



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

MISCELLANEOUS FIRST APPEAL NO. 6041 OF 2025 (AA)

BETWEEN:

1. NATIONAL HIGHWAY AUTHORITY OF INDIA
PIU-MANGALORE
DOOR NO.3-29, BETHEL
THARETHOTA
NEAR PUMPWELL (NH-66)
MANGALORE - 575 005
REPRESENTED BY ITS:
DGM (TECH) & PROJECT DIRECTOR

...APPELLANT

(BY SRI SHOBHITH N. SHETTY, ADVOCATE)

AND:

1. LITTLE FLOWERS SISTERS OF BETHANY
REP. BY ITS PROVINCIAL
SRI. CICILIA MENDONCA
BETHANY PROVINCIALATE VAMANJOOR
KUDUPU VILLAGE
MANGALURU - 575 028
2. THE COMPETENT AUTHORITY &
SPECIAL LAND ACQUISITION OFFICER
NATIONAL HIGHWAY-66
NGO BUILDING, NEAR CLOCK TOWER
MANGALURU
D.K. DISTRICT - 575 001



3. THE DEPUTY COMMISSIONER
& ARBITRATOR
DAKSHINA KANNADA DISTRICT
MANGALURU - 575 008

...RESPONDENTS

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 37(1)(c) OF THE ARBITRATION AND CONCILIATION ACT, 1996, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 02.05.2025, PASSED IN A.P.NO.18/2025 ON THE FILE OF THE 1ST ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAKSHINA KANNADA, MANGALURU AND CONSEQUENTLY SET ASIDE THE AWARD DATED 10.12.2024 PASSED BY THE 3RD RESPONDENT IN CASE No. C.DIS. ARB(4)/NH/LAQ.CR.121/2022-23 AND FURTHER PRAYED TO ALLOW THE APPEAL OF THE APPELLANT HEREIN & 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 application – I.A No.1/2025, the same is allowed. The delay of 2 days in filing the appeal is condoned.

2. National Highway Authority of India [**NHAI**] has filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [**A&C Act**], impugning an order dated 02.05.2025 [**impugned order**] passed by the learned I Additional



District and Sessions Judge at Mangaluru [**District Court**] in Arbitration Petition No.18/2025.

3. NHA had filed the said petition under Section 34 of the A&C Act, impugning an arbitral award dated 10.12.2024 [**impugned award**] passed by respondent No. 3 [**Arbitral Tribunal**].

4. The respondent was the owner of the land measuring 202 sq. mtrs. falling in Survey No.190/1C of Kudupu Village, Mangalore Taluk [**the subject land**]. The said land was acquired for the construction of four lanes and the upgradation of the NH-169 Shivamogga-Mangalore section under the NHDP Phase III programme. The notification under Section 3A of the National Highway Act, 1956 [**NH Act**] for acquiring, *inter alia*, the subject land was issued on 16.03.2016. The same was followed by a final notification dated 15.03.2017 under Section 3D of the NH Act.

5. The respondent No.2 [**SLAO**] passed a final award dated 15.03.2022, determining the compensation payable to the land losers, including respondent No.1. The compensation payable to the respondent was determined at ₹2,66,980/- per cent for the subject land. Accordingly, the compensation of ₹35,96,178/- was



paid, which included solatium at the rate of 100% and additional compensation at the rate of 12%.

6. The respondent was dissatisfied with the SLAO's award and filed a claim under Section 3G(5) of the NH Act. The Arbitral Tribunal considered the said claim and enhanced the compensation by directing that the compensation be determined on the basis that the subject land was a commercially converted land as on the date of the issuance of the preliminary notification under Section 3A of the NH Act. In the arbitral proceedings, the appellant had produced the Tahsildar's order dated 20.04.2010 to establish that the subject land had been converted for commercial purposes. In view of the above, the Arbitral Tribunal found that determining the compensation of the subject land at the value fixed for residentially converted lands, was erroneous. The Arbitral Tribunal also rejected the respondent's contention that the land's value was 200% higher than the amount determined by the SLAO.

7. As noted above, the NHAI had filed a petition under Section 34 of the A&C Act seeking to set aside the impugned award dated 10.12.2024. The learned District Court found that no grounds as



set out in Section 34 of the A&C Act were established and, accordingly, dismissed the said petition.

8. The learned counsel appearing for the appellant submitted that the impugned award was liable to be set aside as it had proceeded on an erroneous basis that the compensation had to be determined on the basis that the land was converted for commercial purpose. He submitted that the award passed by the SLAO indicates that no buildings or structures were raised on the subject land and, therefore, the compensation was not payable on the basis that the land was commercially converted land. He contended that the order for commercial conversion of the land would have lapsed.

9. We are unable to accept that the impugned order or the impugned award is liable to be set aside on the grounds as canvassed by the learned counsel appearing for the NHA. Even if it is accepted that no construction had been raised on the subject land, the impugned award cannot be faulted. The Arbitral Tribunal has not awarded any amount for any building or any construction raised on the subject land. We are unable to accept that the Arbitral Tribunal's view that the value of a commercially converted land is



required to be determined on the basis that it is permissible to use the same for commercial purposes, cannot be faulted on the ground that it is patently illegal. In the present case, the SLAO had determined the land to be residentially converted. However, it is not disputed that the land had been commercially converted. Thus, the land could have been utilised for raising commercial buildings.

10. The contention that the order of conversion of the subject land had lapsed, is not supported by any pleadings. Concededly, no such argument had been advanced either before the Arbitral Tribunal or before the District Court. Even in the appeal filed before this Court, the appellant has not raised any such grounds. Absent any material to establish that the order converting the subject land had lapsed on the date of the preliminary notification issued under Section 3A of the NH Act, it would not be apposite to entertain any such argument.

11. The scope of interference in an arbitral award is restricted. It is well settled that the court will not supplant its opinion in place of that of the Arbitral Tribunal, unless the Arbitral Tribunal's view is found to be unreasonable on the anvil of the *Wednesbury* principle, that is, that no reasonable person could take such a view. We are



unable to accept that the arbitral award fails that test and is vitiated by patent illegality.

12. In view of the above, we find no ground to interfere with the impugned order and the impugned award. The appeal is unmerited and is, accordingly, dismissed.

13. The pending interlocutory application also stands disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE