

MHTH010008132024

Presented On : 20.02.2024
Registered On : 20.02.2024
Decided On : 06.08.2026
Duration : 02Y 05M 17D

**IN THE COURT OF DISTRICT JUDGE-3 AND ADDL. SESSIONS
JUDGE, THANE, AT THANE.
(Presided over by P.V. Ghule)**

**Civil M.A.No.43/2024
Exh. 17**

**The Project Director,
National Highway Authority of India,
Project Implementation Unit, Thane
MTNL Building, Opp. Babubhai Petrol
Pump,LBS Marg, Near Castle Mill Circle,
Thane(W)-400601.**

... Applicant

V/s

- 1. Thakibai Sukur Patil**
(Since deceased through her Legal heirs)
- 1/1 Sanjay Sukur Patil**
Aged Adult, Occ. Not known
- 1/2 Arun Sukur Patil**
Aged Adult, Occ. Not known
- 1/3 Padmakar Sukur Patil**
Aged Adult, Occ. Not known
- 1/4 Darshana Dattatray Patil**
Aged Adult, Occ. Not known
- 1/5 Sunita Chandrakant Patil**
Aged Adult, Occ. Not known
All R/at At Village : Navsai,
Post: Bhatane, Taluka : Vasai,
District : Palghar

2. **Ld. Arbitrator/ Collector of Palghar,**
Collector Office, Palghar.

3.. **The Competent Authority/ Sub-Divisional Officer,**
SDO Office, Near Vasai Court,
Vasai (West), Tal. Vasai,
District : Palghar – 401201.

...Respondents.

**Application under section-34 of the
Arbitration & Conciliation Act, 1996.**

Appearances :

Ld. Adv. Mr. Jayant Joshi , K.M. Singh and M.G. Pandye for
Applicant.

Ld. Adv. Smt Ujwalla Moholkar for Respondent Nos. 1/1 to 1/5.
Respondent Nos. 2 & 3 are formal parties.

:JUDGMENT:

(Delivered on this 6th day of August 2026)

This is an application preferred u/s. 34 of Arbitration & Conciliation Conciliation Act (hereinafter referred as 'A & C Act' for brevity). Applicant has challenged Award of Ld. Sole Arbitrator bearing Arbitration case No. 33/2021 dtd. 31/08/2023.

2 Summary of land acquired in present case is mentioned in following table.

Village	Gat No.	Total area in Ha.	Acquired Land in Sq.m.
Navsai	53	0.63.00	1110
	49/8	0.16.20	20

3 The Ministry of Road Transport and Highway Department of Government of India has acquired the properties for Mumbai-Vadodara Expressway i.e. 113 km. which passes through Thane and Palghar District, Maharashtra. The Competent Authority of Land Acquisition, Vasai (CALA) passed Award dtd. 14/01/2020 wherein a compensation of Rs. 765/- per Sq. meter is granted. It was challenged before the Sole Arbitrator. The Central Government issued notification u/s. 3 A of the National Highways Act dtd. 06/03/2017. A notification u/s. 3 D of N.H. Act is dtd. 01/03/2018. Notices u/s. 3 H & E of N.H. Act were issued by CALA on 18/12/2019. Ld. Sole Arbitrator has enhanced the compensation from Rs. 765/- to Rs.1,120/- i.e. increase of Rs.355/- per Sq. meter is granted. Aggrieved by impugned enhancement, this is an application preferred u/s. 34 of the A & C Act on the grounds that Ld. Arbitrator completely failed to follow mandatory procedure under the National Highway Act and u/s. 24,28,31(3) Of Arbitration Act. The enhancement Award is patently illegal. The Competent Authority for Land Acquisition determined the compensation amount properly as per applicable laws for determination of market value of acquired land. The Ld. Arbitrator failed to consider the final Award dated 18.12.2019 which is under challenge, is not valid Award. The actual Award passed by CALA is dated 20.08.2018 which is not challenged in the present Arbitration application. Ld. Arbitrator while enhancing the market value of the land has taken into account Index II submitted on record by the Applicant bearing NO.5449/2014 with rate of Rs.967.75 per sq.m. Determination of market value of land depends on quality of land, type of land, area surrounding subject land etc. The Index II shows only the consideration amount of land

between the parties and not other factors. Index II only records location and consideration price of the land. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 makes clear that sale price be referred for the nearest village shall be determined taking into consideration the sale deeds or Registered Agreement to sell. Ld. Advocate for land losers produced Sale Deeds for other villages which are not applicable to the present land in Village of Navsai. The Award dated 31.08.2023 is liable to be set aside.

4 Perused reply submitted by respondent Nos. 1/1 to 1/5. Respondent Nos. 2 & 3 failed to appear.

5 In view of aforesaid rival contentions, following points are framed for determination and my findings thereon with reasons are as follows:-

Sr.No.	Points	Findings.
1	Whether order of Arbitrator in Arbitration Case No.33/2021 dated 31.08.2023 needs interference ?	In Negative.
2	What order?	As per final order.

:REASONS:

6 It is to note that all notifications u/s. 3A, 3D, 3H & 3E of N.H. Act and date of award issued by CALA are not disputed. Admittedly, growth of Rs. 355/- per sq. meter is granted by Ld. Sole Arbitrator.

7 In 'Cement Corporation of India Vs. Purya [(2004) 8 SCC 270] the Hon'ble Apex Court held that a Sale-Deed is to be believed only if there is no contrary evidence to rebut its contents. In given case, the respondent/State was failed to adduce any evidence to rebut Sale-Deed, therefore, the Sale-Deed is considered as genuine.

8 Advocate for Respondent has rightly submitted that in regard to scope of u/s. 34 of A & C Act, there is a limited scope. The Hon'ble Apex Court in '**Delhi Airport Metro Express Pvt. Ltd. Vs. Delhi Metro Rail Corporation Ltd.**'[(2022) 1 SCC 131] in para-28 & 29, it is observed that the powers of District Court are limited u/s. 34 of A & C Act i.e. it can be set aside if there is patent illegality or the Award is perverse and against the public policy. Para-28 & 29 are reproduced as follows:-

“28. This Court has in several other judgments interpreted Section 34 of 1996 Act to stress on the restraint to be shown by Courts while examining the validity of the arbitral awards. The limited grounds available to Courts for annulment of arbitral awards are well known to legally trained minds. However, the difficulty arises in applying the well-established principles for interference to the facts of each case that come up before the Courts. There is a disturbing tendency of Courts setting aside arbitral awards, after dissecting and reassessing factual aspects of the cases to come to a conclusion that the award needs intervention and thereafter, dubbing the award to be vitiated by either perversity or patent illegality, apart from the other grounds available for annulment of the award. This approach would lead to corrosion of the object of the 1996 Act and the endeavours made to preserve this object, which is minimal judicial interference with arbitral awards. That apart, several judicial pronouncements of this Court would become a dead letter if arbitral awards are set aside by categorizing them as perverse or patently illegal without appreciating the

contours of the said expressions.

29. Patent illegality should be illegality which goes to the root of the matter. In other words, every error of law committed by the Arbitral Tribunal would not fall within the expression "patent illegality". Likewise, erroneous application of law cannot be categorized as patent illegality. In addition, contravention of law not linked to public policy or public interest is beyond the scope of the expression "patent illegality". What is prohibited is for Courts to reappreciate evidence to conclude that the award suffers from patent illegality appearing on the face of the award, as Courts do not sit in appeal against the arbitral award. The permissible grounds for interference with a domestic award under Section 34(2-A) on the ground of patent illegality is when the arbitrator takes a view which is not even a possible one, or interprets a clause in the contract in such a manner which no fair-minded or reasonable person would, or if the arbitrator commits an error of jurisdiction by wandering outside the contract and dealing with matters not allotted to them. An arbitral award stating no reasons for its findings would make itself susceptible to challenge on this account. The conclusions of the arbitrator which are based on no evidence or have been arrived at by ignoring vital evidence are perverse and can be set aside on the ground of patent illegality. Also, consideration of documents which are not supplied to the other party is a facet of perversity falling within the expression "patent illegality".

9 Ld. Advocate Shri. M.G. Pandye for Applicant NHAI submits that proper procedure is not followed by Ld. Sole Arbitrator. The Ld. Arbitrator ignored Sec. 26 whereby the rate is to be decided by referring to Sale Agreement, but he has referred to extract of Index-II in regard to a Sale-Deed No. No.5449/2014 dtd. 14/09/2014 which is in respect of Survey No.341/5 for the consideration of Rs.967/- per sq. meter. Without calling original Sale-Deed. Ld. Sole Arbitrator relied on value mentioned in Index-II. In

second table, amongst first six Sale-Deeds, only three higher Sale-Deeds are considered by Ld. Sole Arbitrator. It is submitted that Index II do not give any details about the transaction and that cannot be the basis to enhance the amount. In the present case there was absence of Sale Agreement. Therefore, the CALA referred to the nearby village Bhatane and passed First Award dated 20.08.2018. The said first Award is passed after following the procedure u/s 3A to 3D for period of two years. In this period, objections were invited from landloosers and opportunity of hearing was given to them. Thereafter the Award dated 20.08.2018 was passed which is the first Award just and proper. After period of 3 years, the claimant filed application before Arbitrator in year 2021 and Ld. Arbitrator ignored that rate shall be by referring readyreckoner, or by Sale Agreement or from the vicinity adjacent area. The Ld. Arbitrator has not followed the procedure and has committed error by enhancing the amount without Sale Agreement. Thereby huge burden on the public money has caused poor infrastructure. The Arbitrator has ignored the rules and also further passed interest amount. It is submitted that Ld. Arbitrator has not acted under the Rules and Regulations of National Highway Act. It is prayed to set aside the Award and remand it for hearing afresh.

10 Ld Advocate Smt. Moholkar for Respondent No.1/1 to 1/5 submits that impugned Notification u/s. 3A of the N.H. Act is dtd.06/03/2017. Therefore, Sale-Deeds for preceding three years from 06/03/2014 came to be considered by Ld. Sole Arbitrator. When Index-II of Sale-Deed 5449/2014 about Sale-Deed dtd. 14/09/2014 is considered by the Sole Arbitrator, at the relevant

time, no objection is raised by the Appellant/applicant. The scope is very limited u/s. 34 of the A & C Act. It is prayed to reject the application. Para 11 shows that six highest Sale deeds are considered by the Sole Arbitrator which are for the period 2014, 2015, 2016 and the average of 50% of six sale instances are drawn. Ld. Arbitrator has drawn average from the first three sale instances which comes to Rs.1120/- per sq.m.

11 According to Ld. Advocate Shri. M.G. Pandye for Applicant, Index-II of Sale-Deed No. 5449/2014 dtd. 14/09/2014 is referred by Ld. Sole Arbitrator without verifying alleged Sale-Deed of Survey No.341/1. It is rightly submitted that no Sale Deed or Readyneckner was available, therefore, Competent CALA took into consideration the adjacent Bhatane Village.

12 It is pointed by Ld. Advocate for Respondents that CALA has granted compensation of Rs.765/- per sq.m. for Village Bhatane which is enhanced by the Ld. Arbitrator to Rs.1120/- and thereby has increased Rs.355/- per sq.m. One such matter is also decided by this Court and Application of present Applicant challenging this enhancement is rejected. The Award passed by Ld. Arbitrator enhancing the amount from Rs.765/- to Rs.1120/- is just and proper is already decided in C.M.A.354/2025 by Order and Judgement dated 05.01.2026 of this Court.

13 It would be appropriate to refer first table in para-11(viii) wherein highest six Sale-Deeds are considered by the Sole Arbitrator. Ld. Sole Arbitrator has drawn average from first three

sale instances, which comes to Rs.1120/- per Sq. meter. The average of three Sale transaction for the year 2014, 2015, 2016 is taken into consideration while deciding the amount of Rs.1120/- per sq.m. by the Sole Arbitrator, is seen. This Court do not find any error on the part of Ld. Sole Arbitrator who has granted Rs.1120/- instead of Rs.765/- per sq.m. So also the consideration amount in the Index II can also be considered to determine fair market value. It is seen that all available documents are considered by the Ld. Sole Arbitrator to give just and fair compensation to the landloosers. The similar rate is confirmed by my Predecessor in Civ. M.A.354/2025 for land in Bhatane Village, Vasai, Thane for same project.

It is to note that Index-II of document No. 5449/2014 is relating to village Kashid Kopar adjacent to village Bhatane. There is no evidence given by applicant NHA to rebut genuineness of impugned Sale-Deed dtd. 14/09/2014. Index-II is concluding remark of alleged Sale-Deed. Therefore, there is no illegality committed by the Ld. Sole Arbitrator. Hence, point No.1 is replied in negative. In result, application is dismissed. Hence, the order.

:ORDER:

- 1) Application is dismissed.
- 2) Cost will abide the cause.
- 3) R & P, if any, be returned to Ld. Arbitrator.

(Dictated and pronounced in open Court).

Date-06/08/2026.
Thane.

(P.V. Ghule)
District Judge-3, and
Addl. Sessions Judge, Thane.

Certificate

I affirm that the contents of this PDF file are word to word as per original Judgment/order.

Dictated on : 05.08.2026 and 06.08.2026
Transcribed on : 06.08.2026
Checked & signed on : 06.08.2026

Date : 06.08.2026

Sd/-
(D.D. Kadam)
Stenographer (Gr.I)
**Additional Sessions Court-3,
Thane**