



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

MISCELLANEOUS FIRST APPEAL NO. 5755 OF 2025 (AA)

BETWEEN:

1. BRAHMASHREE NARAYANA GURU SEVA SANGHA (R)
(R.NO.191/94-95)
MANI VILLAGE
P.O. MANI-574253
BANTWAL TALUK, D.K.DISTRICT
REPRESENTED BY ITS PRESIDENT
SRI. SURESHA
S/O. LATE. NARAYANA POOJARY
AGED ABOUT 61 YEARS

...APPELLANT

(BY SRI. M SUDHAKAR PAI.,ADVOCATE)

AND:

1. THE PROJECT DIRECTOR
NHAI, PIU, NHAI, NH-75 (48)
HASSAN - B.C.ROAD DIVISION
THARETHOTA, NEAR PUMPWELL (N.H.66)
MANGALURU-575 005 (DK)
2. THE COMPETENT AUTHORITY AND
THE SPL. LAND ACQUISITION OFFICER, (NHAI), N.H.75
HASSAN - B.C.ROAD DIVISION
NO.HIG-64, DTDC COURIER OFFICE BUILDING
1ST FLOOR, KHB COLONY, CHANNAPATNA



OPPOSITE KSRTC NEW BUS STAND
HASSAN-573201

3. THE DEPUTY COMMISSIONER /
ARBITRATOR FOR N.H.A.I.,
DAKSHINA KANNADA DISTRICT
MANGALURU - 575001(DK)

...RESPONDENTS

(BY SRI PRASAD K R RAO ADVOCATE FOR
SRI PADMANABHA HOLLA S.,ADVOCATE FOR R1
R2 & R3 ARE SERVED AND UNREPRESENTED)

THIS MFA FILED U/S.37(1)(c) OF THE ARBITRATION AND
CONCILIATION ACT, 1996, PRAYING TO SET ASIDE THE
JUDGMENT AND DECREE DT. 05.04.2025 PASSED IN
A.P.NO.373/2023 ON THE FILE OF THE IV ADDITIONAL
DISTRICT JUDGE AND COMMERCIAL COURT,
D.K.MANGALURU,

THIS APPEAL, COMING ON FOR ADMISSION, 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. 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 05.04.2025, passed by the learned District Court, D.K., Mangaluru in AP.No.373/2023.

2. The appellant had filed the said application under Section 34 of the A&C Act to set aside the arbitral award dated 02.06.2023 **[the impugned award]**, passed by respondent No.3 **[the Arbitral Tribunal]** pursuant to an application filed by the appellant under Section 3(G)5 of the National Highways Act, 1956 **[NH Act]**.

3. The appellant's land, measuring 728 square meters (17.98 cents) falling in Sy.No.76/2B1 of Mani Village, Bantwal Taluk, was the subject of acquisition under the NH Act. The notification under Section 3A(1) of the NH Act was issued on 07.07.2020. The final notification under Section 3D(1) of the NH Act was published on 01.09.2020. Respondent No.2 **[SLAO]** passed an award determining the compensation for the subject land at ₹1,29,83,731/-. The appellant contends that the compensation was inadequate, given that the subject land was commercially converted and a community hall was constructed on it. The appellant claimed that the establishment was yielding an annual income of ₹15,00,000/-. Further, the appellant claimed that it had



spent ₹1,25,00,000/- on its construction. However, the SLAO determined the value of the structure at ₹33,39,119/-, which was included in the total compensation of ₹1,29,83,731/-.

4. The Tabular statement setting out the compensation as determined by the SLAO is set out below :

<u>Particulars</u>	<u>Survey No</u>	<u>Details of Land extent (Sq.mtr)</u>	<u>Compensation Amount</u>	<u>Income Tax deducted @10%</u>	<u>Net Amount paid</u>
Mani	76/2B1	728			
Land Value as per factor-2.00			32,41,056	3,24,105	29,16,951.00
Structure			33,39,119	3,33,911	30,05,208.00
100% Solatium			62,22,412	6,22,240	5600172.00
12% Add. Market value for - days			1,81,144	18,114	1,63,030.00
Total			1,29,83,731	12,98,370	11685361.00

5. Aggrieved by the compensation as determined by the SLAO, the appellant filed an application under Section 3G(5) of the NH Act before the Arbitral Tribunal. The said proceedings culminated in the impugned award. The Arbitral Tribunal referred to



Section 3G(7) of the NH Act and noted the factors that are required to be taken into consideration for the determination of the value of the acquired property and found that the SLAO had not considered the said factors properly. The Arbitral Tribunal held that the compensation determined by the SLAO was less than reasonable. The relevant extract of the impugned award articulating the above is reproduced below:

"Point No 2:- As per section 3-G (7) of the N.H. Act 1956, the Competent Authority or the Arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be shall take into consideration :-

- a) The market value of the land on the date of publication of the notification under section 3-A;
- b) The damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;
- c) The damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting their other immovable property in any manner, or their earnings;
- d) If, in consequences of the acquisition of the land, the person interested is compelled to change their residence or place of business, the reasonable expenses, if any, incidental to such change.

In the present case, the 2nd Respondent has determined the award based on the provisions of Sec.3-G(7), however Sec.3-G(7)(b)(c)&(d) are not taken into consideration properly. This Court carefully considered the facts of the case. The Applicants suffers irreparable loss and



perpetual revenue loss due to severing of acquired land from the rest of their land and demolition of Structures existed therein. Further, the district of Dakshina Kannada with Mangaluru city as its headquarters is densely populated and one of the fastest growing district. The acquired property is commercially converted as per the order of Tahsildar, Bantwal in No.ALN.CR.455/2012-13 dated:11-07-2012. But while determining the compensation the 2nd Respondent fixed the compensation at the residentially converted land rate which is not correct. Hence on account of all these factors it is considered that the compensation determined by the 2nd Respondent is less than the reasonable rate."

6. However, notwithstanding that the Arbitral Tribunal found that the subject land was commercially converted by an order dated 11.07.2012, the Arbitral Tribunal proceeded to determine the value of the land on the basis that it was residentially converted in nature. The operative part of the impugned order reads as follows:

"By exercising powers u/s 3.G (5 to 7) of the National Highways Act 1956 and as per the order of the Central Government No.NHAI/LA/RR/2001/9 Dated 11.04.2007 and also considering the fact that the acquired land is 'residentially converted in nature, it is ordered that compensation for the scheduled land be fixed and paid at the rate specified in Col. No.4 of the Table here below along with other benefits admissible under the provisions of the RFCTLARR Act 2013 and also with 9% interest applicable u/s 3-H(5) of the N.H Act 1956.

TABLE

Sl. No.	Details of the acquired land	Rate of Compensation fixed by the 2 nd	Enhanced compensation as per this order	Reasons for the enhancement
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				Respondent		(Per cent)	
1	2			3		4	5
	<u>Sy.No</u>	<u>Sq. mtrs</u>	<u>Cents</u>	<u>Rs Per Sq. mtrs</u>	<u>Rs Per Cent</u>	-	-
	76/2B1	728	17.98	2,226	90,086	Rs.1,45,187/-	For the detailed reasons explained in Point No.2 above.

7. The impugned award does not refer to any reasons as to why the Arbitral Tribunal had decided to determine the value of the subject land on the basis that it was residentially converted, after having noted that the Tahsildar, Bantwal had by an order dated 11.07.2012, converted the subject land for commercial use. The compensation determined also does not include any compensation for the structure on the subject land.

8. Aggrieved by the impugned award, the appellant had filed an application under Section 34 of the A&C Act (AP.No.373/2023), which was dismissed by the learned Commercial Court by the impugned order. We note that although the learned Commercial Court had noted the contentions as advanced by the appellant, the learned Commercial Court fell into error in finding that the same did



not result in vitiating the impugned award on the ground of patent illegality.

9. In view of the above, the present appeal is allowed, and the impugned award and the impugned order are set aside. The appellant is at liberty to file an application under Section 3G(5) of the NH Act, afresh.

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

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

SD
List No.: 1 Sl No.: 12