HC-KAR

NC: 2026:KHC:16105-DB
COMAP No. 555 of 2024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 23RD DAY OF MARCH, 2026**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

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

**COMMERCIAL APPEAL NO. 555 OF 2024**

**BETWEEN:**

1. NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT
DOOR NO. 3-29, BETHEL
THARETHOTA, NEAR PUMPWELL (NH-66)
MANGALORE - 575 005
REPRESENTED BY ITS
DGM (TECH) AND PROJECT DIRECTOR
MR. ABDULLA JAVED AZMI

…APPELLANT

(BY SRI PRASAD K.R. RAO., ADVOCATE FOR
SRI HANUMANTHA REDDY G., ADVOCATE)

Digitally signed by SRIDEVI S
Location: High Court of Karnataka

**AND:**

1. MR. U KRISHNA KARANTH
MAJOR
S/O U. NARAYANA KARANTH
DOOR NO. 6/17D
KARANTH COMPOUND
SOMESHWARA UCHIL
MANGALORE - 575 023

2. THE DEPUTY COMMISSIONER
AND ARBITRATOR
DAKSHINA KANNADA DISTRICT
MANGALORE - 575 001

3. THE COMPETENT AUTHORITY &
THE SPECIAL LAND ACQUISTION OFFICE
MANGALURU
KARNATAKA STATE EMPLOYEES ASSOCIATION
CLOCK TOWER, HAMPANKATTA
MANGALURU - 575 001

…RESPONDENTS

(BY SRI UDAYA PRAKASH M., ADVOCATE FOR R-1 &
R-2 & 3 ARE SERVED & UNREPRESENTED)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13(1-A) OF THE COMMERCIAL COURTS ACT, 2015, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 08.11.2024 PASSED BY IV ADDITIONAL DISTRICT JUDGE AND COMMERCIAL COURT, D.K. MANGALURU IN ARBITRATION PETITION NO.90/2023 AND CONSEQUENTLY SET ASIDE ARBITRAL AWARD BEARING NO.C.DIS.ARB (2) NH.LAQ.CR.23/2019-20 DATED 27.12.2022 PASSED BY THE RESPONDENT NO.2 AND CONSEQUENTLY & ETC.

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 – National Highways 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 08.11.2024 [**the impugned order**] passed by the learned IV Additional District Judge and Commercial Court, D.K., Mangaluru [**Commercial Court**] in A.P.No.90/2023.

2. The said application was filed by the NHAI under Section 34 of the A&C Act, impugning an Arbitral Award dated 27.12.2022 [**impugned award**] passed by respondent No.2 [**the Arbitral Tribunal**] in the proceedings initiated under Section 3G(5) of the National Highways Act, 1956 [**NH Act**].

3. Respondent No.1 owned lands measuring 6.49 cents, out of which 1.5 cents fall in Sy.No.95/17/A2A3 and 4.99 cents fall in Sy.No.95/17/A2A4 of Someshwara Village, Mangaluru Taluk. The said land was the subject matter of acquisition under the NH Act. The Central Government had issued a preliminary notification under Section 3A(1) of the NH Act on 08.02.2010. Thereafter, on 04.02.2011, it issued the final notification under Section 3D(1) of the NH Act. This was followed by public notices inviting claims from various landowners or persons interested in the subject matter of the acquisition.

4. The aforesaid proceedings culminated in the competent authority (Respondent No.4) awarding compensation at the rate of ₹1,00,000/- per cent under an award dated 20.08.2011.

5. Respondent No.1 was dissatisfied with the compensation and accordingly claimed enhancement by filing an application under Section 3G(5) of the NH Act. The said application [registered as C.DIS.ARB(2)NH.LAQ.CR.8/2012-13] was disposed of by an award dated 17.03.2015 [**the arbitral award**]. In terms of the arbitral award, the compensation for the subject land was enhanced from ₹1,00,000/- per cent to ₹1,20,000/- per cent. Respondent No.1 challenged the arbitral award by filing an application [**AS.1/2016**] under Section 34 of the A&C Act before the learned District Judge, Mangaluru. The learned Court allowed the application by an order dated 16.12.2017, and set aside the arbitral award dated 17.03.2015. The matter was remanded to respondent No.2 for consideration afresh. On remand, the arbitrator examined the respondent No.1's claim for enhanced compensation and delivered the impugned award. Under the said award, the compensation for the land in Sy.No.95/17/A2A3 (1.50 cents) was enhanced from ₹1,00,000/- per cent to ₹1,34,400/- per cent, treating it as residential converted land, and for the Sy.No.95/17/A2A4 (4.99 cents), the compensation was enhanced from ₹1,00,000/- per cent to ₹1,45,600/- per cent, treating it as commercial converted land.

Additionally, the Arbitral Tribunal also held that respondent No.1 was entitled to the benefits under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [**2013 Act**]. The Arbitral Tribunal further awarded interest at the rate of 9% per annum under Section 3-H(5) of NH Act. NHAI filed an application under Section 34 of the A&C Act seeking to set aside the impugned award. One of the principal grounds urged by NHAI was that the Arbitral Tribunal had erred in granting benefits under the 2013 Act without considering that the subject land had been acquired prior to its enactment. However, the learned Commercial Court rejected the said contention and dismissed NHAI's application under Section 34 of the A&C Act.

6. Aggrieved by the impugned order the NHAI preferred the present appeal.

7. This appeal was taken up for hearing on 13.01.2026. In view of the NHAI's submission that the Arbitral Tribunal had not considered the aspect that the acquisition of the subject land was prior to the enactment of the 2013 Act, this Court adjourned the proceedings under Section 34(4) of the A&C Act to enable the

Arbitral Tribunal to resume the arbitral proceedings. The order passed by this Court on 13.01.2026 reads as under:

" 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 08.11.2024 [**the impugned order**] passed by the learned IV Additional District Judge and Commercial Court, D.K., Mangaluru [**Commercial Court**] in A.P.No.90/2023.

2. The said application was filed by the National Highways Authority of India [**NHAI**] under Section 34 of the A&C Act, impugning an Arbitral Award dated 27.12.2022 passed by respondent No.2 in the proceedings initiated under Section 3G(5) of the National Highways Act, 1956 [**NH Act**].

3. The dispute centres around the compensation for the subject land located at Someshwara village of Mangaluru Taluk, which was acquired for the widening of National Highway No.66. The Central Government had issued a preliminary notification for the acquisition of the subject land under Section 3A(1) of the NH Act on 08.02.2010. The final notification under Section 3D(1) of the NH Act was issued on 04.02.2011. Thereafter, public notices were issued inviting claims from various landowners or persons interested in the land acquired under the said notifications. Thereafter, the competent authority determined the compensation for various lands, including the subject land, at the rate of Rs.1,00,000/- per cent in terms of the award dated 20.08.2011 in No.NH/LAQ.SR.3/2011-12.

4. The subject land belonging to respondent No.1, measuring 1.50 Cents, fell in Survey No.95/17A2A3, and 4.99 Cents, fell in Survey No.95/17/A2A4 of Someshwara Village.

5. Respondent No.1 not being satisfied with the compensation awarded, filed an application under Section 3G(5) of the NH Act, seeking enhancement of compensation. The said application was registered as

C.DIS.ARB(2)NH.LAQ.CR.8/2012-13, and the proceedings commenced pursuant to the said reference culminated in an award dated 17.03.2015. The learned Arbitrator enhanced the compensation for the subject land from Rs.1,00,000/- per cent to Rs.1,20,000/- per cent.

6. NHAI, taking an exception to the said award, preferred an application under Section 34 of the A&C Act (A.S.No.1/2016) before the District Judge, Mangaluru. The said application was allowed by an order dated 16.12.2017, and the Arbitral Award dated 17.03.2015 was set aside. The matter was remanded for fresh consideration.

7. In view of the said order, the proceedings (C.DIS.ARB(2)NH.LAQ.CR-23/2019-20) were once again commenced by the learned Arbitrator. The said proceedings culminated in the impugned award dated 27.12.2022, whereby the compensation for the subject land was enhanced from Rs.1,00,000/- per cent to Rs.1,34,400/- per cent. The learned Arbitrator also held that respondent No.1 was entitled for the benefits under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [**2013 Act**]. Additionally, the learned Arbitrator also awarded interest at the rate of 9% per annum. The NHAI's challenge to the said award was rejected by the impugned order.

8. The principal ground urged by the NHAI for assailing the impugned award and the impugned order is confined to the learned Arbitrator directing that the benefits under the 2013 Act be made available to respondent No.1.

9. The learned counsel appearing for the NHAI contended that the acquisition was prior to the 2013 Act coming into force and therefore the compensation for the subject land was required to be determined on the basis of the market value prevailing on the date of the preliminary notification issued under Section 3A(1) of the NH Act. He also relied on the judgment of the Co-ordinate Bench of this Court in MFA No.5128/2024(AA): Neutral Citation No.2025:KHC:1408-DB.

> 10. Learned counsel appearing for respondent No.1 does not dispute that the said decision would be applicable to the facts of the present case. He, however, submits that if the provisions of 2013 Act are held to be inapplicable, the benefits under the Land Acquisition Act, 1894 would be available to respondent No.1.
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> 11. *Prima facie,* NHAI has made out a ground for setting aside the impugned award. However, concededly the decision of this Court in MFA No.5128/2024 Neutral Citation 2025:KHC:1408-DB had not been placed before the Arbitrator. In the given circumstances, we consider it apposite, in the interest of justice of the parties, to adjourn the present proceedings under Section 34 (4) of the A&C Act for a period of two (2) months from date, to enable the Arbitral Tribunal to resume the Arbitral Proceedings and to take such action which will eliminate the grounds for setting aside the impugned award.
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> 12. The Learned Arbitrator (Respondent No.2) may resume the proceedings within ten (10) days from date, and conclude the same before the next hearing.
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> 13. List on 23.03.2026.
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> 14. The parties are at liberty to communicate this order to respondent No.2."

8. Pursuant to the said order, the Arbitral Tribunal recommenced proceedings and delivered an award dated 10.03.2026. The Arbitral Tribunal accepted the NHAI's contention that the 2013 Act is inapplicable. However, it held that statutory benefits under Section 23(1), 23(2) and Section 28 of the Land Acquisition Act, 1894 would be applicable.

9. The learned counsel appearing for the NHAI does not dispute that respondent No.1 is entitled to the benefits of the provisions of the Land Acquisition Act, 1894. Since the Arbitral Tribunal has accepted NHAI's contention that the 2013 Act is inapplicable, the ground on which NHAI assails the impugned award does not survive.

10. We may also note that the learned counsel for NHAI does not press any other ground for assailing the impugned award as modified by the award dated 10.03.2026.

11. In view of the above, the present appeal is disposed of. Needless to state that the compensation payable to respondent No.1 is required to be re-computed on the basis of the impugned award as modified by the award dated 10.03.2026.

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

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

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List No.: 2 Sl No.: 25