KADK010019122026

In the Court of Principal District and Sessions Judge, D.K., Mangaluru.

Present:- Sri Basavaraj, B.Com., LL.M.,
Principal District and Sessions Judge,
D.K., Mangaluru.

Dated this the 12th day of August, 2026.

A.P./38/2026

Petitioner: National Highways Authority of India,
Project Implementation Unit,
Door No.3-29, "Bethel",
Tharethota, near Pumpwell, (NH-66)
Mangaluru - 575005.
Represented by its Project Director.

(Sri Lohidas R., Advocate)

Versus

Respondents:

1. Rajalakshmi Education Trust (Regd.)
1st Floor, Souza Arcade,
Balmatta Road, Mangaluru,
Dakshina Kannada District - 575001.

2. The Arbitrator (N.H.) and
Deputy Commissioner,
Dakshina Kannada District,
Mangaluru - 575001.

3. The Special Land Acquisition Officer
& Competent Authority NH-66 (17),
Karnataka State Employees
Association, Clock Tower,

Hampankatta, Mangaluru.
D.K. District - 575001.

(R1: Sri Vittal Bhandarkar, Advocate,
R2: D.G.P.,
R3: Absent)

i	Provision under which the application is filed	U/S 34(2) of A&C Act r/w Sec.3G(5) of NH Act.
ii	Relief sought for	To set aside the Arbitral Award.
iii	The date on which the application is filed	28.04.2026.
iv	Number of the application	----
v	The date on which the objections is filed by different respondents	13.07.2026.
vi	The date on which the order was passed on the said application	12.08.2026.

JUDGMENT

This appeal is filed by petitioner under Sec.34(2) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'A & C Act') read with Section 3G(5) of the National Highways Act 1956 (hereinafter referred as 'NH Act') to set-aside the Award passed by the Respondent No.2/the Arbitrator and Deputy Commissioner, D.K (herein after referred as the 'learned Arbitrator') in Case No. C.DIS. ARB(4)NH.LAQ.CR.96/2024-25 dated 27.01.2026.

2. Brief facts of the case of the petitioner is that:

(a) The NHAI has acquired the land of the land loser Sy.No.310/3 measuring 3480 square meter situated at Badagamijaru Village, Moodabidre Taluk for development of National Highways work of widening of National Highway No.169 (Old NH-13) i.e. Shimoga – Mangaluru (Sanoor to Bikarnakatte) Section under the preliminary notification S.O.1962(E) dated 28.04.2023.

(b) The Special Land Acquisition Officer cum Competent Authority (hereinafter referred as 'SLAO & CA') awarded compensation amount of Rs.1,350/- per sq.mtr. with all the statutory benefits and interest as per the RFCTLARR Act 2013.

(c) Being aggrieved by the compensation amount determined by the SLAO & CA, the land loser filed application before the learned Arbitrator, Mangaluru for enhancement of compensation amount.

(d) The learned Arbitrator passed award on 27.01.2026 enhancing the compensation amount by mentioning that the rate of commercially converted land shall be paid to the acquired land of the applicant with all the statutory benefits and interest with all the statutory benefits and interest as per the RFCTLARR Act 2013.

3. Being aggrieved by the Arbitration Award dated 27.01.2026 the petitioner filed this petition on the following:

GROUNDS

1) The impugned Award is patently illegal on the face of the impugned Arbitral Award and hence liable to be interfered with and set aside as per the provisions of Section 34(2)(b)(ii), (iii) & (2A) of the A & C Act.

2) The learned Arbitrator has not appreciated the contents of the 3G award that SLAO has to expressly ordered to pay the compensation conditional upon verification of the Khatedars/interested persons title deed and apportionment measurement and after obtaining original document and relevant records for due verification. Accordingly necessary compensation will be paid after production of relevant documents like approved layout/building plan, E-Khatha etc.

3) The learned Arbitrator has not given any reason for adopting the rate applicable to developed and converted land, without considering the use of the land, which remains undeveloped land of the owner and without following the provisions of RFCTLARR Act and NH Act.

4) The Competent Authority is required to follow CVC guidelines for determining compensation in cases where the land has not been developed in accordance with

the conversion order. However, the Competent Authority in his letter/report dated 16.03.2026, stating that a proposal had been submitted to NHAI to release enhanced compensation at Rs.1,890/- per sq.mtr. for converted commercial land, based on the Arbitration Award. However, the Arbitrator, did not specify whether the subject land was developed or undeveloped, but merely directed that "the rate of commercial converted land shall be paid to the applicant. Further contradictorily, in his same letter the Competent Authority himself acknowledged that the acquired land is undeveloped. It is also evident that no visible any type of development existed on the acquired land as on the date of the 3A notification, as supported by annexed photographs and web imagery. In light of these facts, the action of the Competent Authority in proceeding to recommend and process compensation at the rate applicable to developed converted commercial land, without applying CVC guidelines and without accurately reflecting the factual status of me land, amounts to a miscarriage of justice. These CVC guidelines quantifying the compensation actually payable by applying the prescribed slabs for converted, but undeveloped land, thereby paying 100% for the first 25 cents, 90% for the next 25 cents, 80% for the next 25 cents and 70% for the remaining extent.

5) The impugned Award is in conflict with the public policy of India, in as much as the same is in

contravention with the fundamental policy of Indian Law, since the impugned Award is in contravention of provisions of the NH Act, RFCTLARR Act and A & C Act being patently illegal on the face of it and therefore the impugned Award is liable to be interfered with and hence liable to be set aside as per the provisions of Sec. 34(2)(b)(ii) (iii) & (2A) of the A & C Act.

6) The learned Arbitrator has completely failed to consider the mandatory provisions of Sec.26 of the RFCTLARR Act and enhanced the award amount solely on the basis of mere imagination and with no valid reasoning or evidence to substantiate the claim. Sec.3G(5) of the NH Act provides that if the amount determined by the Competent Authority is not acceptable to either of the parties, the same shall be determined by the Arbitrator and such determination shall be under Sec.3G(7) of the NH Act. Therefore, the learned Arbitrator is bound to adjudicate the market value of acquired land as on the date of notification issued under Sec.3A(1) of the NH Act.

7) The learned Arbitrator/Respondent No.2 failed to follow the provisions of RFCTLARR Act as well as NH Act in respect of re-determination of compensation in respect of acquired lands. It is a settled position of law that violation of applicable statutes cannot be said to be in public interest.

8) It is a settled position of law that every arbitrator has to adjudicate the matters to decide upon its merits upon independent inquiry.

9) The impugned Arbitral Award is wholly perverse and irrational that no reasonable person would have arrived at the same particularly when the impugned Award is based on no evidence.

10) Thus, viewed from any angle the Award passed by the learned Arbitrator is against the Public Policy of India and all the canons of Law. So, he prays to allow the petition.

4. On service of notice, the Respondent No.1 appeared through its Counsel and filed written statement by stating as under:

a) The petition is not maintainable in law or on facts. There are no grounds to interfere with the impugned award.

b) The petitioner has acquired various portions of land belonging to the respondent in Sy.No.310/3 of Badagamijar Village touching the NH-169 in two phases, totally 2.68 acres out of 4.40 acres purchased by the Trust for its purposes and the said land was commercially complaint and purchased for purpose of stating of Medical and Dental College with hospital and allied buildings by the Respondent Trust.

c) To make matters more clear about the prevailing market value of subject land on the date of 3A Notification and publications the respondent had purchased the land situated interior at the market value of Rs.1,59,000/- per cent as the sale deed dated 23.09.2023.But the land value fixed by the SLAO was too low at the rate of Rs.54,000/- per cents as against the prevailing market value of 2 lakhs for all the properties touching the NH-169 per cent and as such the respondent was compelled to apply for arbitration as per Law for grant of just compensation.

d) The respondent had produced before the Hon'ble Arbitrator the guideline value fixed by the Sub-Registrar for the commercially converted land that is 1900 per sq.mtr. with 40% based on earlier guideline of Rs.1350 + 40% =1890 per sq.mtr. and the same was fixed in the earlier Award in ARB (4)NH.LAQ.135/2023 dated 20.08.2024 and same rate was determined as the land in question was also from the very same Sy.No.310/3 of Badagamijaru Village forming portion of the same sale deed and commercially converted and acquired by the Trust for starting Medical and Dental College. Therefore, there cannot be any dissimilar Award for portions of same Sy.No.310/3 and covered by the same sale deed.

e) Except admitting the case of the petitioner and contending above, the Respondent No.1 denied all the petition averments. So prays to dismiss the petition with costs.

5. On service of notice, the Respondent No.2 appeared through the learned D.G.P., but did not file objection statement.

6. On service of notice, the Respondent No.3 remained absent.

7. Learned Counsel for petitioner and learned Counsel for respondent Trust have filed their separate written arguments. Perused the records of the case.

8. Now the points that would arise for my consideration are as under:

1) Whether the Arbitration Petition is filed within the period of limitation?

2) Whether the petitioner complied with Sec. 34(5) of A & C Act?

3) Whether the petitioner has made out sufficient grounds to set aside the impugned Arbitral Award as provided under Sec.34(2) of A & C Act?

4) What Order?

9. My finding to the above points are as follows:

Point No.1 : In the Affirmative,
Point No.2 : In the Affirmative,

Point No.3 : In the Negative,
Point No.4 : As per final order, for the following:

REASONS

10. **Point No.1**: Now the point to be considered is whether the petition is filed within the time of limitation as per Sec.34(3) of the A & C Act.

11. The Arbitral award discloses that, the learned Arbitrator supplied the copy of the same on 05.02.2026. The order sheet of this petition disclose that, this petition is filed on 28.04.2026.

12. The Sec.31(5) of the A & C Act reads thus;

"(5) After the Arbitral Award are made, a signed copy shall be delivered to each party."

13. The Sec.34(3) of the A & C Act reads as under:

"(1) xxxxx

(2) xxxxx

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of

> *three months it may entertain the application within a further period of thirty days, but not thereafter."*

14. In this regard this Court would like to rely on the ruling in **Civil Appeal No.791/2021 [Dakshin Hariyana Bijali Vikran Nigam Ltd. Vs M/s Nyavigant Technologies Pvt. Ltd.]** dated 30.07.2018 wherein the Hon'ble Supreme Court of India held that, the period of limitation would commence from the date on which the signed copy of the arbitral award was made available to the parties.

15. So, from the conjoint reading of above provisions and as held by their Lordships in the above ruling it is clear that after passing of arbitral award the learned Arbitrator has to supply the copy of the same to all the parties of the arbitration. The petitioner produced the copy of the arbitral award which discloses that, the same is supplied to the petitioner on 05.02.2026 and the limitation starts from 06.02.2026 and this petition is filed on 28.04.2026. Hence, the petition is filed within the period of 90 days from the date of supplying the copy of the arbitral award and it is in time. So, the Point No.1 is answered in the Affirmative.

16. **Point No.2**:- The Sec.34(5) of A & C Act, 1996 reads thus:

> *"An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied*

by an affidavit by the applicant endorsing compliance with the said requirement.”

17. On perusal of the records of the cases the petitioner has produced the notice with postal receipt regarding the filing of this petition to the Respondent No.1.

18. In this regard, this Court would like to rely on the ruling reported in **AIR 2018 SC 3862 [C.S. of Bihar and Others Vs. Bihar Rajya Bhumi Vikas Bank Samiti, Bihar, Jarkhand]**, wherein it is held that, the Sec.34(5) of the A & C Act, 1996 is directory and not mandatory. So the issue of notice before filing the petition is not mandatory. Hence, the Point No.2 is answered in the Affirmative.

19. **Point No.3**: In the petition the petitioner taken several grounds challenging the Arbitration Award.

20. Admittedly the SLAO & CA acquired the land of the land loser/respondent No.1 under the preliminary notification dated 28.04.2023 and the final notification dated 16.03.2024 under Sec.3D of NH Act for the purpose of widening of NH-169 (13) of Shimoga – Mangaluru Section (Sanoor to Bikarnakatte) and awarded the compensation amount to the acquired land as under:

Sy. No.	Acquired area in sq.mtr	Rate per sq. meter in Rs.	Details of acquired structures and trees
310/3	3480	1,350/-	Non-agriculture

21. The learned Arbitrator enhanced the compensation amount from Rs.1,350/- to by mentioning that the rate of commercially converted land shall be paid to the acquired land of the applicant.

22. The impugned award was passed after the Arbitration & Conciliation (Amendment) Act 2015 came into force. The said amendment brought major changes to the Sec.34 of the Act restricting the Courts from interfering with the arbitral award on the ground of public policy.

23. The power of the Court to examine the award is dealt in Sec.34 of A & C Act, which reads thus:

> *"Application for setting aside arbitral award. —(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).*
>
> *(2) An arbitral award may be set aside by the Court only if—*
>
> *a) the party making the application furnishes proof that—*
>
> *(i) a party was under some incapacity, or*
>
> *(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or*

(iii) the party making the application was not given proper notice of the appointment of an Arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv)the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

Explanation.1 — For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if, -

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or,

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

Explanation.2— For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian Law shall not entail a review on the merits of the dispute.]

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.]"

So, the Explanation 2 of Sec.34(2) makes it very clear that in no way Court be entitle to review the award on merits of the dispute nor re-appraise the evidence unless the petitioner is able to establish the grounds enumerated under the provisions of law and set-aside the arbitration award.

24. The present arbitration award arose out of statutory arbitration. The land loser has no say in the appointment of Arbitrator. As per Sec.3G(5) NH Act provides if the amount determined by the land acquisition authority is not acceptable to the parties, then on the application of either parties be determined by the Arbitrator to be appointed by Central Government. So the appointment of Arbitrator under the NH Act is not a consensual process and it is only by the acquiring authority.

25. The Ministry of Road Transport and Highways by its notification dated 13.01.2016 it is clarified that in cases instituted under NH Act 1956, but award has not been announced by 31.12.2014 the RFCTLARR Act 2013 will apply u/s 24(1) of the Act. In view of the same, the order of the Arbitrator awarding benefits under the RFCTLARR Act is legally permissible.

26. The Hon'ble Supreme Court of India in the ruling reported in **2019 (20) SCC 1 [Dyna Technologies Pvt. Ltd., Vs Crompton Greaves Ltd.]**, discussed the scope and interference by the court in a petition U/Sec. 34 of the A & C Act in Para No.24 & 25 as under:

> *"24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various courts. We need to be cognizant of the fact that arbitral awards should not be interfered*

with in a casual and cavalier manner, unless the court comes to the conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.

25. Moreover, umpteen number of judgments of this court have categorically held that the courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The courts need to be cautions and should defer to the view taken by the Arbitral Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Section 34 of the Arbitration Act."

27. The Hon'ble Supreme Court in its decision reported in **AIR 2021 SC 4661 – [PSA SICAL Terminals Pvt. Ltd. Vs Board of Trustees]**, held that:

"In an application U/s. 34 of the Act, court is not expected to act as an appellate court and re-appreciate evidence. Scope of interference would

> *be limited to grounds provided U/s. 34 of the Act. Interference would be so warranted when award is in violation of "Public Policy of India", which has been held to mean "Fundamental Policy of Indian Law". A judicial intervention on account of interfering on the merits of the award would not be permissible. However, the principles of natural justice as contained in Sec.18 and Sec.34(2)(a)(iii) of the Arbitration Act would continued to be the grounds of challenge of an award. The ground of interference on the basis that award is in conflict with justice or morality is now to be understood as a conflict with the "most basic notions of morality or justice". It is only such arbitral award that shock the conscience of the court, that can be set aside on the said ground. An award would be set aside on the ground of patent illegality appearing on the face of the award and as such, which goes to the roots of the matter. However an illegality with regard to a mere erroneous application of law would not be a ground for interference. Equally re-appreciation of evidence would not be permissible on the ground of patent illegality appearing on the face of the award."*

So in view of the proposition of law laid down by the Hon'ble Supreme Court in the above rulings, this Court has limited jurisdiction to interfere with the award only when the petitioner has made out grounds enumerated under sub-section (2) or 2-A of Sec.34 of A & C Act.

28. The Hon'ble Supreme Court of India in the ruling reported in **2017 (9) SCC 426 [Narendra and others Vs**

State of Uttar Pradesh] it is held that proper compensation has to be awarded to the land losers. It is further held that while awarding compensation it is kept in mind in the matter of compulsory acquisition of lands by the Government, the land losers are not willing parties and they are compel to give their land to the State for public purpose. It is further held that duty casted upon the Court to award fair compensation and fairness requires that all those similarly situated are treated similar and laid down the parameters to be considered by the Arbitrator.

29. In the petition, the petitioner/NHAI contended that the awarding of non-agricultural value rate for a large converted, but underdeveloped tract without any recognition and fixing of compensation as commercially converted is not proper. The order of learned Arbitrator awarding the value of the land in commercially converted rate is not sustainable in law.

30. In the objection statement, the respondent No.1 contended that the acquired land is converted for non-agricultural. The rate fixed for non-agricultural land is Rs.1,350/- per sq.mtr. On that the respondent No.1 is entitled for 40% of the amount, as per the registration circular which will be Rs.540/-. So, Rs.1350/- + Rs.540 = will be Rs.1,890/-. Hence, the Arbitrator has properly awarded compensation of Rs.1,890/- per sq.mtr.

31. In Page Nos.8 and 9 of the impugned order, the learned Arbitrator observed as under:

> *"In the present case, the 2nd respondent had acquired 3480 sq.mtrs of land belonging to the applicant and passed the award based on the provisions of Sec.3-G(7) of N.H. Act. The 2nd respondent has fixed Rs.1,350/- per sq.mtr. (Rs.54,634/- per cent) as compensation considering the land as residentially converted land. Actually acquired land of the Applicant is converted for non-agricultural commercial purpose as per the order of Tahsildar, Moodabidre in No. ADIS.LNA.CR.296/2009-10 dated 07.11.2009 much prior than the publication of 3-A notification. The 2nd Respondent while determining the compensation has not considered this aspect. In the earlier award of the 2nd respondent in No.NH. LAQ.SR.14/2020-21 dated 10.12.2020 an extent of 7393 sq.mtrs applicants land was acquired and the 2nd respondent has fixed residentially converted rate of Rs.1,350/- per sq.mtr. and thereafter Arbitrator has ordered to enhance the compensation at the commercial converted rate as per No.C.DIS.ARB(4)NH.LAQ.CR.135/2023-24 dated 20.08.2024. Hence the compensation determined by the 2nd respondent in award No. NH.LAQ.SR:15/2024-25 dated 01.08.2024 respect of the acquired land of the applicant is not correct. Keeping in view of all the damages that might have been suffered and that may be suffered by the applicant for the loss of acquired land, the applicant has been awarded the compensation in terms of factor 2.00, 100%*

> *solatium and additional compensation at 12%. Hence, the question of awarding other benefits sought in the application does not arise. The contention of the applicant that the land value in the said area is Rs.2 lakhs per cent is not supported by any documentary evidence."*

32. On careful perusal of the LCR received from the office of the learned Arbitrator, would goes to show that the respondent No.1 produced the sale deed dated 21.05.2010 and conversion order dated 07.11.2009 before the learned Arbitrator. The copy of sale deed dated 21.05.2010 discloses that the respondent No.1 Trust purchased non-agricultural land bearing Sy.No.310/3 measuring 4.40 acre from Mr. Seetharam Rao and others. The conversion order discloses that the said Sy.No.310/3 measuring 4.40 acre was converted for non-residential purpose on 07.11.2009. During the course of arguments the learned counsel for the respondent No.1 produced the registration circular dated 01.01.2019, which discloses that the land loser is entitled for 40% on his non-agricultural land. When such being the case, awarding of compensation to the acquired land as commercially converted land is just and proper on the materials available on record. The petitioner has not made out any grounds to assail the award and it does not suffer from patent illegality or against public policy.

33. In **A.A. No.1/2019 [National Highways Auth. of India Vs Pankaj Singh & Others]**, it is held as under;

"As far as interference with an order made under sec 34, as per sec 37, is concerned, it cannot be disputed that such interference under sec 37 cannot travel beyond the restrictions laid down under sec 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under sec 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under sec 34 and by the court in an appeal under sec 37, this court must be extremely cautious and slow to disturb such concurrent findings."

34. In **(2021) 9 SCC 1 [National Highways Authority of India Vs M. Hakeem and Another]**, it is held as under;

"Quite obviously if one were to include the power to modify an award in Sec 34, one would be crossing the Lakshman Rekha and doing what, according to the justice of a case, ought to be done. In interpreting a statutory provision, a Judge must put himself in the shoes of Parliament and then ask whether Parliament intended this result. Parliament very clearly intended that no power of modification of an award exists in Sec 34 of the Arbitration Act, 1996. It is only for Parliament to amend the aforesaid provision in the light of the experience of the courts in the working of the Arbitration Act, 1996, and bring it in line with other legislations the world over."

35. In **MFA No.22769/2012 (AA) etc. [National Highways Authority of India Vs Gangadharayya Pattadswamy Hiremath and Another]**, it is held as under;

> *"As held by the Apex Court in the case of K. Krishna Reddy and others vs. The Special Deputy Collector reported in AIR 1988 SC 2123, money is what it buys. It cannot be said that the market value which was prevailing in 2001 can be given in 2014. It should not be a case of too little and too late. The relevant portion of the said decision is extracted herein below:*
>
> *"........... After all money is what money buys. What the Claimant could have bought with the compensation in 1977 cannot do in 1988. Perhaps, not even one half of it. It is a common experience that the purchasing power of rupee is dwindling. With rising inflation, the delayed payment may lose all charm and utility of the compensation. In some cases, the delay may be detrimental to the interests of Claimant. The Indian agriculturists generally have no avocation. They totally depend upon land. If uprooted, they will find themselves nowhere. They are left high and dry. They have no savings to draw. They have nothing to fall back upon.*
>
> *They know no other work. They may even face starvation unless rehabilitated. In all such cases, it is of utmost importance that the award should be made without delay. The enhanced compensation must be determined without loss of time. The appellate power of remand, at any rate*

ought not to be exercised lightly. It shall not be resorted to unless the award is wholly unintelligible. It shall not be exercised unless there is total lack of evidence. If remand is imperative, and if the claim for enhanced compensation is tenable, it would be proper for the appellate court to do modest best to mitigate hardships. The appellate court may direct some interim payment to Claimant subject to adjustment in the eventual award."

We may also usefully refer to the decision of the Hon'ble Supreme Court in the case of Tukaram Kana Joshi and others vs. M.I.D.C. and others reported in AIR 2012 SCW 6343. It has this to say in para 17 of its decision:

"...........Even under valid acquisition proceedings, there is a legal obligation on the part of the authorities to complete such acquisition proceedings at the earliest, and to make payment of requisite compensation. The appeals etc. are required to be decided expeditiously, for the sole reason that, if a person is not paid compensation in time, he will be unable to purchase any land or other immovable property, for the amount of compensation that is likely to be paid to him at a belated stage."

36. In **Arb.A. No.28/2016 [Ramadas M.R. Vs National Highways Authority of India]**, it is held as under;

"There is no dispute that sec 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by

> *various courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Sec 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under sec 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated."*

37. In **(2012) 1 SCC 594 [P.R. Shah Shares and Stock Brokers Pvt. Ltd. Vs B.H.H. Securities Pvt. Ltd. and others]**, it is held that the court cannot sit in appeal over award by reasoning or re-appreciating evidence to find out whether different decision could be arrived at against findings of arbitral tribunal is absence of grounds under Section 34.

38. In **2010 (3) KCCR SN 44 [Ravindra Kumar Gupta and Company Vs Union of India]**, it is held that the power of the courts to interfere with the correctness of award is very much limited and the Award of Arbitrator final unless it is perverse or apparent on the face of the record and

jurisdiction of the courts very much limited and not that of as a court of appeal.

39. In **(2008) 14 SCC 785 [Satna Stone and Lime Company Ltd. Vs Union of India and Another]**, it is held that the court's interference with award is limited and the court does not sit in appeal while examining the award and it would not re-appreciate the evidence or substitute its own view in place of that of the learned Arbitrator.

40. In **2015 (5) SCC 698 [Navodaya Mass Entertainment Ltd., Vs J.M. Combines]**, it is held that reappraisal of material on record by Court and submitting its own view in place of arbitration's view reiterated is not permissible in absence of perversity, merely because two views are possible and once Arbitrator has applied his mind to matter before him, the court cannot reappraise said matter as if it were an appeal even if two views are possible and the view taken by the learned Arbitrator would prevail.

41. In **Civil Appeal No.4671/2022 [National Highways Authority of India Vs Sri. P. Nagaraju @ Chaluvayya and Another]** dated 11.07.2022 of Hon'ble Supreme Court of India, referred the citation of **NHAI Vs M. Hakeem and Another [(2021) 9 SCC 1]** (Supra) and held that, if there is patent illegality in the award of the learned Arbitrator, then the same can be set-aside and matter can be remanded to the learned Arbitrator.

42. In **(2022) 15 SCC 1 [National Highways Authority of India Vs Sri P. Nagaraju @ Cheluvaiah & Another]**, it is held that;

> *"...In that light, the limited scope available under Act, 1996 to assail an award as provided under Section 34 of the said Act is also to be kept in view even in these appeals. while doing so, what cannot also be lost sight of is the fact that the arbitration was not initiated based on an agreement entered into between the contracting parties under a contract but is under a statutory provision which provides for such arbitration in lieu of 'reference' under the regime for acquisition of land for public purpose. One of the parties to such arbitration proceedings would also be a land loser and the adjudication in the arbitration proceedings is not based on any definite terms of the contract providing for mutual obligations determinable under the contract but for determination of just compensation in respect of land which is compulsorily acquired for a public purpose."*

> *"It is contended that the factors to determine the compensation playable to the land loser as provided in Section 3G(7)(a) of the NH Act can only be the basis. In that view, it is contended that the parameters contained in Section 28 of RFCTLARR Act 2013 cannot be taken into consideration."*

> *"When land is acquired from a citizen, Articles 300A and 31A of the Constitution will have to be borne in mind since the deprivation of property should be with authority of law, after being duly*

compensated. Such law should provide for adequately compensating the land loser keeping in view the market value. Though each enactment may have a different procedure prescribed for the process of acquisition depending on the urgency, the method of determining the compensation cannot be different as the market value of the land and the hardship faced due to deprivation of the property would be the same irrespective of the Act under which it is acquired or the purpose for which it is acquired. In that light, if Section 28 of RFCTLARR Act 2013 is held not applicable in view of Section 3J of NH Act, the same will be violative of Article 14 of the Constitution. In that circumstance, the observation in ***Tarsem Singh*** *(Supra) that Section 3J of NH Act is unconstitutional to that extent though declared so while on the aspect of solatium and interest, it is held so on all aspects relating to determining of compensation. In any event, the extracted portion of the notification dated 28.8.2015 is explicit that the benefits available to the land owners under RFCTLARR Act is to be also available to similarly placed land owners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, among which NH Act is one. Hence all aspects contained in Section 26 to 28 of RFCTLARR Act for determination of compensation will be applicable notwithstanding Section 3J and 3G(7)(a) of NH Act."*

43. In **(2015) 3 SCC 49 – Associate Builders Vs Delhi Development Authority**, the Hon'ble Supreme Court of India observed that:

"It must clearly be understood that when a court is applying the "public policy" test to an arbitration award, it does not act as a court of appeal and

consequently errors of fact cannot be corrected. A possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on this score. Once it is found that the arbitrators approach is not arbitrary or capricious, then he is the last word on facts. In P.R. Shah, Shares & Stock Brokers (P) Ltd. Vs B.H.H. Securities (P) Ltd., (2012) 1 SCC 594, this Court held:

"21. A court does not sit in appeal over the award of an Arbitral Tribunal by reassessing or re-appreciating the evidence. An award can be challenged only under the grounds mentioned in Section 34(2) of the Act. The Arbitral Tribunal has examined the facts and held that both the second respondent and the appellant are liable. The case as put forward by the first respondent has been accepted. Even the minority view was that the second respondent was liable as claimed by the first respondent, but the appellant was not liable only on the ground that the arbitrators appointed by the Stock Exchange under Bye-law 248, in a claim against a non-member, had no jurisdiction to decide a claim against another member. The finding of the majority is that the appellant did the transaction in the name of the second respondent and is therefore, liable along with the second respondent. Therefore, in the absence of any ground under Section 34(2) of the Act, it is not possible to re-examine the facts to find out whether a different decision can be arrived at."

It is with this very important caveat that the two fundamental principles which form part of the *fundamental policy of Indian law (that the arbitrator must have a judicial approach and that he must not act perversely) are to be understood."*

44. In **2025 Supreme (SC) 721 [Consolidated Construction Consortium Limited Vs Software Technology Parks of India]**, the Hon'ble Supreme Court of India observed that:

"23. Scope of Sec.34 of the 1996 Act is now well crystallized by a plethora of judgments of this Court. Sec.34 is not in the nature of an appellate provision. It provides for setting aside an arbitral award that too only on very limited grounds i.e. as those contained in sub-sections (2) and (2A) of Sec.34. It is the only remedy for setting aside an arbitral award. An arbitral award is not liable to be interfered with only on the ground that the award is illegal or is erroneous in law which would require re-appraisal of the evidence adduced before the arbitral tribunal. If two views are possible, there is no scope for the court to re-appraise the evidence and to take the view other than the one taken by the arbitrator. The view taken by the arbitral tribunal is ordinarily to be accepted and allowed to prevail. Thus, the scope of interference in arbitral matters is only confined to the extent envisaged under Sec.34 of the Act. The court exercising powers under Sec.34 has perforce to limit its jurisdiction within the four corners of Sec.34. It cannot travel beyond Sec.34. Thus, proceedings under Sec.34 are summary in nature and not like a full-fledged civil suit or a civil appeal. The award as such cannot be touched

unless it is contrary to the substantive provisions of law or Sec.34 of the 1996 Act or the terms of the agreement.

24. Therefore, the role of the court under Sec.34 of the 1996 Act is clearly demarcated. It is a restrictive jurisdiction and has to be invoked in a conservative manner. The reason is that arbitral autonomy must be respected and judicial interference should remain minimal otherwise it will defeat the very object of the 1996 Act."

45. So, the above decisions of Hon'ble Apex Court of India and Hon'ble High Court of Karnataka have clarified beyond any ambiguity that the award can be set aside u/s 34 of the Act by a District Court only when (i) such an award is patently illegal on the face of it, (ii) the award was in contravention with fundamental policy of Indian Law, (iii) it is in conflict with most basic notions of morality or justice and (iv) the award was induced or affected by fraud or corruption or was in violation of Sec.75 or Sec.81 of the Act, when the award shocks the conscience of the Court. The petitioner has not made out any grounds mentioned herein to set-aside the arbitral award.

46. Therefore, this Court is of the opinion that the reasoning of learned Arbitrator does not call for any interference by this Court as no grounds u/s 34 of the A & C Act and it is in accordance with the judicial

pronouncements. Hence, the Point No.3 is answered in the Negative.

47. **Point No.4**: In view of discussions and finding on Point Nos.1 to 3, this Court proceeds to pass the following:

ORDER

The Arbitration Petition filed by the petitioner under Sec.34(2) of the Arbitration and Conciliation Act, 1996 read with Section 3G(5) of National Highways Act 1956 is hereby dismissed.

The impugned Arbitral Award dated 27.01.2026 in Case No.C.DIS.ARB(4)NH. LAQ.CR.96/2024-25 passed by the Respondent No.2/Deputy Commissioner and Arbitrator, D.K. District, Mangaluru is hereby confirmed.

In the circumstances, there shall be no order as to costs.

Draw award accordingly.

Send back Arbitration records to the learned Arbitrator.

(Dictated to the Stenographer Grade-I, typed by her directly on computer, corrected and signed by me and then pronounced in the open court on this the 12th day of August, 2026).

(Basavaraj)
Principal District & Sessions Judge,
D.K., Mangaluru.

BASAVARAJ Digitally signed by BASAVARAJ
Date: 2026.08.14 17:53:35 +0530