



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 107 OF 2025

BETWEEN:

1. MR N. RAVIRAJ SHETTY
AGED ABOUT 64 YEARS
S/O LATE B. RAGHURAM SHETTY
R/AT FLAT NO. 1201
WEST WIND APARTMENTS
COLLECTORS GATE, BALMATTA
MANGALURU - 575 002

...APPELLANT

(BY SRI SUHAS C.S., ADVOCATE FOR
SRI RAKESH KINI, ADVOCATE)

AND:

1. THE NATIONAL HIGHWAY AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT
DOOR NO. 3-29, BETHEL
THARETHOTA, NEAR PUMPWELL (NH-66)
MANGALURU - 575 005
REPRESENTED BY ITS
PROJECT DIRECTOR
2. THE ARBITRATOR AND
DEPUTY COMMISSIONER D.K., DISTRICT
MANGALURU - 575 001

Digitally signed
by PRABHAKAR
SWETHA
KRISHNAN

Location: High
Court of
Karnataka



3. THE COMPETENT AUTHORITY
AND SPECIAL LAND ACQUISITION OFFICER
MANGALURU, D.K.
MANGALURU - 575 001

...RESPONDENTS

(BY SRI VASANT S. KOOPAR, ADVOCATE FOR
SRI PADMANABHA HOLLA S., ADVOCATE FOR R-1 &
RESPONDENTS No.2 & 3 ARE SERVED & UNREPRESENTED)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13(1) OF COMMERCIAL COURT ACT, 2015, AND UNDER SECTION 37 OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT AND DECREE DATED 14.10.2024, PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AND COMMERCIAL COURT, D.K., MANGALURU, IN A.P NO.277/2023 (DOCUMENT NO.1) & ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the affidavit accompanying the application—I.A.No.1/2025, the same is allowed and the delay of 23 days in filing the appeal is condoned.



2. The appellant has filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [**A&C Act**] impugning an order dated 14.10.2024 passed by the IV Additional District Judge and Commercial Court, D.K.Mangaluru [**Commercial Court**] in A.P.No.277/2023.

3. The appellant had filed the said petition under Section 34 of the A&C Act, praying that the arbitral award dated 04.05.2023 [**impugned award**] passed by respondent No.2 [**Arbitral Tribunal**] pursuant to an application filed by the appellant under Section 3-G(5) of the National Highways Act, 1956 [**NH Act**], be set aside. The appellant had filed the said application seeking enhancement of compensation as awarded by respondent No.3-Special Land Acquisition Officer [**SLAO**] in terms of an award dated 22.01.2021 in respect of land measuring 121 square meters falling in Survey No.129/2 of Thiruvail Village of Mangaluru Taluk [**subject land**].

4. The appellant claims to be the absolute owner of land measuring 0.40 cents in Survey No. 129/2 of Thiruvail Village, Mangaluru Taluk. The appellant had acquired the said land under a registered settlement deed dated 11.03.2005. The subject land



was acquired by respondent no.1 under the NH Act for the widening of National Highway No. 169. The SLAO determined the compensation of the subject land at ₹19,75,510/- and after deduction of TDS and GST, the net amount of ₹17,77,959/- was paid to the appellant.

5. The appellant claimed that the value of the subject land was more than ₹10,50,000/- per cent (Rupees Ten lacs Fifty Thousand only) and sought to sustain the said claim on account of various factors. This Court does not consider it necessary to examine the said factors in these proceedings, given that the appellant's principal challenge to the impugned award is that it was rendered in violation of the principles of natural justice.

6. It is the appellant's case that the impugned award was rendered without affording the appellant any opportunity of being heard. The arbitral record indicates that a hearing was scheduled on 28.09.2022. On the said date, the respondents before the Arbitral Tribunal (the Project Director, NHAI, Mangaluru and the SLAO) were represented by counsel, who had filed his *vakalatnama* and sought time. Accordingly, the Arbitral Tribunal



had adjourned the proceedings. This is evident from the note "Call on 15.11.2022" recorded on the order sheet. It is apparent from the above that the hearing was rescheduled on 15.11.2022. However, it appears that no hearing was held on that date. The order sheet indicates that no hearing was held on 15.11.2022, as that date has been scratched out. The matter was listed on 04.05.2023, and the impugned award was pronounced on the said date.

7. Admittedly, the respondents opposing the case before the Arbitral Tribunal had not submitted any objections. Furthermore, no hearing had been conducted. The appellant also states that the impugned award was issued when the general elections had been announced, and the learned Arbitrator was also serving as the Chief Election Officer for the District. In light of the above, the appellant's claim that the impugned award was rendered in violation of the fundamental principles of natural justice must be upheld.

8. We also note that the said ground was urged before the learned Commercial Court. In the application filed under Section 34 of the A&C Act, the appellant, *inter alia*, averred as under:



"5. The Honorable Arbitrator has totally disregarded the basic principles of natural justice and passed the impugned order. The Arbitrator has not considered any aspects before passing of the impugned order. Neither Respondent No.1 or 3 had filed any objections to the application filed by the petitioner. No opportunity of hearing was granted to the petitioner. It is pertinent to note that the impugned order is passed at the time of general elections, wherein the learned arbitrator who is the Deputy Commissioner is also the Chief Election Officer of the District. No notices were issued regarding holding of proceedings. No opportunity to produce any documents were granted to the petitioner."

9. While the learned Commercial Court noted the appellant's contention in the impugned order, it rejected the said contention by observing that it was not the appellant's case, nor was there any evidence that he was incapacitated at the relevant time to appear and submit his case before the Arbitral Tribunal or was otherwise unable to present his case.

10. In terms of Section 34(2)(iii) of the A&C Act, an arbitral award may be set aside by the Court if 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.



11. In the present case, the order sheet of the Arbitral Tribunal indicates that no proper hearing was held. We, accordingly, find merit in the appellant's contention that he was unable to present his case. The impugned award is liable to be set aside under Section 34(2)(iii) of the A&C Act, as well as on the ground of patent illegality, as it is apparent that the impugned award has been passed in violation of principles of natural justice.

12. The impugned order is also unsustainable as it fails to address the grounds on which the appellant had sought the setting aside of the impugned award.

13. In view of the above, the impugned order and the impugned award are set aside. The present appeal is accordingly allowed.

14. The parties are at liberty to commence the arbitral proceedings afresh.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**