



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH 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. 7016 OF 2024 (AA)

BETWEEN:

MR. STANY D SOUZA ALIAS
STANISLAUS D SOUZA
AGED ABOUT 65 YEARS
S/O LATE ANTHONY D SOUZA
R/O KALLADKA POST KALLADKA
GOLTHAMAJALU VILLAGE
BANTWAL TALUK
DAKSHINA KANNADA DISTRICT 574222

PROPRIETOR OF STANS
SHOPPING CENTRE, SOUZA COMPLEX,
KALLADKA,
GOLTHAMAJAL VILLAGE,
BANTWAL TALUK,
D.K.DISTRICT.

...APPELLANT

(BY SRI. CYRIL PRASAD PAIS.,ADVOCATE)

AND:

1. NATIONAL HIGHWAY AUTHORITY OF INDIA
PIU MANGALORE
DOOR NO. 3-29

Digitally
signed by
NIRMALA
DEVI
Location:
HIGH COURT
OF
KARNATAKA



BETHEL THARETHOTA
NEAR PUMPWELL (NH-66)
MANGALORE 575005
REPRESENTED BUY ITS
DGM (TECH) AND PROJECT DIRECTOR

2. THE COMPETENT AUTHORITY AND
SPECIAL LAND ACQUISITION OFFICER
(N.H.A.I), N.H 75
HASSAN -B .C ROAD SECTION
NO. HIG- 64, DTDC COURIER
OFFICE BUILDING
1ST FLOOR, KHB COLONY
CHANNAPATTANA
OPP KSRTC NEW BUS STAND
HASSAN 573201
3. THE DEPUTY COMMISSIONER AND
ARBITRATOR
DAKSHINA KANNADA DISTRICT
MANGALURU 575008

...RESPONDENTS

THIS MFA IS FILED UNDER SECTION 37(1)(c) OF THE
ARBITRATION AND CONCILIATION ACT, AGAINST THE
ORDER DATED 30.05.2024 PASSED IN AP.NO.158/2023 ON
THE FILE OF THE I ADDITIONAL DISTRICT JUDGE,
D.K.MANGALURU, DECREEEING THE ARBITRATION PETITION
FILED U/S 34 OF THE OF THE ARBITRATION AND
CONCILIATION ACT R/W ORDER 7 RULE 1 OF CPC.

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. The appellant 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 30.05.2024 [**impugned order**] passed by the learned I Additional District Judge, D.K, Mangaluru, [**the District Court**] in A.P.No.151/2023 & A.P.No.158/2023. The said appeals had been preferred by the parties challenging the arbitral award dated 11.01.2023 rendered by respondent No.3 (Arbitral Tribunal) pursuant to an application filed by the appellant under Section 3G(5) of the National Highways Act, 1956 [NH Act]. The appellant filed the said application being aggrieved of the compensation of ₹3,925 per cent as determined by the Arbitral Tribunal in respect of 162 sq.mtrs. of land falling in Survey No.32/2 of Golthamajalu Village, Bantwal Taluk, which was acquired for widening of the national highway under the provisions within NH Act. The Arbitral Tribunal had enhanced the compensation from ₹3,925 per cent to ₹4,881 per cent. Challenging the said award before the learned District Court; the appellant had filed A.P.No.151/2023 and respondent No.1 had filed A.P.No.158/2023.



2. The learned District Court dismissed the petition filed by respondent No.1, i.e., A.P.No.151/2023. However, had allowed the petition filed by the appellant and had set aside the award. Although the appellant had succeeded in seeking setting aside of the impugned award, the appellant has preferred the present appeal solely on the ground that the learned District Court had simply set aside the impugned award, but had not remanded the matter to the Arbitral Tribunal for consideration afresh.

3. An application under Section 34 of A&C Act is to determine whether the arbitral award is required to be set aside on the limited grounds as set out therein. The Court while exercising powers under Section 34 of the A&C Act does not have any power to remand the matter to the Arbitral Tribunal.

4. The learned counsel appearing for the appellant contends that the Arbitral Tribunal has a power to remand the matter to the Arbitral Tribunal under Section 34(4) of the A&C Act. He contends that in the present case, the learned District Court was required to take recourse to the said provision.

5. Section 34(4) of A&C Act is set out below:



34 . Application for setting aside arbitral award.

4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

6. A plain reading of Section 34(4) of the A&C Act indicates that the scope of the said provision is of a limited remand. The Court can, in certain circumstances, adjourn the proceedings to enable the Arbitral Tribunal to resume the arbitral proceedings to eliminate the grounds for setting aside the award.

7. It is clear from the plain language of the said provision that in certain circumstances, the Court may adjourn the proceedings to enable the Arbitral Tribunal to resume the arbitral proceedings and to take such other action as in the opinion of the Arbitral Tribunal will eliminate the grounds for setting aside the arbitral award.

8. In the present case, the learned District Court had found it apposite to set aside the award. However, has granted liberty to the parties to avail the remedy in accordance with law to re-initiate



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the arbitration proceedings afresh. Paragraph 40 of the impugned order which clearly sets out the said decision is reproduced below;

40. In view of the above discussion the impugned award is set aside. The parties would be at liberty to avail remedy in accordance with law for initiation of fresh arbitration.

9. In view of the above, we find no merit in the appeal, accordingly, it is dismissed.

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

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

Vmb
List No.: 2 SI No.: 15