

Order below Exh.35 in Special Darkhast No. 184/2023
Suvarna Shivaji Shelke
Vs.
Competent Authority and Spl. Land Acq. Officer etc.

The JD No.2 i.e. the National Highway Authorities of India through its Project Director, Project Implementation Unit has filed this application for giving directions to DH to impound an arbitral award passed on 02.02.2022.

2. It is contended that the DH has filed this proceeding for execution of the arbitral award dated 02.02.2022 passed by the Additional Divisional Commissioner – an Arbitrator appointed by JD No.2. As per the provisions of Section 3 read with Article-12 of Schedule-I of the Indian Stamp Act, the award needs compulsory stamp duty. The award which the DH is asking for execution is inadmissible in evidence as it is not duly stamped, therefore, the said award cannot be executed. So urged for directions to impound the said award and/or to dismiss the execution proceeding with cost.

To support these contention, the reliance is placed upon the judgment of the Hon'ble Apex Court in the case of (1) **M. Anusaya Devi and Anr. Vs. M. Manik Reddy and Ors.** [2003(8) SCC 565] and (2) **Black Perl Hotels Vs. M/s. Planet M. Retail Ltd.** [Civil Appeal No.2973-2974/2017].

3. The DH has filed reply vide Exh.38 and strongly resisted this application by contending that, this application is illegal and without any legal base. The JD No.2 i.e. the Project Director has filed this false application so as to cause delay. Causing the delay is additional burden upon the government to pay the interest on the decretal amount. It is with intention to cheat the government and to cause harassment to the DH. It is further contended that this is not commercial arbitral award. The JDs have acquired the land of the DH. The Arbitrator was appointed against the award passed in LAQ/16/SR/928/2018. The Arbitrator passed an award on 09.02.2022. The arbitral award was challenged by the JD under Section 34 of the Arbitration and Conciliation Act, 1996 by filing Civil Misc. Application No.229/2022 wherein the JDs had filed an application vide Exh.5 for staying the execution of the arbitral award dated 02.02.2022. The Hon'ble Principal District Judge, Satara allowed the said application subject to condition to deposit 50% amount of the compensation awarded under said award within two months. However, the said order is not complied till date. Thereafter, the JD No.2 had filed an application challenging the territorial jurisdiction of this Court under Section 39(4) of the Code of Civil Procedure. This Court rejected the said application by order dated 22.09.2025. The JD No.2 has not challenged the order of the Hon'ble P.D.J. Satara about the direction to deposit 50% of the compensation amount

passed on 01.04.2024 or order passed by this Court on 22.09.2025, before the Hon'ble High Court. Thereafter, this application has been filed only to prolong the payment of compensation to the DH, to cause harassment of the DH and to take the valuable time of the Court. It is further contended that the JD No.2 is National Highway Authority. The award under execution has been passed by the arbitrator appointed by the National Highway Authority. In such circumstances, no stamp duty is required to execute the said award. So urged to reject the application with cost of Rs.50,000/-.

4. Heard the Ld. Advocate appearing for the JD No.2 on VC. The substance of the submissions of the Ld. Advocate appearing for the JD No.2 is that, as per the provisions of Section 3 read with Schedule-I and Article-12 of the Stamp Act, the arbitral award is an instrument chargeable with stamp duty, the effect of non-registration is given in Section 35 and the instrument which is not duly stamped, is inadmissible in evidence. To support this submissions, the reliance is placed upon the judgment of the Hon'ble Apex Court in the case of (1) **M/s. Dharmaratnakara Rai Bahadur Arcot Narainswamy Mudaliar Chattram & Other Charities and Others Vs. M/ Bhaskar Raju & Brothers & Ors.** [Civil Appeal No.1599/2020], (2) **M. Anusaya Devi and Anr. Vs. M. Manik Reddy and Ors.** [Civil Appeal No. 7940-7942 of 2001] and (3) **Digambar Warty and**

Others Vs. District Registrar, Bangalore Urban District and Another [2012 SCC OnLine Kar. 8776].

5. Per Contra, the Ld. Advocate appearing for the DH submitted that this is not the commercial award. The land of the DH was acquired under compulsory acquisition. The land was acquired by the Central Government for National Highway through its competent authority. The award has been passed by the Land Acquisition Officer against which the reference was made and which is decided by the Arbitrator appointed by the JD No.2. In such circumstances, the said award is nothing but a decree of the Court and it doesn't require the stamp duty. It is further submitted that only to harass the DH, one after another applications challenging the authority of the Civil Court to execute the arbitral award have been filed. This application has been filed with intention to cheat the government, so also to cause harassment to the DH. So urged to reject the application with cost.

6. This Court carefully gone through the submissions from both sides, material on record and the case laws cited supra on which the Ld. Advocate for the JD No.2 relied upon.

7. This execution petition is filed by the DH for recovery of compensation amount as per arbitral award dated

02.02.2022 passed by the Additional Divisional Commissioner – Arbitrator, appointed by the JD No.2 National Highway Authority. The said award was in respect of determination of compensation for acquisition of the agricultural land of the DH for widening the National Highway No.965 – Aalandi-Pandharpur Palkhi road vide L.A.Q. No. 16/SR/928/2018 dated 25.01.2019. This shows that the land of the DH was compulsorily acquired by the government through the competent authority.

8. It is pertinent to note that the award in question is not between the two private parties or it is a commercial arbitral award. It is also not the International Arbitral Award. One party to the award is government through National Highway Authority of India. The Government through its competent authority has compulsorily acquired the land and passed the award about determining the market value of the acquired land so as to pay the compensation to the affected person. The award under execution is passed by the Arbitrator under Section 3(G) of the National Highway Authorities Act, 1956.

9. The Ld. Advocate appearing for the JD No.2 has relied upon the above cited case laws to buttress his submissions that the award under execution is an instrument chargeable with duty under the Indian Stamp Act.

So far as the case of **M/s Dharmaratnakara Rai etc. Vs. Bhaskar Raju** (cited supra) is concerned, there was registered charitable trust. The said trust entered with an agreement with the respondent to develop the trust property including renovation of Samadhi of the founder of the trust. Thereafter there was dispute between the parties. The parties relied upon the lease-deed dated 22.03.1997 which was insufficiently stamped. So there was observation about impounding of the instrument which requires compulsory stamp duty. In the case of **M. Anusaya Devi Vs. M. Manik Reddy** (cited supra), there was dispute between the members of joint family, about partition of the joint Hindu family properties and it was referred for arbitration and the question was about award passed in such private dispute between the parties. In the case of **Digambar Warty Vs. District Registrar, Bangalore Urban District** (cited supra), there was question about possession certificate to the flat owners. The said dispute was also between the private parties.

10. The facts and circumstances of all these three matters are different. In these matters, the question of stamp duty arose in private dispute between the parties. However, in the case on hand, the dispute is not between the private parties. Further, as discussed above, the land of the DH was acquired under compulsory acquisition. The government has appointed the competent authority to determine the compensation to be

paid to the affected persons. The award is nothing but a decree of the Court. In such circumstances, the above case laws are not helpful to the JD No.2. The JD No.2 has not produced on record any authority showing that the award passed for the compensation of the acquired land under Section 3(G) of the National Highway Authorities Act is an instrument which is chargeable with duty. In such circumstances, there is no merit in this application.

11. The DH has taken the strong objection to this application by contending that it has been filed only to prolong the matter and cause harassment to the DH. It appears that there is substance in this submissions. The DH whose land is compulsorily acquired in the year 2019 has to take the recourse of the law for execution of the said award and he has not got the amount of compensation for about 6 years from the acquisition of the land. In such circumstances, some cost is liable to be saddled upon the JD No.2. Hence, the following order.

Order

The application is hereby rejected with cost of Rs.2000/- (Rs. Two Thousand) payable to the DH.

Wai
Date: 12.12.2025

(D.B.Mane)
District Judge-2, Wai.