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Ar.O.P.No. 39/2018

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, SALEM.

PRESENT : Thiru. Swarnam J. Natarajan, M.L.,

Principal District Judge, Salem.

Wednesday, this the 12th day of August - 2026

Arbitration Original Petition No. 39/2018 -in-

CNR No. TNSA01-000298-2018

S. Jagadeesan

... Appellant

-versus-

1. The District Collector, Salem /
Statutory Arbitrator
u/s.3-G of N.H. Act 1956.
2. The Competent Authority /
District Revenue Officer (LA),
Salem.
3. The Project Director, N.H.A.I.,
N.H.A.I., (Salem), Reddiyur,
Salem.

... Respondents

This petition came up for final hearing before me on 01.08.2026 in the presence of Thiru.K.T.Rajan, Advocate for the petitioner, and of Thiru.N.Meikandamurthy, Government Pleader for the respondents 1 and 2, and Thiru.C.Sakthivel, Advocate for the 3rd respondent and upon hearing both sides'

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arguments, perusing the documents, the case having stood over for consideration till this day, this court delivered the following:

ORDER

The present application is preferred under Section 34 of the Arbitration and Conciliation Act, 1996 seeking for an order to set aside the impugned order passed by the Arbitrator/District Collector, Salem in his proceedings in Arbitration Petition No.113/RP NH 68, dated: 30.11.2016, enhancing the market value of the property acquired, and for grant of statutory benefits under Section 23 of the Arbitration and Conciliation Act.

2. According to the petitioner, he is the owner of the land measuring an extent of 11810 sq.meters situated in Survey Nos.126/6, 128/1, 128/2, 128/3, 140/1, 140/2 of Ayothiyapattanam Village, Vazhapadi Taluk, Salem District.

(ii) The respondents 2 and 3 had acquired the land for laying 4 lane road under National Highways Authorities Act. The 2nd respondent under Award No.240/2009(N.H.68), dated: 30.09.2009 without any basis and very casually, has held that on the basis of the data collected relating to the sale of lands during a period of one year prior to the publication of notification under section 3(A)(1), the compensation was fixed for Survey Nos.126/6, 128/1, 128/2, 128/3, 140/1, 140/2

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taking it as data land at Rs.86/- per sq.mtr. and that he had fixed only a compensation of Rs.11,75,561/- for the petitioner alleging as thought it is a just compensation.

(iii) The land acquired is within the vicinity of 3 kilometers from Salem town city limits, and the site is situated near to schools, colleges, hospitals, industries, and other amenities.

(iv) Even then, the land has been classified as agricultural land by the Land Acquisition Officer and the sale deeds relied upon by the petitioner were not considered by the Land Acquisition Officer, and fixed the value of the land acquired based on agricultural property sale deed.

(v) When the same was agitated before the District Collector also, the same was not considered, and the order was confirmed by the District Collector.

3. Thereby, against the impugned order, the present application is filed on the following, among other, grounds:

(i) The District Collector had not independently reviewed the value of the property acquired and failed to consider the fact that the land acquired is situated within the vicinity of 3 kilometers from city limits.



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(ii) The highest value shown in the sale deeds relied upon by the petitioner was not considered by the District Collector, and mechanically, without applying his mind had affirmed the award passed by the Land Acquisition Officer erroneously.

(iii) The reason given by the District Collector for confirming the award is not in tune with the sound legal principles governing the principles of awarding compensation for the properties acquired.

(iv) The additional statutory benefits were not provided by the Land Acquisition Officer, even though the law under Section 3(J) was declared unconstitutional by the Honourable Supreme Court way back in the year 2019.

(v) The petitioner further contended that the property acquired is situated adjacent to the expansion of the highway, and no developmental charges need to be deducted for the land acquired.

(vi) No developmental charges were applied in this case, and the property has been treated as agricultural land, ignoring the fact that the property is already well-developed, situated abutting the highway, adjacent to the road with all amenities, and the land is fully developed.



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(vii) The severance compensation and the compensation towards building and trees were not properly assessed and valued. Even for removing the debris and for removal of the roof and buildings, 20% cost was deducted from the petitioner after spoiling the livelihood of the petitioner.

(viii) Hence, the petitioner's counsel contended that the compulsory Land Acquisition Act has been misused by the respondents, taking advantage of the state machinery. The compensation has been erroneously fixed, and 20% has been deducted for removal of debris from the property as well as for removal of the superstructure, deducting from the compensation which was already awarded very meager.

(ix) The petitioner contended that the compensation ordered by the District Collector is to be set aside in the application, as the same is violative of principles of natural justice as well as violative of principles of public policy, and the additional compensation which the statute as provided to the petitioner was not provided, hence on that ground also, the award is not sustainable and liable to be set aside.

4. The respondents filed counter to that effect, stating that the property acquired is not admittedly situated within Salem town limits and the same is far



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away, situated within the vicinity of agricultural land. Thereby, the sale deeds filed by the petitioner were relating to small portions of commercial property and not in any way related to the land acquired. Hence, the sale deeds were not considered by the Land Acquisition Officer as well as by the District Collector, and proper reasons have been assigned in this regard by the District Collector as to why the said valuation has not been considered.

(ii) The orders passed by the District Collector cannot be reviewed in the arbitration application by way of appeal, as the scope of Section 34 is very limited. The same cannot be taken as an appeal to review the order passed by the District Collector.

(iii) The statutory benefits at the time of the passing of the award were not available to the petitioner. Thereby, the District Collector was not in a position to award statutory benefits, and the subsequent development in **Tarsem Singh's** case in the clarification has now ordered for statutory benefits, and the respondents leave it to the court system to consider the same. Hence, the respondents pray for dismissal of the application by confirming the order passed by the Land Acquisition Officer.



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5. The points for consideration are:-

1. Whether the 1st respondent failed to comply with the statutory requirements of Section 3(G) of the National Highways Authority Act while determining the compensation?
2. Whether the non-reliance of the sale deeds and other valuation materials produced by the petitioner would amount to perversity or patent illegality, warranting interference under Section 34 of the Arbitration and Conciliation Act?
3. Whether this Court has jurisdiction under Section 34 of the Arbitration and Conciliation Act to redetermine and pass an order enhancing the market value and compensation awarded by the statutory arbitrator ?

6. Since points 1 to 3 are interrelated and mainly concern the validity of the decision-making process and the valuation methodology adopted by the District Collector, they are taken up together for common discussion.

7. The learned counsel for the petitioner submitted that the impugned award passed by the District Collector suffers from patent illegality, perversity, violation of principles of natural justice, and non-application of mind. The District

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Collector had failed to provide opportunity of hearing and failed to furnish material documents to the petitioner, violating Section 34(2)(a)(iii) of the Arbitration and Conciliation Act, have categorically expounded the scope and ambit of Section 34(2)(a)(iii) of the Arbitration and Conciliation Act and was pleased to hold that every party to an arbitration must be afforded full, fair, and effective opportunity to present their case in order to set up the case against them. The sole arbitrator failed to apply the judicial mind on the disputes and conducted the arbitration proceedings as revenue proceedings in a secret manner and not as a judicial one.

(ii) The learned counsel for the petitioner further contended that the statutory infraction of Section 3G(7) of the National Highways Act, 1956 with regard to market value of the lands and buildings was not assessed, and average highest guideline value had been taken into consideration, which is contrary and in violation to the relevant provisions to Section 3G(7) of the National Highways Authority Act.

(iii) He had further contended that the failure to assess the high commercial and potential value of the land, and the flawed evaluation of building structures, trees, and livelihood, and contended that the 2nd respondent had not taken into account the correct market value in respect of the property, its potential



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value, and no opportunity was given to establish the utility and future benefits of the property acquired.

(iv) The impugned arbitral award is violated by patent illegality, gross procedural irregularities, and manifest arbitrariness. The arbitrator failed to consider the vital documentary evidence, valuation materials produced by the petitioner, and also ignored the statutory mandate contained under the National Highways Act, 1956 and the relevant rules governing determination of compensation, and failed to determine the fair market value of the acquired land, building, and other appurtenant assets in accordance with law. Therefore, the learned counsel for the petitioner, relying upon the Constitution Bench Judgment of the Honourable Supreme Court in ***Gayatri Balasamy v. ISG Novasoft Technologies Ltd., (2025) 7 SCC page number 1***, and seeks for setting aside the award passed by the District Collector.

(v) The learned counsel for the petitioner further contended that even if statutory benefits were ordered in this application, the respondent would prefer an appeal and would not provide compensation, and he requested for dismissal of the petition in the event if the court is not satisfied with the additional compensation pleaded by the petitioner.

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8. On the other hand, the learned counsel for the respondents contended that after the judgment rendered by **Gayatri Balasamy's case**, the Court has no powers to review the award passed by the District Collector like an appellate tribunal, and at the maximum, the Court can confirm the award or can set aside the award; there is no power conferred upon the Court to remand the matter. He further contended that the impugned award is a reasoned arbitration award passed by the District Collector after considering the materials available before the arbitrator. The expert committee was constituted only as an administrative, technical aid for examining the valuation pattern across the acquisition proceedings, and that the committee was not an adjudicating authority. The ultimate decision was taken by the respondent after considering the materials available on record after affording sufficient opportunity to the petitioner.

(ii) The petitioner was provided full opportunity to produce sale deeds, valuation materials, objections, and other documents during the statutory proceedings. Merely because the documents produced by the petitioner were not individually referred to in the award, it cannot be said that the arbitrator failed to consider the petitioner's case. Arbitrator is the ultimate judge of the quantity and quality of the evidence, and under Section 34, the Court cannot sit as an appellate



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court to re-appreciate the evidence merely because another view is possible. The guideline value was not adopted mechanically, but was considered along with the available sales statistics, nature, and classification of the acquired lands and other relevant materials. So, the learned counsel for the respondents contended that the present case should be treated as an exception merely because the dispute concerns land acquisition was expressly rejected by the Constitution Bench; hence, he prays for dismissal of the application.

9. I have given my anxious consideration to the submissions made by both the parties.

10. The scope of interference of the award passed by the District Collector under Section 34 of the Arbitration and Conciliation Act is supervisory and not appellate. The Court cannot sit in appeal over the findings recorded by the Arbitrator and cannot do re-appreciation of evidence, re-assessment of the market value, or substituting the Arbitrator's conclusion with the Court's opinion, and the same is impermissible unless the award itself suffers from any one of the grounds specified under Section 34 of the Arbitration and Conciliation Act.

11. In ***Project Director, NHAI vs. M. Hakeem***, the Honourable Supreme Court was pleased to held that Section 34 of the Arbitration Act does not confer any



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power upon the Court to modify, vary, or enhance an arbitral award. The Court exercising jurisdiction under Section 34 can only set aside the award if any of the statutory grounds exist. It cannot rewrite or substitute the award by granting enhanced compensation. The aforesaid principle has been re-affirmed by the Constitution Bench of the Honourable Supreme Court's judgment in ***Gayatri Balasamy vs. ISG Novasoft Technologies Limited***, wherein it has been held that the power conferred under Section 34 of the Arbitration and Conciliation Act is confined only to set aside the award on the statutory grounds available under Section 34, and does not extend to modification of the award except in the limited situations expressly recognized under the Act. Thereby, the prayer sought for by the petitioner seeking for awarding enhanced compensation by exercising powers under Section 34 of the Arbitration Act is legally impermissible.

12. In the present case, the principal grievance of the petitioner is that the market value determined by the District Collector is inadequate and several relevant factors such as potentiality of the land, surrounding developments, available amenities, and nearby infrastructure facilities were not taken into consideration by the District Collector. The contention essentially seek for a re-assessment of the quantum of compensation on a factual basis. Such an exercise



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would necessarily require re-appreciation of evidence and substitution of the Arbitrator's assessment with that of the Court, which falls outside the permissible ambit of Section 34 of the Arbitration and Conciliation Act.

13. The petitioner had failed to establish that the award passed by the District Collector suffers from any patent illegality apparent on the face of the award, violation of fundamental policy of India, in conflict with public policy, perversity, or denial of natural justice. So, none of the grounds recognized under Section 34 of the Arbitration and Conciliation Act has been made out by the petitioner, and mere dissatisfaction of the petitioner with regard to the quantum of compensation or plea that a higher amount ought to have been awarded cannot constitute a ground for interference under Section 34 of the Conciliation Act.

14. As far as the prayer for statutory benefit is concerned, the judgment of the Honourable High Courts of Andhra Pradesh, Patna, Karnataka, Madras, as well as the Supreme Court judgment with regard to the fact that the solatium as well as additional compensation forms part of the compensation and no additional court fee is required to be paid. In this regard, ***AIR 1970 Andhra Pradesh 139 Full Bench, AIR 1972 Patna 294, AIR 1975 Karnataka 129 Full Bench, and AIR 1973***



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Supreme Court 305, AIR 1986 Madras 229 rendered with regard to the additional compensation claim and no court fee is required to be paid.

15. The learned counsel for the petitioner further relied upon the judgment of the **Honourable Supreme Court in Union of India and Another vs. Tarsem Singh and Others, (2019) 9 SCC 304**, and the clarification in the review application sought for by the **Union of India and Another vs. Tarsem Singh and Others, in 2025 INSC 146**, and contended that the solatium and the additional compensation with subsequent interest can be awarded for pending acquisition proceedings.

16. The principal question that arises for consideration is whether this court, while exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act, is empowered to direct payment of solatium and other statutory benefits under Section 23 of the Land Acquisition Act, as made applicable to acquisitions under the National Highways Authorities Act, 1956.

17. The respondents' counsel would contend that such a direction would amount to modification of the arbitral award, which is impermissible in proceedings under Section 34 of the Arbitration Act. And he relied upon **the Project Director, NHAI vs. M. Hakeem and the Constitution Bench judgment in**



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Gayatri Balasamy vs. ISG Novasoft Technologies Limited. According to the respondent, the court may either uphold or set aside the award, but cannot enhance the compensation by directing payment of solatium.

18. The aforesaid contention, though was impressive at the first blush, cannot be accepted for the reason that the claim for solatium does not stand on same footing as a claim for enhancement of compensation on the ground of market value. The determination of market value is essentially an adjudicatory exercise involving appreciation of oral and documentary evidence, assessment of comparable sales, location, potentiality of the land acquired, classification of the land, and several other factual considerations, whereas solatium stands on an entirely different footing.

19. Once the market value is determined, the grant of solatium is neither discretionary nor dependent upon any further adjudication. Section 23(2) of the Land Acquisition Act mandates that the court shall award a sum equivalent to the prescribed percentage of the market value in consideration of the compulsory nature of acquisition. The expression employed by the Legislature is mandatory, leaving no discretion to the Collector or to the arbitrator or to the court. The statutory benefit of solatium is thus not an independent head of compensation



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requiring proof by evidence. It is a legislative consequence following automatically after the determination of the compensation. Once the compensation payable for compulsory acquisition is quantified, the statute itself engrafts the additional component of solatium. Therefore, the omission to award solatium cannot be equated with an adjudicatory determination refusing enhancement of compensation.

20. The Honourable Supreme Court of India in ***Union of India vs. Tarsem Singh*** declared Section 3(J) of the National Highways Act unconstitutional so far as it excludes the application of Section 23 of the Land Acquisition Act so far as the acquisition for National Highways Act is concerned. And the landowners whose lands have been acquired under the National Highways Act after insertion of Section 3(J) were entitled to all statutory benefits available under the Land Acquisition Act.

21. The declaration was unequivocal and unconditional. There is no prospective application of the statute was prescribed under the judgment of the Honourable Supreme Court. The legal consequence of declaring Section 3J unconstitutional is that the said provision must be regarded as void to the extent of such inconsistency and incapable of depriving land owners of statutory benefits to which they were always constitutionally entitled.



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22. It is well-settled that when a statutory provision is declared unconstitutional, unless the court expressly restricts the operation of its declaration, such declaration relates back to the inception of the invalid provision. The declaration by the Honourable Supreme Court in Tarsem Singh, therefore, operates upon all pending proceedings where rights flowing from compulsory acquisition remain to be finally worked out.

23. The contention that grant of solatium would amount to modification of the arbitral award deserves careful scrutiny. The concept of modification contemplated in Hakeem relates to alteration of the adjudicatory finding rendered by the arbitral tribunal. It prohibits the court from substituting its own assessment regarding valuation, appreciation of evidence, quantum of compensation, or any other disputed factual issue. The court exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act does not sit as an appellate forum to re-determine the compensation.

24. The Honourable Supreme Court in *Associate Builders vs. Delhi Development Authority* had explained that an award ignoring mandatory substantive law falls within the expression "fundamental policy of Indian law".



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Compliance with mandatory statutory provisions forms an integral part of the fundamental policy of Indian law.

25. The Constitution Bench of the Honourable Supreme Court in ***Gayatri Balasamy's*** case also does not compel a different conclusion. The Constitution Bench reiterated that modification of arbitral award is impermissible except within recognized limitations. This court is, therefore, of the considered opinion that directing payment of statutory solatium does not amount to modification of the arbitral award within the meaning explained in Hakeem's case or Gayatri Balasamy's case. It merely ensures that the award conforms to the substantive statutory law declared by the Honourable Supreme Court. Accordingly, this court finds that providing statutory benefits would not amount to modification.

26. The Honourable High Court of Karnataka in ***National Highways Authority of India vs. Gangappa, 2025 KHC 23817***, after considering the Constitution Bench judgment in Gayatri Balasamy's case, was pleased to held that the powers recognized under paragraph 49 are sufficiently broadened to permit corrections of inadvertent omissions which do not require a fresh adjudication on merits. The Karnataka High Court was pleased to observe that every court or tribunal possesses incidental powers necessary to effectively discharge its judicial



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functions and relied upon the principles laid down in ***Grindlays Bank Limited vs. Central Government Industrial Tribunal***, that every judicial forum is empowered with such ancillary powers as are necessary for doing complete justice between the parties. The Karnataka High Court was pleased to direct payment of solatium and consequential statutory benefits, holding that the same does not amount to impermissible modification of the arbitral award.

27. The Honourable Supreme Court in the review petition in Tarsem Singh, held on 25.03.2026, was pleased to held that all land owners whose claims relating to the quantum or component of compensation under National Highways Act remain pending on or after 28.03.2008 before any competent forum are entitled to seek addition to solatium, interest, and interest on solatium as part of their compensation.

28. In the present case, the compensation proceedings is alive and the claim for solatium has been specifically raised before this court, thereby the above case falls within the category of compensation not being disbursed, and the claimant cannot be denied the statutory benefit merely on technical or procedural grounds.

29. This court finds that the court is not substituting any finding on facts or re-appreciating evidence. It is merely ensuring that the compensation already

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determined carries with it the statutory benefits which the Honourable Supreme Court has declared to be inseparable from such compensation. Such a direction neither alters the arbitral determination nor enlarges the scope of judicial review under Section 34 of the Arbitration and Conciliation Act. It merely gives effect to the binding declaration of the law under Article 141 of the Constitution and secures to the landowners the compensation guaranteed by the law.

30. The District Collector, in his award while confirming it, had given reasons as to why the documents relied upon by the petitioner could not be considered, as they are not similarly placed property. The revenue head in the district had given an opinion that the documents relied upon by the petitioner concerning the property are not similarly placed. Under such circumstances, this court finds that the Collector has applied his mind and passed an award, and the same does not require any interference in the present application. Thereby, the order dated 30.11.2016 passed by the District Collector, had applied his mind and passed orders on 30.11.2016, and was also pleased to provide for additional compensation as ordered by the Honourable High Court and the Honourable Supreme Court.



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31. Thereby, this court finds that the award passed by the arbitrator fixing the value of the land acquisition is confirmed. However, in addition to the value fixed, the land owner is entitled for the statutory benefits under Section 23 and 28 of the Land Acquisition Act. And the petitioner is entitled for solatium, additional compensation, and interest for the additional benefits ordered. The District Collector as well as the Land Acquisition Officer has to provide for the solatium, additional compensation, and interest as mandated under the statute to the petitioner within the period of one month.

32. Further, the petitioner has not paid the requisite court fee while seeking for enhanced compensation, and the prayer in the application is for fixation of the market value and to determine the compensation of the property acquired. Under such circumstances, the payment of court fee made by the petitioner is inadequate and deficit. Hence, the petitioner shall pay the remaining court fee within a period of one week, and only on such compliance of the condition, after paying the remaining court fee, the copy shall be furnished to the petitioner. Accordingly, this petition is ordered.

In the result, the award passed by the District Collector/Arbitrator in in Arbitration Petition No.113/RP NH 68, dated: 30.11.2016, is confirmed. However,

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this Court finds that the petitioner, in addition to the compensation awarded, is also entitled for statutory benefits provided under Section 23 and 28 of the Land Acquisition Act with respect to solatium, additional compensation, interest, as statutory benefits provided in addition to the land value and compensation fixed by the Land Acquisition Officer, confirmed by the District Collector. The said additional benefits are directed to be paid within a period of one month from the date of this order. Accordingly, the Arbitration Petition is disposed of. There is no order as to cost. The petitioner shall pay the requisite court fee within a period of one week, and thereafter the copy shall be provided to the petitioner on such payment.

Dictated to the Steno-Typist, taken by her in shorthand, transcribed and typed by her with the help of voice recorder, and Microsoft 365, corrected and pronounced by me, in the open court, this the 12th day of August – 2026.

**Principal District Judge,
Salem.**

Annexure:-

Petitioner and Respondents side Witnesses:-

-Nil-

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Petitioner and Respondents side Documents:-

-Nil-

**Principal District Judge,
Salem.**

Copy to:-

The District Collector / Arbitrator, Salem

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Draft/Fair Order in
Ar.O.P.No.39/2018
Dated : 12.08.2026

12.08.2026

Principal District Judge, Salem.