seen that Section 34(5) does not deal with the power of the Court to condone the non-compliance thereof. It is imperative to note that the provision is

procedural, the object behind which is to dispose of applications under Section 34 expeditiously. One must remember the wise observation contained in *Kailash*², where the object of such a provision is only to expedite the hearing and not to scuttle the same. All rules of procedure are the handmaids of justice and if, in advancing the cause of justice, it is made clear that such provision should be construed as directory, then so be it.”

18. In view of the law declared by the Hon'ble Supreme Court in *Bihar Rajya Bhoomi Vikas Bank Samithi* (supra), non compliance of the provisions contained in Section 34(5) of the 1996 Act, is not fatal to the case of the applicant.

19. The applicant has stated that notice of the impugned award is served on the applicant on 08.04.2025. The present petition is filed on 16.08.2025.

20. The applicant has stated that due to official work and other works at out of station, there is delay in filing this application. The applicant ought to have file the application on or before 08.07.2005 (within 90 days from

08.04.2025). But, the application is filed on 16.08.2025, which is beyond 30 days from 08.07.2025. Under the said circumstances, the application filed by the NHAI under Section 34(3) of 1996 Act, must fail. Hence, the delay in filing the present application cannot be condoned. In (2024) 7 SCC 257 State of West Bengal and others V/s Rajpath Contractors and Engineers Limited, the Hon'ble Supreme Court has ruled that the period of limitation cannot be extended beyond 90 days + 30 days as provided under Section 34(3) of 1996 Act. Hence, on the question of delay in filing the present application, the present application is liable to be dismissed.

21. In view of the above conclusions, point Nos.1 to 3, 5 and 6 are held in the negative; and point No.4 is held in the affirmative.

22. **Point No.7:** Since the delay is not condoned, the petition is liable to be rejected. Hence, the following:

ORDER

1. The petition under Section 34 of the Arbitrator and Conciliation Act, 2013, is hereby rejected.
2. The impugned award is affirmed.
3. Send back the Arbitration file to the Arbitral Tribunal.

(Dictated to the Stenographer, script transcribed, typed & computerized by him, corrected and signed by me and then pronounced in the open Court on this 9th day of **JUNE, 2026**).

**(D.P.KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE,
HOSAPETE, VIJAYANAGARA DISTRICT.**

(Judgment pronounced in the open Court
vide separate order)

ORDER

1. The petition under Section 34 of the Arbitrator and Conciliation Act, 2013, is hereby rejected.

2. The impugned award is affirmed.

3. Send back the Arbitration file to the Arbitral Tribunal.

**(D.P.KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE,
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