

KAVP010023132026



Presented on : 10-04-2026
Registered on : 16-04-2026
Decided on : 20-07-2026
Duration : 04 Months 04 Days

**IN THE COURT OF I ADDITIONAL DISTRICT AND
SESSIONS, VIJAYAPURA**

Present: Sri. ABDUL RAHIMAN. A. NANDGADI,
B.Com., LL.B., (Spl.,)
II Addl. District and Sessions & Spl.
Judge, Vijayapura.

DATED THIS THE 20th DAY OF JULY, 2026

A.P.No.13/2026

Petitioner:

1. The Project Director,
National Highways Authority of India,
Kalaburgi.
2. The Special Land Acquisition Officer,
NHAI, Kalaburgi.
[By Sri.B.B.Y., Advocate]

V/S.

Respondents:

1. Mallappa @ Mallanna S/o
Mudigoudappa Biradar.
2. Saganna S/o Mudigoudappa Biradar.

Both R/o. Devara-Hipparagi (formerly Sindagi), Dist. Vijayapura.

3. Arbitrator NHAI cum Deputy Commissioner Vijayapura.

**[Respondent No.1 & 2 by Sri.S.S.D., Adv)
[Respondent No 3 by ADGP].**

Appeal *Against the Arbitral Order passed by the*
preferred : *Learned Deputy Commissioner and Arbitrator NHAI, Vijayapura in **RB/LAQ/ARBT/ NH-218/CR-03/2021-22**, dated **05.01.2026**).*

**(ABDUL-RAHIMAN. A. NANDGADI.),
II ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYAPURA.**

JUDGMENT

This Arbitration Petition is preferred by the NHAI Authority U/Sec 34 of the Arbitration and Conciliation Act, 1996 (Amendment Act 2015), being aggrieved by the Order passed by the Learned Arbitrator/Deputy Commissioner and Arbitrator NHAI, Vijayapura in RB/LAQ/ARBT/NH-218/CR-03/2021-22, dated 05.01.2026, allowing the Petition filed by the Claimant and enhancing the Compensation Awarded by the Competent Authority for Land Acquisition (CALA)

Vijayapura in NH-218/LAQ/BJP/CR-01/2012-13 dated 31.03.2017.

Parties will be referred to as per their ranks, before the CALA, for the sake of convenience.

2. *Brief facts of the case, leading to preferring of this Petition are as under:*

The National Highways Authority of India represented by the Petitioner herein has acquired portion of the land belonging to Claimant, measuring 6804 Sq Mtrs in Sy No 862/2-Irrigated land, situate at Devara-Hipparagi for stretch of land from KM 195 to KM 276.390 (Vijayapura-Gulbarga-Humnabad Section) for maintenance, management and operation of Nation Highway No 218 (New 50), under the Provisions of NH Act.

Notification U/Sec 3(A) was issued on 20.03.2014.

The CALA, NHAI on considering the Guidance Value Report submitted by the Sub-Registrar, Vijayapura; and considering the Sales Statistics has

awarded compensation of Rs 30/- per Sq Mtr for Irrigated land.

Being aggrieved by the said Award passed by the CALA, the Claimant has filed a Petition before the Deputy Commissioner and Arbitrator, NHAI Vijayapura, U/Sec.3(G)(5) of the National Highways Act, contending that the CALA has not awarded adequate compensation for acquisition of their land. The said Appeal was numbered as RB/LAQ/ARBT/NH-218/CR-03/2021-22.

On hearing both the sides, the Learned Arbitrator/Deputy Commissioner, Vijayapura District, passed an Order allowing the Appeal of the Claimant and has awarded enhanced Compensation of Rs 355/- per Sq Mtr for Agricultural Irrigated land; and further directed to pay Statutory benefits, as per its Order dated 05.01.2026.

3. *It is this order, which is challenged by the NHAI Authority, in this Petition U/Sec 34 of the Arbitration and Conciliation Act, on the following grounds :*

Grounds of Petition:

1) *The Order passed by the Arbitrator/NHAI and Deputy Commissioner, Vijayapura is unjust, capricious and perverse; the same is against the law, facts and evidence on record; and is against the Principles of Natural Justice.*

2) *Learned Arbitrator/NHAI and Deputy Commissioner, Vijayapura did not take any pains in considering the valuable and valid points raised by the Petitioner before it, while determining the Market Value of the Original Area and without any basis has passed the order under challenge.*

3) *The Arbitrator/NHAI and Deputy Commissioner, Vijayapura though has observed that the Claimant has not produced any documents to hold the Market Value of the Original Land as claimed, but has awarded Rs 355/- per Sq Mtr for Irrigated Agril land, without there being any basis, leading to miscarriage of justice.*

4) *Arbitrator/NHAI and Deputy Commissioner, Vijayapura has not taken into*

consideration that the Claimant has not produced any documents even to show that Market Value of the Original Land is Rs 30/- per Sq Mtr for Agril Irrigated land; but the CALA has arrived at such conclusion on the basis of Guidance Valuation Report submitted by the Sub-Registrar, Vijayapura.

5) *Arbitrator/NHAI and Deputy Commissioner, Vijayapura ought to have considered the compensation awarded for the acquired land is incorrect and baseless. Further it has not considered that the acquired Land was only an Agricultural land, as on the date of Notification, even rendering the award passed by the CALA arbitrary and illegal.*

6) *The Learned Arbitrator/NHAI and Deputy Commissioner, Vijayapura ought to have considered that the acquired land was an Agricultural land, designated as the Irrigated land.*

7) *Thus the interference of this Court is necessary as the order passed by the Learned Arbitrator/NHAI and Deputy Commissioner, Vijayapura is untenable both in law and on facts; and liable to be set aside.*

Hence, prayed to allow the said Petition and to set aside the Arbitration Award passed by the Learned Arbitrator/Deputy Commissioner, Vijayapura in RB/LAQ/ARBT/NH-218/CR-03/2021-22 dated 05.01.2026.

4. *Upon preferring of this Arbitration Petition, Notice of the Petition was issued to the Respondents. The legal heirs of the Respondent No 1 have appeared through their counsel; and the Learned ADGP has appeared for the Respondent No 2.*

Records from the Learned Arbitrator and Deputy Commissioner, Vijayapura were secured.

Heard the Arguments of Learned Counsels for the Petitioner/NHAI Authority; and Respondents respectively. Learned Counsels for the Petitioner and the Legal heirs of Respondent No 1 have filed their respective Written Arguments.

5. *Following points arise for consideration :*

1. Whether the Petitioner/ NHAI Authority shows that the Arbitral Award passed by the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura in RB/LAQ/ARBT/NH-218/CR-03/2021-22 dated 05.01.2026, allowing the Appeal of the Claimant and enhancing the Award passed by the CALA, is either incorrect; or illegal; or perverse to law; and thereby calls for interference of this Court, as required U/Sec 34(2)(b)(ii) of the Arbitration and Conciliation Act, 1996 ?

2. What Order?

6. I have carefully gone through the materials placed on record by the Claimant before the CALA (NHAI); the Notification passed U/Sec 3A of NH Act; the Award passed by the CALA (NHAI); the Records placed before the Learned Arbitrator; the Arbitral Award passed by the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura, which is under challenge in this Petition; the grounds urged by the Petitioner in this Petition; the Arguments canvassed on behalf of the

Petitioner & the Respondents; and the Written Arguments filed on behalf of the Petitioner and the Respondent No 1.

7. *Answers to the above Points are as under:*

Point No.1: Partly in the Affirmative;

***Point No.2: As per final orders,
for the following:***

REASONS

8. Point No.1 :

It is not in dispute that the NHAI Authorities have acquired the portions of the land of the Claimant, measuring 6804 Sq Mtrs in Sy No 862/2, situate at Devara-Hipparagi.

9. *The dispute revolves against both the nature of the land of the Claimant acquired by the NHAI; and the quantum.*

9.01. *As per the Notification issued U/Sec 3A, the nature of the land acquired in Sy No 862/2 of Devara Hipparagi is shown as Irrigated Agricultural land.*

9.02. *As per the Award passed by the CALA (NHAI) in NH-218/LAQ/BJP/CR-01/2012-13 dated 31.03.2017, the nature of acquired land in Sy No 862/2 of Devara-Hipparagi is shown as Irrigated Agricultural land.*

10. *The Learned Counsel for the Petitioner would contend that,*

a) as on the date of Notification, the acquired land was not yet converted from Agricultural use to its Non-Agricultural use, or was having any NA Potentiality; and it is shown as Irrigated Agricultural land; and

b) the market Value of the acquired land as per the Guidance, even if the land is considered as Irrigated Agricultural land, it will be Rs 30/-per Sq Mtr, as per the Valuation Certificate issued by the Sub-Registrar.

10.01. *Percontra, the case of the Respondent No 1 before the Learned Arbitrator is that,*

a) the Acquired land is situated in an area, which is designated as Urban area in Vijayapura District;

b) the Acquired land is located closed to Vijayapura City, surrounded by Commercial establishments, Residential Layouts. It is a fast growing and developing area of the Vijayapura. So the said land is having NA Potentiality.

10.02. *As observed supra, Notification U/Sec 3A of NH Act is issued on 20.03.2014. So Valuation of the acquired land is to be considered as on 20.03.2014 and not either prior to it, or subsequent to it.*

10.03. *On perusal of the records placed before the CALA (NHAI), it is seen that Valuation Report issued by the Sub-Registrar, Vijayapura, the Market Value of the Irrigated Agricultural land is shown as Rs 30/-per Sq Mtr.*

The Claimant has not produced any approved layout plan, approved by the Assistant Director of Town and Country Planning Vijayapura or anyother documents to show that, the Acquired land is situated

in the vicinity close to Vijayapura City; and having NA Potentiality.

Due to absence of material, it can be said that, as on the date of passing of the Notification, the land bearing Sy No 862/2 of Devara Hipparagi was not yet converted for its Non-Agricultural use i.e., either Residential, or Commercial use. But it is for the CALA to consider the said fact, as there is development inbetween the Notification and actual acquisition. So it is a matter of adjudication that whether the said land falls under Non-Agricultural Residential land segment, or an Irrigated Agricultural land, or whether the Acquired land is having NA Potentiality.

This aspect has not been considered by the CALA (NHAI) in its Award, while considering the specifications of the acquired land in Sy No 862/2 of Devara Hipparagi; and has not adjudicated the said issue and has simply arrived at a conclusion that the acquired land is an Agricultural Irrigated land. It appears to be incorrect.

Even this aspect has not been considered and touched by the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura, while passing the Order under challenge. The Learned Arbitrator has enhanced the Award passed by the CALA, without observing the Specification of the Original Area of the land acquired. It is incorrect.

10.04. *On perusal of the Award passed by the CALA (NHAI), which was under challenged before the Arbitrator NHAI and Deputy Commissioner, Vijayapura, it is seen that, the Valuation of the acquired land in Sy Nos 862/2 of Devara Hipparagi is taken into consideration as Rs 30/-per Sq Mtr. The said valuation is taken into consideration, on holding that the said land is Irrigated Agricultural land. But the same is done without proper adjudication of the nature of the acquired land, on observing its specification and qualification of getting earmarked as NA Potentiality.*

So, it is seen that though the CALA (NHAI) has observed that the acquired lands in Sy Nos 862/2 of Devara Hipparagi is Irrigated Agricultural land, taking into considering the immediate development in changing the nature of the land, which was done prior to actual acquisition, looking to its Potentiality, but without any materials on record.

Here, the CALA (NHAI) ought to have considered the said development only on the basis of the materials to have been placed before it; and if that was considered, then the Valuation of the lands would be more, as per the Valuation Report submitted by the Sub-Registrar Vijayapura placed before the CALA (NHAI).

Further the CALA (NHAI) has not mentioned as to on what basis it has held the valuation of the Irrigated Agricultural land at Rs 30/-per Sq Mtr for Irrigated Agricultural land, in its Order. So such Order passed by the CALA is hollow and baseless. It is incorrect.

10.05. *Though this point was urged before the Learned Arbitrator NHAI and the Deputy Commissioner, Vijayapura, but the same has not been considered by it.*

So, the Order passed by the Learned Arbitrator NHAI and the Deputy Commissioner, Vijayapura, appears to be incorrect, leading to perversity.

11. *Secondly, it is needless to mention that, market value of the land acquisition is determined based on the highest of the three criteria viz., the minimum land value (Stamp duty/Circle rates/sub-Registrar Valuation); the average sale price of similar land in the vicinity from previous three years; agreed upon compensation for private projects or Consented Compensation.*

Further location and Usage plays a very important and pivotal roles for determination of the Market Value of the Actual/Original Acquired Area, wherein factors like proximity to Road, Potential for non-agricultural use

and developed infrastructure will be crucial in determining the value.

Under comparable Sales Method, evaluation of land land by comparing it to similar properties recently sold in the vicinity. Same analogy is to be applied when it comes to cases wherein already compensation is awarded and settled, subject to the condition that the acquired area under the award, must be located in the said vicinity having similar qualities; both must be under same notification; and relevancy of time frame is to be considered.

Even Belting System can be taken into consideration. This method involves adjust value based on proximity to main roads or highways or consideration of infrastructures made available as on the date of acquisition of the land.

11.01. *In the instant case at hand, the Learned Arbitrator has relied the Award passed in the lands acquired at Devara-Hipparagi, observing that the said*

case pertains to the land which is shown as Irrigated Agricultural land. Pertaining to the same category of land is one aspect, but it is not the sole aspect to apply, but it has to see that the area for which Award is passed is having same and similar specification and qualification, then that of the Area, in which Award is to be passed. I find force to my above view as per the decisions of **the Hon'ble Apex Court in the case of**

a) Union of India Vs Balbir Singh, reported in 2000 AIR SCW Page 4935; and

b) Union of India Vs Dhyan Singh, reported in 2000 AIR SCW Page 4936,

wherein it is held that,

“Grant of Uniform rate of Compensation for all the acquired lands which are similarly situated and acquired under the same notifications and for the very same purpose, cannot be faulted with.”

11.01.01. So in order to have uniform rate of compensation, three requirements are to be fulfilled viz.,

i) Acquired lands must be located in a similar vicinity;

ii) lands must be acquired under the same Notification; and

iii) acquisition must be for same purpose.

11.01.02. Apart from these three criteria, another important criteria is to be taken into consideration is the date of passing of the Order in the earlier case.

11.01.03. These aspects have not been considered by the Learned Arbitrator.

So arrival of conclusion of Market Value to the tune of Rs 355/- per Sq Mtr for Irrigated Agril land, by the Learned Arbitrator, appears to be without specifying reasonable grounds; and not backed by legal sanctity.

12. Thirdly, when the Hon'ble Apex Court has declared Sec 3-J as unconstitutional to the extent of of denying Solatium and interest; and it is held that Landowners are entitled to the benefits of Solatium and Interest in terms of Sec 23(1-A) and Sec 23(2) alongwith Interest under the proviso to Sec 28 of the 1984 Act. I

find force to my above view as per the decision of **the Hon'ble Apex Court in the case of Union of India and Anr Vs Tarsem Singh & Ors reported in (2019) 9 SCC 304 (known as Tarsem Singh-I)**. Even this decision has been relied by **the Hon'ble Apex Court in the case of National Highways Authority of India Vs Tarsem Singh, reported in 2026 INSC 291 (known as Tarsem Singh-II)**, wherein it is observed and held in Para No 14.01. as under:

“14.01. All landowners whose claims re: the quantum and/or components of compensation for their lands acquired under the NH Act were alive on or after 28.03.2008, i.e., they were pending before one of the prescribed for a, shall be entitled to seek addition of ‘interest’, ‘solatium’ and ‘interest on the solatium’, to their Compensation Claim.”

12.01. So, as per the above dictum of law, the Claimant will be entitled for (i) Interest; (ii) Solatium, (iii) Interest on Solatium, alongwith the Statutory Compensation for acquisition of lands under the National Highways Act, 1956 interms of Tarsem Singh-I and Tarsem Singh-II in a timebound manner.

12.02. *Though CALA has awarded morethan the Guidance Value submitted by the Sub-Registrar, Vijayapura holding the Acquired land as Irrigated Agricultural land, but has not specified the four components viz., (i) Interest; (ii) Solatium, (iii) Interest on Solatium, and (iv) the Statutory Compensation for acquisition of lands. It was the duty of the CALA to specify the same.*

12.03. *Further the Learned Arbitrator has considered factor two; 100% Solatium and 12% Additional Market Value from the date of 3A Notification, till the date of Award, but has not specified the quantum and has passed the award, which is not within the spirit of law. It ought to have specified all the four components separately. It has not done. It is incorrect.*

13. *Fourthly, as per the decision of **the Hon'ble Apex Court in the case of Bhupal Singh and***

Others Vs State of Harayana, reported in 2015(2)

LACC 681 (SC), wherein it is held that,

“one can never come to any exact figure price of lands because in the very nature of things, the prices are bound to vary from land to land and further they also depend upon the individual buyer to buyer, seller to seller and the reason which led to such a sale and purchase. However Courts in such cases always exercise their discretion within the permissible parameters after appreciating the entire evidence brought on record and plying the relevant legal principles.”

13.01. *So while evaluation the Market Value, application of relevant factors of each case are to be made applicable; and one cannot take some cases and determine the Market Value on global basis. I find force to my above view as per the decision of **the Hon’ble Apex Court in the case of Quippo Construction Equitment Ltd., Vs Janardan Nirman Pvt Ltd., (Civil Appeal No 2378 of 2020, D.D. 29.04.2020),** wherein it is held that,*

“It was possible for the Respondent to raise submission that Arbitration pertaining to each of the Agreements be considered and dealt with separately.”

13.02. *In the instant case at hand, the CALA (NHAI) has taken several cases for consideration; and has adjudicated the said cases, under Single Order. This Prima facie suggest that, both CALA(NHAI) has not passed the Award under Challenge, inaccordance with the Observations made by the Hon'ble Apex Court, observed supra. Even this aspect has not been considered and observed by the Learned Arbitrator.*

13.03. *Sec 3G(7)(c) and (d) of HNH Act, requires the acquiring body awarding compensation to the Claimant to make good the loss, if any, sustained by the person interested, at the time of taking possession of the land, which also means to taken into consideration the fact of the acquisition, injuriously affecting his other immovable property in any manner, or his earnings, encompasses in it, an attempt to be made to mitigate such damages.*

13.04. *Further, if such an effort was not made by the acquiring body, then when the matter comes up*

before the Learned Arbitrator (NHAI) and Deputy Commissioner, an attempt is expected to be made, so as to mitigate the damage, which will be just and justifiable.

*I find force to my above view as per the decision of **the Hon'ble High Court of Karnataka in the case of Sri.G.Ravishankar S/o Late S.Gurusiddappa V/s National Highways Authority of India and others (MFA No.862/215/2010, date of decision 16.07.2013**, wherein it is observed in Para Nos.10 and 12 as under :*

“10. Section 3G(7) of the Act, lays down the factors to be taken into consideration while determining the amount of compensation. Some of the factors to be taken note of are the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings. Yet another factor to be taken into consideration is, that if as a result of the acquisition, the person interested is compelled to change his residence or place of business, then reasonable expenses, if any, incidental of such change, has to be awarded.

12. The scope of Section 3G(7), if examined carefully, includes in its fold the payment of just and fair compensation to the acquired land as it obtained on the date of publication of the notification U/Sec

3A of the Act. The requirement spelt out in Section 3G(7)(c) & (d) obligating the authority to make good the damage, if any, sustained by the person interested at the time of taking possession of the land in view of the acquisition injuriously affecting his other immovable property in any manner, or his earnings, encompasses in it an attempt to be made to mitigate such damage, if permissible and possible. It cannot be said that when a portion of the land is acquired and in the non acquired portion of the land is acquired and in the non acquired portion if the land owner can legally carry on his business to eke his livelihood, he could not be denied of such opportunity to carry on the business by denying him access to the unacquired portion and that the only obligation of the acquiring body is to assess the damage and pay the compensation including for the loss of business. This is a very pedantic approach. If the land owner is entitled in law to continue his business in the non-acquired portion by running a petrol bunk, in accordance with law, then every effort has to be made firstly by the acquiring body itself and subsequently by the competent authority which is invested with the power to determine and pay the just and fair compensation. If such an effort was not made by the acquiring body then, when the matter comes up before the Arbitrator – Deputy Commissioner, such an attempt to mitigate the damage can be justifiably done.”

13.05. The Claimant/Petitioners are entitle for fair compensation. And if such fair compensation is not provided to the Claimant/Respondent No 1, then the purpose and object of N.H. Act, itself will be violated.

13.06. It is gainsaid to have the guiding principles laid down by **the Hon'ble Apex Court in the case of Madhya Pradesh Road Development Corporation V/s Vincent Daniel and Others (Civil Appeal No 3988 of 2024, D.D. 27.03.2025).**

14. Thus, I am of the considered opinion that the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura has failed to consider the important aspects for ascertain the fair Compensation, as observed supra.

14.01. So, the NHAI Authority/Petitioner has shown that the Arbitral Award passed by the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura is incorrect; illegal; and perverse to law; and thereby calls for interference of this Court as provided U/Sec 34(2) of Arbitration and Conciliation Act, for which the matter needs to be remanded back to the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura, for its fresh consideration.

Necessarily, NHAI Authority/Petitioner succeeds in this Petition.

14.02. *So the Petition is required to be allowed and the Arbitral Award passed by the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura, suggesting enhancement of the Award passed by the CALA (NHAI), is requires to be set aside; and the matter is required to be remitted back to the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura, for fresh consideration, inaccordance with law, with a request to consider the factors, required for determination of the amount of compensation, as provided U/Sec 3G(7) of N.H. Act, resulting and leading to make an attempt to mitigate the damages, sustained by the Claimant/ Respondent No 1; having proper justification, inorder to achieve the aims and objects of the NH Act, inadherance to the guiding principles laid down by the Hon'ble Apex Court in the case **Madhya Pradesh Road Development Corporation V/s Vincent Daniel and Others (Civil Appeal No 3988 of 2024, D.D. 27.03.2025).***

Hence, I am constrained to answer **Point No.1**
Partly in the Affirmative.

15. Point No.2:

For having answered Point No.1 Partly in the
Affirmative, I proceed to pass the following:

ORDER

**Acting U/Sec 34(2)(b)(ii) of Arbitration and
Conciliation Act, 1996, the Appeal preferred
by the NHAI Authority/Petitioner, is hereby
Allowed in-part.**

**The Arbitration Award passed by the
Learned Arbitrator (NHAI) and Deputy
Commissioner, Vijayapura in RB/LAQ/ARBT/NH-
218/CR-03/2021-22 dated 05.01.2026, is
hereby set-aside.**

**Matter is remitted back to the Learned
Arbitrator (NHAI) and Deputy Commissioner,
Vijayapura, for fresh consideration,
inaccordance with law; as per the
observations made in the body of this
Judgment; and inadherence with the guiding
principles laid down by the Hon'ble Apex Court
in the case of Madhya Pradesh Road
Development Corporation V/s Vincent Daniel**

and Others (Civil Appeal No 3988 of 2024, D.D. 27.03.2025).

It is needless to mention that, if the Claimant intend to lead evidence, then necessary and reasonable opportunity is to be afforded to the Claimant.

Interim Application seeking stay stands disposed-off accordingly.

Registry is requested to remit the Records to the Learned Arbitrator NHAI and Deputy Commissioner, Vijayapura, on having necessary acknowledgment from it, alongwith the True copy of this Judgment, for its reference and for necessary compliance.

[Typed by me in the Home office, script corrected and signed by me and then Judgment pronounced by me, in the Open Court on this the 20th day of July, 2026.]

(ABDUL-RAHIMAN. A. NANDGADI),
II ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYAPURA.