



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

MISCELLANEOUS FIRST APPEAL NO. 6249 OF 2024 (AA)

BETWEEN:

NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT-MANGALORE,
DOOR NO.3-29,
BETHEL, THARETHOTA,
NEAR PUMPWELL (NH-66)
MANGALORE-575002
REP BY ITS THE PROJECT DIRECTOR

...APPELLANT

(BY SRI. PRAKASHA ANGADI B V., ADVOCATE)

AND:

1. SRI G MOHAMMED
S/O G HASSAN BEARY,
R/AT GANGOLLI POST,
KUNDAPURA-576216
2. THE ARBITRATOR AND DEPUTY COMMISSIONER
D K DISTRICT,
MANGALORE-575001
3. THE SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY,
NHAI, N.G.O.S. BUILDING,
MINI VIDHANA SOUDHACOMPOUND,
MANGALURU-575001

...RESPONDENTS

(BY SRI. KARKALA SHASHIKANTH PRASAD, ADVOCATE FOR
R1)

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED UNDER SECTION 37(1)(c) OF THE ARBITRATION AND CONCILIATION ACT, AGAINST THE ORDER DATED 03.07.2024 PASSED IN AP.NO.113/2023 THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANGALURU, DISMISSING THE ARBITRATION PETITION FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT R/W SECTION 3G(6) OF NATIONAL HIGHWAYS ACT, 1956.

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 National Highways Authority of India [**NHAI**] has filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [hereafter **A&C Act**] impugning an order dated 03.07.2024 [**impugned order**] passed by the IV Additional District Judge and Commercial Court, D.K, Mangaluru, [**the District Court**] in A.P.No.113/2023. NHAI had preferred the said application to set aside an Arbitral Award dated 07.02.2023 [**impugned award**] rendered by respondent No.2 [**Arbitral Tribunal**] pursuant to an application filed by respondent No.1 under Section 3G(5) of the National Highway Act [**NH Act**].



2. Briefly stated the relevant facts necessary to address the controversy in the present appeal are that respondent No.1 is owner of land measuring 4,500 metres falling in Survey No.169 at Puthige Village, Moodabidre Taluk. The said land was required for widening of the National Highway No.169 and accordingly, a notification dated 09.01.2020 was issued under Section 3A(1) of the NH Act. A final notification under Section 3D(1) of the NH Act was published on 10.07.2020. Thereafter on 26.08.2020, notices were issued to the interested persons including through newspapers for filing their claims before the Special Land Acquisition Officer [SLAO]. The SLAO passed an award dated 22.01.2021 determining the value of the subject land as Rs.11,655/- per cent. This was on an assumption that the subject land was dry land.

3. Aggrieved by the compensation determined by the SLAO, respondent No.1 preferred an application under Section 3G(5) of the NH Act, which was considered by the Arbitral Tribunal. The Arbitral Tribunal noted that the subject land was converted as a residential land by virtue of a conversion order dated 05.09.2012. Additionally, it was noted that the revenue records were changed to



reflect that the subject land as a residential land. It was NHAI's case that the subject land has not been used for the purposes for which it was converted and therefore, the same should be valued as dry land.

4. It is apparent from a plain reading of the impugned award that the Arbitral Tribunal did not accept the said contention. The Arbitral Tribunal noted that the subject land fell in the District of Dakshina Kannada with Mangaluru City as its headquarters and observed that the District is a densely populated area and is a fast growing. The Arbitral Tribunal further observed that the availability of land was scarce and the subject land had good potential for future development. Considering that there was no dispute that the subject land had been converted for non-agricultural purposes, the Arbitral Tribunal determined the compensation as applicable to residentially converted land.

5. Being aggrieved by the impugned order, the NHAI filed an application to set aside the said impugned award. The said application was dismissed by the impugned order.

6. Learned counsel appearing for NHAI submitted that impugned award is vitiated by patent illegality as the learned



District Court had failed to consider that respondent No.1 had not complied with the conditions for conversion of the land. He submitted that the conversion order had lapsed. However, he readily conceded that this contention was not pleaded before the learned Arbitral Tribunal.

7. Apart from the above, we note that the impugned award also rests on conclusion that subject land has good potential. Further, it is not disputed that revenue record does not reflect the subject land as agricultural land by virtue of the conversion order dated 05.09.2012. Although the learned counsel for NHAI contends that the conversion order has lapsed, there is no material to indicate that the conversion order was subject matter of any challenge at any stage. There was also no occasion for the Court to examine whether the conversion order was in subsistence; and if it had lapsed, whether it was capable of renewal.

8. It is trite law and the scope of interference of an arbitral award is limited and an arbitral award cannot be impeached except on the grounds as set out in Section 34 of the A&C Act. In the present case, the appellant seeks to assail the impugned award on the ground that it is vitiated by patent illegality. However, it is well



settled that the ground of patent illegality is applicable only where illegality strikes the root of the award. A plausible view would not fall within the scope of challenge on the ground of patent illegality.

9. In the present case, we are unable to accept that the impugned award is vitiated on the said ground. The Arbitral Tribunal has enhanced the compensation for cogent reasons. The impugned award cannot be stated to be perverse or one that rests on a view that no reasonable person could accept.

10. The appeal is unmerited and is, accordingly dismissed.

11. Pending IAs., if any, stand disposed of.

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

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

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List No.: 2 Sl No.: 16