

MHAU010056492022



Presented on : 10-08-2022

Registered on : 04-08-2023

Decided on : 11-08-2026

Duration : 3 Y, 0 M, 7 D

Exh. No.17

IN THE COURT OF PRINCIPAL DISTRICT JUDGE AT AURANGABAD.

(Presided over by G. R. Agrawal)

Civil Misc. Application No.418/2023

Applicant : Jagannath Sahebrao Pache
Age : 75 years, Occu.- Farmer,
R/o. Adul Khurd, Tq. Paithan,
Dist. Aurangabad.

Versus

Respondents : 1. The Competent Authority (Land
Acquisition), National Highway No.211
and Deputy Collector, Krushna Khore
Prakalp, Aurangabad.
Address- Kamgar Chowk, N-4, CIDCO,
Aurangabad.

2. Project Director, National Highway
Authority of India,
Project Implementation Unit- Aurangabad,
B-23, Near Kamgar Chowk, N-4, CIDCO,
Aurangabad.

**APPLICATION UNDER SECTION 34 OF THE ARBITRATION AND
CONCILIATION ACT, 1996 R/W. SECTION 3-G(6) OF THE
NATIONAL HIGHWAYS ACT, 1956.**

Shri. M. R. Malpani, Advocate for Applicant

Shri D. S. Manorkar, Advocate for Respondent no.1

Shri. V. D. Aher & N. P. Bangar, Adv. for Respondent no.2

JUDGMENT
(Delivered on 11.8.2026)

The applicant is before this Court to challenge the Award dated 22.11.2021 passed by Collector/Arbitrator in Arbitration Petition No.447/2015, whereby the application filed by applicant for enhancement of compensation and grant of other statutory benefits has been rejected.

Facts in brief :

2. The land of applicant was notified for acquisition by Government of India vide preliminary notification u/s.3-A(1) of the National Highways Act, 1956 (in short '**Highways Act**'). Respondent no.1 is the Competent Authority, Land Acquisition ('**CALA**' in short) that declared the Award on 11.9.2014. Details of the land of applicant and compensation awarded are as under :

Name of village	Gat No.	Acquired area in Sq. m.	Compensation awarded by CALA
Adul Khurd, Tq. Paithan.	36	700	Rs.400/- per Sq. Mt. (Rs.3,29,220/-)

3. On 9.3.2015, the applicant approached the Arbitrator u/s.3-G (5) of the Highways Act vide Arbitration Application No.447/2015. Additional Collector, Aurangabad was appointed by Central Government as 'Arbitrator' for dealing with matters arising under Section 3-G(5) of the Highways Act. Under said provision, the Arbitrator can redetermine the amount of compensation on an application by either of the parties.

4. During the pendency of arbitration proceedings, the above

Award of CALA was revised in view of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**'Act of 2013'** in short). Revised award was passed on 24.8.2016 as per the provisions of new Act and additional compensation was awarded by applying slab system as under :

Upto 2000 (rate/sq.m.)	2001 to 4000 (rate/sq.m.)	4001 to 10,000 (rate/sq.m.)	Above 10000 (rate/sq.m.)
Rs.400/-	Rs.320/-	Rs.240/-	Rs.160/-

5. Some of the statutory benefits under the Act of 2013 were also granted. Thus, the applicant received revised compensation as under :

Name of village	Gat No.	Acquired area in Sq. m.	Revised Compensation awarded by CALA
Adul Khurd, Tq. Paithan.	36	700	Rs.400/- per Sq. Mt. Rs.9,45,813/-

6. Though the revised award granted some additional benefits of the Act of 2013, the compensation for the land remained unchanged @ Rs.400/- per sq.m. Thus, the procedure prescribed under S.26 to 30 of the Act of 2013 which was enforced w.e.f. 1.1.2014 was not followed scrupulously.

7. In view of the revised Award and the provisions of Act of 2013, the applicant filed application for amendment of Arbitration Application before the Arbitrator on 4.7.2018. By the proposed amendment, the applicant were seeking to replace the prayer clause of main application to add claim for other reliefs which were not granted by the revised Award. However, the said

application was not decided by Ld. Arbitrator.

8. Before the Arbitrator, the applicant submitted affidavit evidence along with documents such as Government Notifications and ready-reckoner rates in support of their claim. Both sides filed written notes of arguments/additional say. By the impugned Award dated 22.11.2021, the Additional Collector-Arbitrator has dismissed the application for enhanced compensation. Being aggrieved, the applicant has challenged said Award before this Court under Section 34 of the Arbitration and Conciliation Act, 1996 ('**A & C Act**' in short).

9. The original record and proceedings of Arbitrator were called. Written note of arguments/reply were filed by all parties except CALA. Advocate for applicant has filed written note in Civil M. A. No.423/2023 and filed pursis Exh.16 in present case to adopt the same. Advocate for NHAI has filed written note of arguments in Civil M. A. No.343/2023 and same is adopted in all connected cases as per pursis Exh.16 in Civil M. A. No.350/2023.

10. Heard learned counsel for both the parties. Perused the original record. Perused the written notes of arguments/reply. Since identical points arise in all cases of Adul Khurd village, common arguments were advanced in all connected cases.

11. The points for determination along with my findings thereon are as under :

	Points	Findings
1.	Whether applicant has made out a case for interference in the impugned Award under Section 34 of the A & C Act?	.. Yes
2.	What order?	.. Award is set aside.

REASONS

Submissions on behalf of Applicant/Land Owner :

12. Ld. Adv. Shri Malpani for the applicant has submitted as follows :

- i) It is necessary for every Arbitrator to make disclosures u/s. 12 before conducting arbitration proceedings. Ld. Arbitrator failed to make any such disclosure.
- ii) Respondent had applied belting (slab) system of valuation, which is illegal.
- iii) Hon'ble High Court had directed the Ld. Arbitrator not to use slab system in Janabai Rathod Vs. State (WP No.12232/2016) and Harishchandra Birle Vs. State (WP No.3423/2020). Judgment in Janabai Rathod relates to same project National Highway No.211.
- iv) Ld. Arbitrator dismissed the claim without giving any reasons or distinguishing the said Judgments.
- v) Method of reduction in market value is again disapproved by the Hon'ble Supreme Court in MPRTC Vs. Vincent Daniel, 2025 SCC Online SC 666.
- vi) The date of valuation in case of application of Act of 2013 shall be taken as 1.1.2014. The said directions are issued by in communication dated 26.10.2015 which was filed before Arbitrator.

- vii) Maharashtra Government has clarified through various notifications that the factor to be used in valuation of rural lands even if they fall under District Plans is 2.0 and not 1.5. The said notifications are dated 24.4.2017, 29.8.2017 and 24.11.2017. Ld. Arbitrator ignored these notifications and did not pass a speaking order on this issue.
- viii) Applicant had made a specific claim for easementary rights in their 3-G (5) application. However, no order is passed in respect of the said claim.
- ix) No order is passed in respect of claim of damages u/s.3G (7) (b)(c) and (d) due to severing, loss to other property, loss of easement, loss of access and other consequential losses.
- x) There is a clear breach of principles of parity.
- xi) Impugned Award is against the fundamental policy of Indian Law and suffers from patent illegality.

Submissions on behalf of NHAI :

13. Ld. Adv. Shri Bangar for the NHAI has submitted as follows :

- i) It is well settled that the Court does not sit in appeal over an arbitral award and may interfere on merits only on the limited ground provided u/s.34.
- ii) The applicant never raised issue of S.12-disclosure before the Ld. Arbitrator during the proceedings of arbitration; therefore, the said issue is deemed to be waived by the applicant.
- iii) Determining the amount under other heads is permissible only if positive evidence is brought on record by claimants to prove the loss sustained by them due to acquisition.

- iv) The multiplier factor is according to prevailing guidelines of the State. There is no scope for interference because the circulars relied upon by the applicant cannot be applied to the proceedings which were initiated prior to the issuance of the said circular.
- v) Contentions of the applicant against the application of slab system are misconceived.
- vi) As sections 26 to 30 of the Act of 2013 are applicable to acquisition under the NHAI Act, the same needs to be taken into consideration.
- vii) The market value is to be determined based on the valuations for the registration of sale deeds or agreements to sell or sale deeds in the near vicinity.
- viii) Claimants were offered every opportunity to produce on record certain documents in the shape of evidence which could establish or reveal the market value of the acquired property before passing of an award. But they failed to avail said opportunity.
- ix) Arbitrator was justified in taking the date of valuation as date of S.3-A notification.

Point No.1 :

14. I have considered the submissions advanced by both sides.

15. S. 12 of the A & C Act is a provision for statutory disclosure by Arbitrator. Said provision would be applicable to arbitral proceedings under NHAI Act also. As per said provision, Arbitrator shall disclose in writing any circumstances : (i) which may give rise to justifiable doubts as to his independence or impartiality and (ii) which are likely to affect his ability to devote sufficient time to

the arbitration to complete the entire proceedings within a period of 12 months. Under sub-section (2), from the time of appointment and throughout the arbitral proceedings, the Arbitrator shall, without delay, disclose to parties in writing, any circumstances referred in sub-section (1).

16. Adv. Bangar has submitted that the objection of statutory disclosure was waived by applicant as per S.4 of A & C Act and there was no such objection raised before Arbitrator. This submission is contrary to record and therefore liable to be rejected. The record of Arbitrator shows otherwise.

17. On 13.10.2021, the applicant had filed application u/s.12 of A & C Act praying for statutory disclosure by Arbitrator under the said provision read with schedules 5, 6 and 7 of the Act. The relevant portion of roznama of Arbitrator dated 13.10.2021 is as under :

"उभय पक्षकाराचे विधिज्ञ हजर. अर्जदाराकडून ३४५/१५, ४४७/१५ या दोन प्रकरणात एक अर्ज असा की, स.स.नं.र. यांचे प्रतिज्ञापत्र घेवुन त्यांना साक्षीसाठी समन्स दयावे. तसेच दुसरा विनंती अर्ज देवुन विनंती केली आहे की लवाद कायदा, १९९६ चे कलम १२ अन्वये statutory disclosures करणेसाठी पू.ता. २७.१०.२०२१ ठेवण्यात येते". (Emphasis supplied)

18. The roznama of next date i.e. 27.10.2021 does not show that any disclosure statement was made by Arbitrator. Both sides were heard and matter was adjourned to 10.11.2021. On 10.11.2021, again both sides were heard and matter was reserved for award. On 22.11.2021, Award was passed and proceedings were closed. **Thus, despite being aware of the pending application and despite**

keeping the matter for statutory disclosure, the Ld. Arbitrator did not comply with said provision. It is pertinent to note that as per sub-section (2) of S. 12, the Arbitrator has to make a disclosure referred to in sub-section (1) from the time of his appointment and *throughout the arbitral proceedings*. Thus, question of waiver of objection by applicant does not arise.

19. As discussed above, there is no such disclosure by the Arbitrator, particularly when he took almost six years to complete the proceedings. When there was specific application submitted by present applicant u/s.12, in view of the mandatory nature of the provision and the settled law on the subject, it was obligatory for the Arbitrator to make such disclosure.

20. In the case of **Central Organization Vs. ECI SPIC, (2025) 4 SCC 641**, in paragraph no.57, Hon'ble Apex Court has held as under :

“57. An arbitration involving a company owned or controlled by the Government would likely involve public interest, considering the impact of an arbitral award on public finances. However, the Arbitration Act does not make a distinction between public-private arbitrations and private arbitrations. This lack of differentiation also extends to other aspects of arbitration including appointment of arbitrators, conduct of arbitration proceedings, and setting aside and enforcement of arbitral awards. Since the grounds for setting aside an arbitral award have been narrowly framed, the thrust of this privately ordered legal system is on the decision

made by the Arbitral Tribunal. Moreover, the Arbitration Act mandates the arbitration proceedings to be conducted following two main principles : (i) equality of parties; and (ii) independence and impartiality of arbitral proceedings”.
(Emphasis supplied)

Thus, in view of the settled law, the mandatory provision of S.12 has to be complied with even in public-private arbitrations.

21. In the case of **Gayatri Balasamy Vs. ISG Novasoft, (2025) 7 SCC 1**, while dealing with the scope of modification in arbitral awards, Hon'ble Apex Court has held that even in case of awards under NHAI Act modification is not permissible. It is observed that the jurisdiction conferred under S.34 does not distinguish between statutory and non-statutory arbitration in terms of the scope of Court's power of review. In view of said ratio, it has to be held that non-disclosure by Arbitrator as required by S.12 of A & C Act goes to the root of the matter.

22. Record of Arbitrator further shows that on 18.1.2020, the applicant filed affidavit in evidence along with separate list of documents. The applicant had filed copy of communications dated 26.10.2015 issued by Government of India, Notifications issued by State Government dated 26.5.2015, 24.4.2017, 29.8.2017, 24.11.2017 and ready-reckoner for the year 2014. He had also placed on record the order passed by Hon'ble High Court in **W. P No.12232/2016 Janabai Vs. State** and G. R. dated 13.8.2018 (Pages no.107 to 110 of original record). These documents were relied upon to show that the reference date for calculation of

market value should be 1.1.2014 and the relevant multiplier applicable under First Schedule of Act of 2013 would be 2 and not 1.5. None of these documents are referred, much less considered in the impugned Award. The Ld. Adv. for NHAI has tried to give reasons for non-applicability of the aforesaid notifications, however, no such reasons can be found in impugned Award.

23. The above documents include one Government Resolution dated 13.8.2018 regarding the method of calculation of compensation in land acquisition. Order of Hon'ble Bombay High Court in the case of **Janabai (supra)** was filed to show that in a similar case, Hon'ble High Court had directed that the Arbitrator will consider the whole land of the petitioner for the purpose of compensation keeping in mind the said circular dated 13.8.2018. In the present case, since the total area of land was 700 sq. mtr., the slab system did not affect the quantum of compensation. However, in view of the slab system applied by CALA, the highest rate even as per revised Award remained same as in the first award i.e. Rs.400/- per sq.m.

24. Applicant had also filed amendment application on 4.7.2018 before Arbitrator. By the proposed amendment, the claimant was seeking enhanced market value on the basis of multiplier factor 2 and had prayed that compensation be awarded by taking relevant date of valuation as on 1.1.2014. The proposed amendments reveal that some prayer clauses of original claim are similar, however, the following new claims were sought to be added by way of amendment :

2. *The petition be awarded enhanced market value on the basis of multiplier factor of 2.*

3. *Belting method of valuation be rejected as being illegal and arbitrary and the compensation be determined at a uniform rate for the whole acquired portion.*

4. *The petitioner may be awarded the statutory Easementary rights @ 10% under section 3G(2) of the National Highways Act, 1956 on the market value of the property.*

7. *The petitioner be awarded all the statutory benefits as per the Highways Act, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and any other relevant law for the time being in force, including, but not limited to:*

- a. Additional market value u/s 30(3)*
- b. 100% Solatium u/s 30(1)*
- c. Interest as provided u/s 72*

25. It is obvious that the applicant wanted to take benefit of the provisions of new enactment i.e. the Act of 2013 and Highways Act. However, Ld. Arbitrator did not decide the said application and went on to pass the final Award.

26. Roznama of Arbitrator reveals that on 4.7.2018, amendment application was filed and copy was supplied to NHAI. However, the roznama does not show that on any subsequent date, any order was passed by the Arbitrator on said application. It appears that thereafter the matter was adjourned on several dates for “शपथपत्र” i.e. affidavit. It is thus clear that no order was passed and

the amendment application remained pending. This inaction on the part of Arbitrator is in conflict with basic notions of justice.

27. Roznama dated 13.10.2021 shows that the applicant had submitted application before Arbitrator praying to issue witness summons to Jt. Director, Town Planning to depose on oath about the applicable multiplication factor to acquired land. Even written arguments were filed in support of said application on 1.11.2021 which are part of the original record. However, the Arbitrator has not considered said prayer. In other similar cases, the Arbitrator rejected such applications with an observation that a self-explanatory report of the said authority is being called. It appears that report of Town Planning authority was received and it was tagged with record of another case bearing No.106/2018. However, copy was not supplied to the applicant of said case. This court has considered and discussed the said point in the cases of acquisition of lands of village Adgaon-Jawale.

28. The submissions of Ld. Adv. for NHAI that applicant has not adduced positive evidence before Arbitrator is contrary to the record. As discussed above, whatever material was filed by the applicant before Arbitrator has not at all been considered in the impugned Award. It is pertinent to note here that all cases filed by land owners from same village were being taken simultaneously by the Arbitrator and roznamas are also identical. Hence, he was duty bound to consider each and every relevant document before rejecting the claim for enhancement.

29. Erroneous or wrong appreciation of evidence may not be a

ground to interfere in the Award u/s.34 of A & C Act. However, complete failure to consider the case of applicant, their documents and other vital material is definitely in breach of principles of natural justice and has resulted in patent illegality appearing on the face of the Award.

30. S.31 of A & C Act mandates that an arbitral award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given. This has been reiterated in the case of **ECI SPIC (supra)**. In the present case, impugned Award shows that after recording the arguments of applicant and both non-applicants, the Ld. Arbitrator has recorded “निष्कर्ष” i.e. conclusions in about two pages, however, almost 95% is repetition of the contentions of both sides. Paragraph no.1 below said heading is formal in nature. Paragraph no.2 records the contention regarding grant of interest from the notification under S.3-D of Highways Act. After recording the disagreement of NHAI on said point, the Arbitrator has recorded conclusion in one line to the effect that the demand does not appear reasonable to him and it is not legal.

31. In paragraph no.3, again the submissions of applicant and non-applicant on the point of applying market value as on 1.1.2014 are recorded until the last 2 lines. Only in the last two lines, it is recorded as under :

“---परिणामी अर्जदार यांनी दिनांक ०१.०१.२०१४ रोजीच्या बाजार मूल्याचा आधार घेवून जास्तीच्या मावेजाची केलेली मागणी संयुक्तिक ठरत नाही.”

Thus, no reasons whatsoever have been assigned to reject the

prayer to consider market value as on 1.1.2014. Even the communication of Central Government dated 26.10.2015 issued in that regard which was filed with list of documents on 18.1.2020, has been completely ignored. The above two lines recorded for rejecting the claim cannot be called as “reasons” by any stretch of imagination. Hence, the submission in the written note filed on behalf of NHAI that *“award passed by the Ld. Arbitrator is well reasoned”* is liable to be rejected and is hereby rejected.

32. In paragraph no.4, Arbitrator has discussed about the claim of applicability of multiplier factor 2 instead of 1.5 and observed that it is not legal to award multiplier of 2 in case of agricultural land in rural area. *None of the notifications submitted by the applicant is referred, considered or discussed.*

33. In paragraph no.5 of award, the claim of applicant and the contentions of non-applicants are repeated and then it is recorded that claim of applicant does not seem fair and reasonable. Lastly, it is observed that CALA has followed all the provisions of S.26 to 30 of Act of 2013 scrupulously in revised Award and therefore, no enhancement is necessary.

34. The aforesaid cryptic reasoning in the impugned Award is not just factually and legally incorrect, but it also cannot be called as reasoning in the eyes of law. None of the documents submitted or contentions raised by the applicant are discussed or considered. There is no finding regarding the claim of other statutory benefits for which the applicant may be entitled under the provisions of Act of 2013, but were not granted by CALA in revised Award. There is

no consideration of case of applicant regarding valuation method/procedure adopted by CALA.

35. In the case of **Anand Brothers Vs. Union of India, (2014) 9 SCC 212**, the Hon'ble Apex Court has considered and compared the repealed Arbitration Act of 1940 with the Act of 1996. It is observed that the new Act seeks to achieve twin objects of obliging the Arbitral Tribunal to give reasons for its Award and reducing the supervisory role of Courts in arbitration proceedings. S.31 (3) of the new Act is referred and it is held that said provision requires the Arbitrator to state the reasons. In paragraph no.14, Hon'ble Court has held that only when the conclusion is supported by reasons on which it is based, that one can logically describe the process as tantamount to recording a finding. In the present case, there are only conclusions and no reasons to support them.

36. In the case of **McDermott International Vs. Burn Standard, (2006) 11 SCC 181**, the Hon'ble Apex Court has held that under the provisions of 1996 Act, unlike the 1940 Act, the arbitrator is required to assign reasons in support of Award. It is thus well-settled that it is mandatory for Arbitrator give reasons unless the arbitration agreement provides otherwise. **Award without reasons cannot be considered an Award in the eyes of law.**

37. It is pertinent to note here that the awards passed by Arbitrator in the connected cases of same village on 19.7.2021 and award passed in present case on 22.11.2021 are identical. In fact, the awards in both cases are verbatim, except changing the amount of compensation in respective cases. It is true that the

facts are similar and all cases are arising from same award of CALA, however, the reasons are missing in all awards. Non-application of mind by Arbitrator is apparent on record which renders the award patently illegal. In view of the limited scope of interference u/s.34, this Court has neither re-appreciated the evidence nor found application of law erroneous by Arbitrator. This Court has found that there was neither any application of law nor of mind by the Arbitrator.

38. The specific ground raised by applicant that valuation of land as on 1.1.2014 i.e. the date of enforcement of Act of 2013 has to be considered, is decided in just one line in impugned Award, as reproduced above. The contention of NHAI that date of publication of notification u/s.3-A of Highways Act is the relevant date to consider the market value of land, is also not discussed in the impugned Award. The relevant law on this point is neither referred nor considered.

39. In the case of **Namdeo Chate Vs. State, 2023 SCC OnLine Bom. 2031**, in paragraph no.17, Division Bench of Hon'ble Bombay High Court has held that matters where the acquisition proceedings commenced under the old Act and have continued after the introduction of 2013 Act, the date of reference would be 1.1.2014 and the sale instances as on said date have to be taken into account. Said ruling has been followed in the case of **Bhagwat Tukaram Vs. State, 2024 SCC OnLine Bom 2433**. It is relevant to note here that in the revised award dated 24.8.2016, CALA has neither considered any sale instances of preceding 3 years nor the valuation date is taken as 1.1.2014. On the contrary, CALA has

taken the valuation of land as per the ready-reckoner of the year 2012. Despite this patent illegality in the procedure adopted by CALA, the ground raised by applicant in that regard before Arbitrator has been rejected without recording any reasons. Hence the submission of NHAI taken in written note of arguments that S.26 to 30 of the Act of 2013 are applicable and same need to be taken into consideration, supports the case of applicant.

40. As per S. 3G(5) of Highways Act, when the Award of CALA is not acceptable to either of the parties and application is moved before the Arbitrator, he has the power to determine compensation afresh and also take into consideration the factors provided in subsection (7). The Ld. Arbitrator was duty bound in law to examine whether the Award passed by CALA was strictly in accordance with the provisions of the new Act of 2013 and apply his mind independently to the material brought on record by applicant. However, no independent assessment has been made by Arbitrator.

41. There is serious breach of principles of natural justice and the Award is in conflict with basic notions of justice. Due to non consideration of specific grounds, vital evidence and non disclosure u/s.12 of A & C Act, the impugned Award is vitiated by patent illegality appearing on the face of Award. Without entering into the merits of the claim for enhancement made by applicant, it is apparent that impugned Award is unsustainable in law.

42. In the case of **Ssangyong Engineering Vs. NHAI, (2019) 15 SCC 131**, cited by Shri Malpani, Hon'ble Apex Court has discussed the principles for setting aside arbitral Award u/s.34 of A & C Act.

In paragraph no.26, Hon'ble Apex Court has observed about the additional ground now available u/s.34 to set aside the award i.e. patent illegality appearing on the face of award which goes to the root of the matter but which does not amount erroneous application of the law. In paragraph no.30, it is laid down that "finding based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside on the ground of patent illegality." In the present case, vital evidence has been totally ignored by Arbitrator and it has resulted in perversity. Even affidavit evidence of applicant has not been considered by the Arbitrator. Hence, the ratio of above ruling is squarely applicable to the present case.

43. Ld. Adv. for NHAI has placed reliance on the rulings of **Gayatri Balasamy (supra), Somdatta Vs. NHAI, (2025) 6 SCC 757 and Project Director Vs. Hakim, (2021) 9 SCC 1** to contend that u/s.34 of A & C Act, the jurisdiction is very limited and this Court cannot modify the impugned Award or consider evidence like an Appellate Court. In the present case, as discussed above, this Court has not re-appreciated the evidence adduced before Arbitrator. This Court is also not modifying the impugned Award. This Court intends to set aside the impugned award on the grounds of patent illegality appearing on the face of Award, absence of reasons, conflict with most basic notions of justice and breach of principles of natural justice. Additionally, the statutory disclosure required by Arbitrator u/s.12 of A & C Act was also not complied. *The illegalities in the impugned Award go to the root of the matter.*

44. It has been rightly pointed out in various similar cases

decided by this Court that in cases for enhancement arising out of acquisition of lands for the same project i.e. National Highway No.211, different arbitrators i.e. Collector or Additional Collector, have taken different views in same district. For instance, District Collector, Aurangabad has enhanced compensation in claims arising out of same project, however, the Arbitrator appointed for Paithan taluka has rejected all the claims for enhancement without following the due process u/s.3-G(5) of Highways Act and S.26 of Act of 2013. Principle of parity has not been followed. NHAI must consider this aspect while contesting the claims of land owners before the Arbitrator.

45. None of the parties has requested this Court to consider the provision of S.34 (4) of A & C Act to remand the matter to Arbitrator. As held in the case of **Gayatri Balasamy (supra)**, such request is necessary for considering exercise of power u/s.34 (4). For the reasons aforesaid, the impugned Award is liable to be set aside. The point no.1 is answered accordingly.

Point No.2 :

46. In view of the finding given on point no.1, I find that the present application deserves to be allowed and the impugned award is liable to be set-aside. In the case of **McDermott (supra)**, in paragraph no. 52, Hon'ble Apex Court has observed that Court can only quash the award leaving the parties free to begin the arbitration again if it is desired. In view of this settled position in law, this Court cannot remand the matter. In the facts and circumstances, the parties shall be directed to bear their own costs.

Hence, in answer to point No.2, I proceed to pass the following order :

ORDER

1. Civil M. A. No.418/2023 is allowed and the impugned Award dated 22.11.2021 is set aside.
2. Parties are at liberty to begin the arbitration again if desired, in accordance with law.
3. Parties to bear their own costs.

Date :- 11.8.2026

(G. R. Agrawal)
Principal District Judge,
Aurangabad.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment are same and as per the original Judgment.

Name of the Stenographer	: Santosh B. Satpute
Court	: Principal District Judge, Aurangabad.
Date of Judgment	: 11.8.2026
Judgment Dictated on	: 7 & 10.8.2026
Judgment Typed on	: 7, 10 & 11.8.2026
Judgment Corrected, Signed and pronounced on	: 11.8.2026
Judgment uploaded on	: 11.8.2026