



CNR: KAHC010496372026

NC: 2026:KHC:48572-DB
MFA No. 5381 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 8TH DAY OF SEPTEMBER, 2026
PRESENT
THE HON'BLE MR. JUSTICE D K SINGH
AND
THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN
MISCELLANEOUS FIRST APPEAL NO. 5381 OF 2026 (AA)

BETWEEN:

NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT,
DOOR NO.3-29 BETHEL,
THARETHOTA,
NEAR PUMPWELL, NH-169,
MANAGLURU 575 005.
REPRESENTED BY ITS GM TECH &
PROJECT DIRECTOR
SRI ABDULLA JVED AZMMI

...APPELLANT

(BY SRI. PRASAD K.R.RAO, ADVOCATE FOR
SRI. PADMANABHA HOLLA.S.,ADVOCATE)

AND:

1. MR M AHAMED BAVA
S/O LATE ABDUL RAHIMAN
MAJOR RESIDING AT NO. 2100/2,
SHIFA COTTAGE, PONELLA HOUSE,
ADOOR VILLAGE AND POST
MANAGLORE TALUK 574 145.
2. THE ARBITRATOR AND DEPUTY COMMISSIONER
DAKSHINA KANNADA DISTRICT,
MANAGLURU - 575 001.

Digitally signed
by MALA K N
Location: HIGH
COURT OF
KARNATAKA



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3. THE COMPETENT AUTHORITY AND
SPECIAL LAND ACQUISITION OFFICER
MANAGLURU,
KARNATAKA STATE EMPLOYEE ASSOCIATION
CLOCK TOWN,
HAMPANAKATTA, MANAGLURU,
DK. DISTRICT - 001.

...RESPONDENTS

THIS MFA FILED UNDER SECTION 37(1)(C) OF THE
ARBITRATION AND CONCILIATION ACT, AGAINST THE ORDER
DATED 10.06.2026 PASSED IN A.P.NO. 52/2025 ON THE FILE
OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DAKSHINA KANNADA, MANGALURU AND CONSEQUENTLY SET
ASIDE ARBITRAL AWARD BEARING NO.C.DIS.ARB(4)
NH.LAQ.CR.07/2022-23 DATED 21.01.2025 PASSED BY
RESPONDENT NO.2, STAND DISMISSING THE PETITION FILED
UNDER SECTION 34 (2) OF ARBITRATION AND CONCILIATION
ACT READ WITH SECTION 3G(5) OF THE NATIONAL
HIGHWAYS ACT, 1956

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

The present Appeal has been filed impugning the judgment and decree dated 10.06.2026 passed in Arbitration Petition No.52/2025 by the I Additional District and Sessions Judge at Mangalore ('the Trial Court'), wherein the Arbitral Award bearing No.C.DIS.ARB(4) NH.LAQ.CR.07/2022-23 dated 21.01.2025 passed by respondent No.2, has been set aside.

2. For the sake of convenience, the parties shall be referred to as they were arrayed before the Trial Court.

3. The petitioner–National Highways Authority of India is a statutory authority constituted under Section 3 of the National Highways Authority of India Act, 1988 ('NHA I Act' for brevity), entrusted with the development, maintenance and management of National Highways. The petitioner has undertaken the widening of National Highway No.169 (Old NH-13), from Km.691.350 to



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Km.736.362, forming part of the Shimoga–Mangaluru section, including the stretch situated in Adduru Village, Mangaluru Taluk, Dakshina Kannada District. For the purposes of the said project, lands belonging to the first respondent came to be acquired under the provisions of the National Highways Act, 1956 (**'NH Act'**).

4. The Central Government issued the preliminary Notification under Section 3A(1) of the NH Act vide Gazette Notification dated 09.01.2020. Thereafter, objections were invited and enquiry was conducted under Section 3C of the said Act. The final declaration under Section 3D(1) and (2) was issued vide Gazette Notification dated 10.07.2020. Pursuant thereto, the Competent Authority and Special Land Acquisition Officer proceeded to determine the compensation in respect of the acquired lands, including the lands bearing Sy.Nos.14/11, 14/12 and 98/7 of Adduru Village.



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5. By award dated 15.04.2021, the Competent Authority determined compensation by taking into consideration the relevant provisions of the NH Act and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**'2013 Act'**). The market value was determined by reference to the sale statistics and the guidance value prevailing as on the date of the Section 3A Notification. The first respondent, not being satisfied with the compensation so determined, preferred an application under Section 3G(5) of the NH Act before the Arbitrator and Deputy Commissioner, Dakshina Kannada District, seeking enhancement of compensation.

6. The Arbitrator, by award dated 21.01.2025 in C.DIS.ARB (4) NH.LAQ.CR.07/2022-23, directed payment of compensation at the commercially converted rate in respect of the lands bearing Sy.Nos.14/11 and 14/12, though the compensation had earlier been determined at the residentially converted rate. Aggrieved by the said



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award, the petitioner preferred A.P. No.52/2025 under Section 34(2) of the Arbitration and Conciliation Act, 1996 (**'A&C Act'**), read with Section 3G(5) of the NH Act, seeking setting aside of the arbitral award. The first respondent also challenged the same arbitral award in A.P. No.63/2025. The present appeal, however, is confined to the order passed in A.P. No.52/2025.

7. The learned Trial Court considered the challenge raised by the petitioner to the arbitral award dated 21.01.2025. The principal contention of the petitioner was that the Competent Authority had determined the compensation by applying the relevant provisions of the NH Act and the 2013 Act, on the basis of the average sale statistics and the guidance value prevailing as on the date of the Section 3A Notification. It was contended that the Arbitrator had enhanced the compensation to the commercially converted rate without properly determining the market value in accordance with Section 3G(7) of the NH Act.



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8. The learned Trial Court noticed that the lands bearing Sy.Nos.14/11 and 14/12 had been converted for commercial purposes under the orders of the Deputy Commissioner, whereas the land bearing Sy.No.98/7 had been converted for residential purposes. The learned Trial Court further noticed that, while determining the original compensation, the Competent Authority had adopted the residentially converted rate in respect of the acquired lands bearing Sy.Nos.14/11 and 14/12. The Arbitrator, therefore, held that the first respondent was entitled to compensation at the commercially converted rate in respect of those two survey numbers.

9. The learned Trial Court also recorded that, under Section 3G(7) of the NH Act, the market value of the land as on the date of publication of the Section 3A notification, together with the damages contemplated under the said provision, was required to be taken into consideration. It noticed that the Arbitrator had referred to



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the conversion orders and had directed payment at the commercially converted rate in respect of Sy.Nos.14/11 and 14/12, while observing that the first respondent had already been paid compensation at the residentially converted rate in respect of Sy.No.98/7. On that basis, the learned Trial Court found no patent illegality in the arbitral award.

10. Consequently, by the common judgment and decree dated 10.06.2026, the learned Trial Court dismissed A.P. No.52/2025 filed by the petitioner under Section 34(2) of the A&C Act read with Section 3G(5) of the NH Act and confirmed the arbitral award dated 21.01.2025. The parties were directed to bear their own costs. The present miscellaneous first appeal is directed only against the said dismissal of A.P. No.52/2025 and the consequential confirmation of the arbitral award.

11. Aggrieved by the order passed by the learned Trial Court in A.P. No.52/2025, the petitioner has preferred the present appeal before this Court.



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12. The petitioner has challenged the judgment and decree dated 10.06.2026 principally on the ground that the learned Trial Court has failed to properly appreciate the provisions of the NH Act and the A&C Act. It is contended that the order suffers from lack of application of mind, is contrary to the settled principles of law and has failed to examine whether the arbitral award was in conformity with the statutory provisions governing determination of compensation.

13. The petitioner has specifically contended that the Arbitrator has enhanced the compensation by treating the acquired lands as commercially converted lands merely on the basis of the conversion orders, without examining whether the lands were actually utilised for commercial purposes. According to the petitioner, mere conversion of agricultural land for non-agricultural or commercial use does not, by itself, make the acquired land a commercial property when the land has not been put to



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such use. It is therefore urged that the direction to pay compensation at the commercially converted rate is patently illegal.

14. It is further urged that the Competent Authority had determined the compensation after considering the average sale transactions for the three years preceding the Section 3A notification and the prevailing guidance value, and had adopted the higher value in accordance with the applicable statutory provisions. The petitioner contends that the Arbitrator failed to independently determine the market value as on the date of the Section 3A notification and, without assigning valid reasons or relying upon reliable evidence, proceeded to enhance the compensation. The petitioner also contends that the learned Trial Court failed to consider these aspects while dismissing A.P. No.52/2025.

15. The petitioner has lastly contended that the arbitral award is perverse, irrational and unsupported by



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evidence and that no reasonable person could have arrived at the conclusion recorded therein. It is urged that the Arbitrator failed to consider the mandatory requirements of Section 3G(7) of the NH Act and the relevant provisions of the 2013 Act, and that the award is contrary to the fundamental policy of Indian law and the basic notions of justice. On these grounds, the petitioner seeks setting aside of the judgment and decree dated 10.06.2026 passed in A.P. No.52/2025 and, consequently, setting aside of the arbitral award dated 21.01.2025.

16. The petitioner has further urged that the learned Trial Court failed to appreciate the scope and effect of Section 95(2) of the Karnataka Land Revenue Act, 1964 (**'KLR Act'**), which provides that where an occupant of land assessed or held for agricultural purposes intends to divert the land or any part thereof to any other purpose, such occupant is required to apply to the Deputy Commissioner for permission, and the Deputy Commissioner may grant or refuse such permission



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subject to the provisions of the Act and the conditions imposed therein. It is contended that the mere existence of a conversion order does not, by itself, establish that the acquired land had actually been put to commercial use or that its character had changed into a developed commercial property.

17. It is also one of the specific grounds of the petitioner that, even after obtaining permission under Section 95(2) of the KLR Act, the landowner was required to obtain the necessary permission from the jurisdictional planning authority and secure sanction for construction or commencement of commercial activity. In the absence of actual utilisation of the acquired land for commercial purposes, the land could not have been treated as commercially developed merely on the basis of the conversion order. The petitioner therefore contends that the Arbitrator, in directing payment of compensation at the commercially converted rate without examining the actual use of the land, committed a patent error, and that



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the learned Trial Court failed to consider this material contention while dismissing A.P. No.52/2025.

18. We have heard Sri. Prasad K.R. Rao, learned counsel appearing for Sri. Padmanabha Holla S, learned counsel appearing for the petitioner, and we have also perused the records of the appeal before us. In light thereof, the only question that arises for our consideration is, whether the order dated 10.06.2026 passed by the learned Trial Court in A.P. No. 52/2025 calls for interference in the present appeal?

19. We have carefully considered the grounds urged in the memorandum of appeal, the material placed on record and the reasoning assigned by the learned Trial Court. The principal contention of the petitioner is that, though the subject lands were converted from agricultural to non-agricultural use under Section 95(2) of the KLR Act, the lands were not actually put to commercial use as on the date of acquisition and, therefore, they could not have



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been valued as commercially converted lands. In our considered view, the said contention proceeds on an unduly narrow understanding of the effect of conversion and the factors relevant for determination of the market value of the acquired property.

20. The permission granted under Section 95(2) of the KLR Act is not an empty or inconsequential formality. Once the competent authority permits the diversion of agricultural land for non-agricultural purposes, the land ceases to retain its original agricultural character and acquires the character of the permitted non-agricultural use. The legal consequence of such conversion cannot be made dependent upon whether the owner has immediately commenced construction or has actually started a commercial activity upon the land. Once the land is duly converted, it gains the character of converted land, irrespective of the stage of its actual utilisation. The absence of immediate construction or commercial activity may be a matter relevant to the factual assessment in an



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appropriate case, but it cannot, by itself, nullify the conversion already granted by the competent authority.

21. The further submission that the land should be treated as agricultural merely because it was lying vacant or had not yet been commercially utilised is equally untenable. Market value is not determined only by the use to which the land is put on the date of acquisition. It also takes into consideration the nature, classification, location, advantages, potential use and the legally permissible development of the land. The Hon'ble Apex Court in ***Chimanlal Hargovinddas v. Special Land Acquisition Officer***,¹ has laid down an indicate list of the factors to be borne in mind while determining the amount of compensation. It was held that the determination of market value must proceed on the footing of a hypothetical willing purchaser in the open market, prepared to pay a reasonable price, and a willing vendor prepared to sell at a reasonable price, as on the date of

¹ (1988) 3 SCC 751.



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the acquisition notification. The Court directed that a balance-sheet of "plus" and "minus" factors be drawn up for the land under acquisition, such as its proximity to a developed area or to a road, its frontage, shape, size and level, each to be evaluated for its effect on price the way a prudent purchaser would. The exercise, the Court held, must be undertaken in a common-sense manner, since it is the land's situational advantages and comparative potential, and not merely the use to which it happened to be put on the date of the notification, that bear upon its true market value.

22. Further, it is also relevant to note the potentiality of a land. In this regard, attention may be drawn to the judgement of the Apex Court in ***Suresh Kumar v. Town Improvement Trust***,² wherein it was observed as follows:

"9. It is an accepted principle that the land is not to be valued, merely by reference to the use to which it has been put at the time at which its value has to be

² (1989) 2 SCC 329.



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determined, that is, the date of the notification under Section 4, but also by reference to the use to which it is reasonably capable of being put in the future. A land which is certainly or likely to be used in the immediate or reasonably near future for building purposes but which at the valuation date is waste land or has been used for agricultural purposes, the owner, however willing a vendor he is, is not likely to be content to sell the land for its value as waste or agricultural land as the case may be. The possibility of its being used for building purposes would have to be taken into account. However, it must not be valued as though it had already been built upon. It is the possibilities of the land and not its realised possibilities that must be taken into consideration. In other words, the value of the land should be determined not necessarily according to its present disposition but laid out in its lucrative and advantageous way in which the owner can dispose it of. It is well established that the special, though natural, adaptability of the land for the purpose for which it is taken, is an important element to be taken into consideration in determining the market value of the land. In such a situation the land might have already been valued at more than its value as agricultural land, if it had any other capabilities. However, only reasonable and fair capabilities but not far-fetched and hypothetical capabilities are to be taken into consideration. In sum, in



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estimating the market value of the land all of the capabilities of the land, and all its legitimate purposes to which it may be applied or for which it may be adapted are to be considered and not merely the condition it is in and the use to which it is at the time applied by the owner. The proper principle is to ascertain the market value of the land taking into consideration the special value which ought to be attached to the special advantage possessed by the land; namely, its proximity to developed urbanised areas."

23. Thus, the principle that the potentiality of a land must also be taken into consideration is well settled and was also re-iterated by the Apex Court in ***Ram Kishan v. State of Haryana***.³ A converted land possesses a legally recognised potential for being utilised for the purpose for which conversion has been granted. Such potentiality is a relevant and valuable attribute of the property. The owner is not required to complete construction, commence business or exhaust the development potential of the land before claiming the value attached to its converted character.

³ 2025 SCC OnLine SC 715.



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24. The ground urged by the petitioner that a separate approval or plan sanction from the planning authority was required before the land could be treated as commercially converted does not advance its case. The requirement of obtaining building permission or plan sanction may arise at the stage of development or construction of a particular structure. Such subsequent regulatory requirements cannot erase or postpone the legal effect of the conversion order itself. The question before the authorities was not whether a completed commercial building existed on the land, but whether the land had acquired a non-agricultural and commercially exploitable character and whether such character had a bearing upon its market value. The learned Arbitrator was therefore justified in taking into consideration the conversion granted in respect of the subject lands.

25. The reliance placed by the petitioner upon the rate adopted by the Special Land Acquisition Officer, on



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the basis of the highest average sale transaction value and the guidance value, also does not by itself establish that the compensation determined by the learned Arbitrator is erroneous. The initial determination by the Land Acquisition Officer is not conclusive and is open to reconsideration in accordance with the statutory mechanism. The learned Arbitrator was required to independently assess the market value by taking into account the relevant factors, including the nature of the land, its conversion status, its potential for non-agricultural use and the evidence available on record. Merely because the Land Acquisition Officer had adopted a particular method or rate, it cannot be said that the Arbitrator was precluded from arriving at a different conclusion on the basis of the material before him.

26. It is also significant that the petitioner has not demonstrated that the learned Arbitrator acted without jurisdiction, ignored any vital evidence, adopted an impermissible principle or arrived at a conclusion which no



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reasonable person could have reached. The grounds raised in the appeal essentially seek a re-appreciation of the material and a substitution of the valuation adopted by the learned Arbitrator with the valuation suggested by the petitioner. Such an exercise is not warranted merely because another view may be possible. The learned Trial Court has considered the rival contentions and has declined to interfere with the award. We find no perversity, patent illegality or error of law in the approach adopted by the learned Trial Court warranting interference in the present appeal.

27. It is also necessary to bear in mind that the determination of market value in land acquisition proceedings is not governed solely by the physical use to which the land was being put on the date of acquisition. The relevant consideration is the value which the land would command in the open market, having regard to its existing legal status, location, surrounding development, advantages and the use to which it could lawfully and



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reasonably be put. Therefore, the absence of immediate commercial activity or construction on the land cannot, by itself, nullify the effect of the conversion order or exclude the potential value attached to such conversion. At the same time, the converted status is one of the relevant factors and must be assessed along with the other evidence relating to the market value of the acquired land.

28. The Arbitrator has not proceeded on the mere assumption that conversion automatically entitles the landowner to the highest commercial rate. The conversion order has been considered as a relevant circumstance while assessing the character and potentiality of the land along with the material available on record. Such an approach is consistent with the settled principle that market value must be determined on a realistic assessment of the advantages and potential uses of the land, and not by adopting an unduly restrictive view based only on its actual use immediately preceding the acquisition. Consequently, no error of law or perversity is



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made out in the determination of compensation warranting interference in the present appeal.

29. For the aforesaid reasons, we are of the considered view that the grounds urged by the petitioner do not disclose any sustainable ground for interference with the order passed by the learned Trial Court. The appeal is accordingly liable to be dismissed.

Accordingly, the appeal is ***dismissed***.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

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