

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 ARBITRATION APPEAL NO. 41 OF 2021

National Highways Authority Of India,
Project Implementation Unit,
Dhule, Represented by its :
Project Director
'Mangal', Plot No.14 to 16,
Mansaram Nagar
Sakri Road, at Dhule

... Appellant

VERSUS

1. Hemant Sudhakar Madane
Age : Major
R/o. Vir Savarakar Road,
Daily Apla Maharashtra
Tq. & Dist. Dhule

2. Competent Authority for Land acquisition
Nation Highway, NH-3
Occ – Service,
R/o. Collector Office at Dhule

...Respondents

...

Mr. Deepak S. Manorkar, Advocate for Appellant
Mr. V. M. Chate, AGP for Respondent
Mr. Amol S. Sawant, Advocate for Respondent No.1

...

WITH

CIVIL APPLICATION NO. 9220 OF 2022 IN ARBA/41/2021

National Highways Authority Of India Thr Ravindra S Ingole

VERSUS

Hemant Sudhakar Madane And Another

...

WITH

CIVIL APPLICATION NO. 13657 OF 2021 IN ARBA/41/2021

National Highways Authority Of India Project Implementation Unit
Represented By Project Director

VERSUS

Hemant Sudhakar Madane And Another

...

CORAM : ROHIT W. JOSHI, J.

DATED : 25th JULY 2025

ORAL JUGEMENT :-

1. Arbitral award dated 30.12.2010 passed under Section 3 (G) 5 of the National Highways Act 1956 was challenged by the land owners/respondent no.1 by filing Appeal under Section 34 of the Arbitration and Conciliation Act, 1996 being Civil Miscellaneous Appeal No.70 of 2014 in which the amount of compensation as determined by the arbitral tribunal was further enhanced by the learned Principal District Judge. The legal position is now well settled that enhancement of amount of compensation determined by arbitral tribunal by a Court exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996 amounts to modification of the award which is not permissible in law. Legal position in this regard is crystallized by judgment of the Hon'ble Supreme Court in the matter of *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.* reported in **2025 SCC online SC 986** and several other judgments of the Hon'ble Supreme Court as well as this Court.

2. In view of the above, the impugned judgment and order dated 23.02.2021 passed by the learned Principal District Judge, Dhule in Civil Miscellaneous Appeal No.70 of 2014 is quashed and set aside.

3. The learned Advocate for respondent no.1 does not dispute the
Narwade

legal position, he however, contends that several land owners had initiated arbitration proceedings seeking enhancement of compensation. He contends that the learned Arbitral Tribunal ought to have maintained uniformity in awarding the amount of compensation. His contention is that since the State was acquiring lands by exercising eminent domain, it was duty of the State to provide just and fair compensation to the land owners. This according to him, is a basic feature of public policy and laws of India relating to land acquisition. The contention of the learned Advocate is that in a case where a land owner may not be able to bring documentary evidence on record to seek further enhancement in claim and other land owners bring such documentary evidence which is within knowledge of the authority deciding the arbitration proceedings, the arbitration proceedings could have been decided together by clubbing the matter so that there is no disparity in the amount of compensation awarded to two difference individuals whose similarly situated land is acquired under acquisition.

4. The learned Advocate further states that relevant documents which were not within the knowledge of respondent – land owner while prosecuting the arbitration proceedings were available while Section 34 proceeding was filed and the said documentary evidence was produced on record. He further states that in land acquisition

cases judgments by Reference Court as also in land acquisition cases under Nation Highway Authority of India Act arbitral awards passed under Section 3(G)5 by itself will constitute a piece of evidence. The contention is that awards passed in favour of similarly circumstanced land owners should also have been taken into consideration.

5. A very peculiar situation has arisen in the present case. It is obvious that the awards passed with respect to other similarly circumstanced land owners should be taken into consideration to award just and fair compensation to the respondent-land owner in the present appeal. At the same time, it is also well settled that the Courts exercising jurisdiction either under Section 34 or 37 of the Arbitration and Conciliation Act, 1996 cannot modify the award. To award just and proper compensation to land owners is a statutory and constitutional obligation of the acquiring body. It is also duty of the Arbitrator and Courts to ensure that just and fair compensation is awarded to the land owners. Likewise, it is also a duty of Courts as well as Arbitrator to ensure that there should be uniformity in awarding compensation to similarly circumstanced land owners.

6. In view of the above, the only option available is to remit the matter to the learned Arbitrator to determine the compensation payable afresh, taking into consideration, judgment delivered by the

learned District Judge and more particularly the evidence including other awards referred by the learned District Judge.

7. In view of the above, the appeal is partly allowed:-

i. Judgment and order dated 23.02.2021 passed by the learned Principal District Judge, Dhule in Civil Miscellaneous Appeal No.70 of 2014 is quashed.

ii. The arbitration proceedings are remitted back before the learned Arbitrator i.e. District Collector, Dhule for deciding the amount of compensation afresh in the light of evidence considered in judgement and order dated 23.02.2021 passed by the learned Principal District Judge, Dhule in Civil Miscellaneous Appeal No.70 of 2014.

iii. Parties will be at liberty to produce additional evidence on record and also to amend the pleadings.

iv. The parties shall appear before the learned Arbitrator/District Collector, Dhule on 18.08.2025.

v. The Arbitrator/District Collector Dhule is directed to decide the reference proceedings as expeditiously as possible and in any case before 30.04.2026.

vi. The amount deposited by the appellant be refunded

with accrued interest to the appellant since the appeal is **allowed.**

vii. Pending Civil Applications, if any, stand disposed of.

[ROHIT W. JOSHI, J.]