



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ARBITRATION APPEAL NO. 5 OF 2023

THE PROJECT DIRECTOR,
The National Highways Authority of India,
PIU-Nashik, Kenstar Apartment, B-Wing,
S.No.318/1/10, Plot No.1, Pathardi Phata,
Nashik-422010 (Maharashtra)

.. Appellant

Versus

1. NANASAHEB VISHWANATH KADAM,
Age: Major, Occu.: Farmer,
R/o.: At post, Savali Vihir Bk.,
Tal.: Rahata & Dist. Ahmednagar,
State Maharashtra

2. THE COMPETENT AUTHORITY OF LAND
ACQUISITION AND SUB-DIVISIONAL OFFICER,
Shirdi, Tq. Rahata, Dist.: Ahmednagar

.. Respondents

...

Advocate for Appellant:

Mr. P. R. Katneshwarkar, Senior Advocate i/b. Mr. V. T. Sakolkar

Advocate for Respondent No.1: Ms. P. S. Talekar

Respondent No.2 - served

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CIVIL APPLICATION NO. 8402 OF 2025

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CORAM : ARUN R. PEDNEKER, J.

DATE : 30.03.2026

ORDER:

1. Heard.

2. By the present Arbitration Appeal, the Appellant -
National Highway Authority of India challenges the order passed
under Section 34 of the Arbitration and Conciliation Act, 1996,

thereby dismissing the application filed by the respondent herein and directing the Appellant herein to pay the compensation to the respondent as determined by the Competent Authority vide award dated 15.07.2019 i.e. at the rate of Rs.4821/- per Sq. Mtr. with other components as mentioned in the Award.

3. The brief facts leading to filing of the Arbitration Appeal is that the respondent purchased a land of 200 Sq.Mtr. on 18.08.1992 out of land bearing Gut No.1/4, situated at village Savalivihir Budruk, Taluka Rahata, adjacent to the Ahmednagar-Manmad road, National Highway No.160, from one Bapusaheb Sadafal. The previous owner of the land had obtained permission for conversion of the land for non-agricultural purpose on 16.06.1983. Thereafter, permission to construct building was taken on 30.08.2006 and completion certificate of the same obtained on 30.08.2006 and for long period the respondent was running Restaurant with bar licence in the premises.

4. On 06.03.2017, notification was issued under Section 3 of the National Highways Act for acquisition of 100 Sq.Mtrs. From Gut No.1/4 of the respondent's and other lands. On 15.07.2019, an Award of compensation was passed by the Competent Authority. It determined the compensation at the rate of Rs.4821/- per Sq.Mtr. but final amount payable was shown as Zero due to letter dated

04.10.2018 from the Assistant Director of Town Planning, Ahmednagar. The Competent Authority for Land Acquisition (CALA) in it's Award observed as under:

“बिनशेती जमिनी बाबत रस्ता रुंदीकरणाखालील क्षेत्र विनामोबदला संबंधित विभागाकडे हस्तांतरित करणे बंधनकारक असल्याने त्या जमिनीवरील फळझाडे, वनझाडे, बांधकामे, पाईपलाईन, विहिरीचेही मूल्यांकन देय होत नाही. त्यामुळे संयुक्त मोजणी नकाशात नमूद केलेल्या बाबी व त्यानुसार खालील प्रमाणे प्राप्त झालेल्या मूल्यांकनाचा मोबदला दिलेला नाही.”

Although, CALA computed compensation but did not grant the same as land was required to be surrendered to the State in N.A. plotting.

5. The Respondent challenged the Award of CALA before this Court in Writ Petition No.6815 of 2020, wherein following prayers were made:

A. To quash and set aside the impugned communication dated 04.10.2018 issued by the respondent No.4 - Assistant Director, Town Planning, Ahmednagar by issuing writ of certiorari or any other writ, order or direction, as the case may be."

"B. To quash and set aside the final award dated 15.07.2019 passed by the respondent No.3 - CALA to the extent of the petitioner, thereby, refusing to pay compensation to the acquisition of NA land and the structure erected thereon by issuing writ of certiorari or any other writ, order or direction, as the case may be."

"C. To direct the respondent No.3 to pass revised award under Section 25 r/w Section 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the procedure prescribed therein, in respect of the petitioner's land from Gut No.1/4 at village Savilivihir

(Bk), Tq. Rahata, by issuing a writ of mandamus or any other writ, order or direction, as the case may be."

This Court considered the matter and by order dated 07.07.2021, observed at Paragraphs No.4, 7 and 8, as under:

"4. The pleadings in this petition are complete. None of the respondents can indicate from any provision of law that the N.A. portion of land belonging to any person, which may be acquired in a road widening project, would not entitle the land owner to any compensation. There is no dispute in accepting the legal position that, with reference to an N.A. land, there would be no compensation for fruiting trees or a garden or a pipe line or a well since the land is not being used for agricultural purposes. However, none of the respondents have been able to show us any provision of law or a judicial pronouncement indicating or laying down the law that N.A. land acquired for road widening would not fetch any compensation to the land owner.

7. We are not satisfied with the said reply, since these grounds do not form a part of the order of respondent No.3 when he concluded that the petitioner would not be entitled for compensation of 100 square meters of the N.A. land.

8. In view of the above, this petition is disposed off with the observations that the petitioner would be entitled for the compensation to the extent of 100 square meters of the N.A. land acquired for road widening, unless there is any other legal impediment which would dis-entitle the petitioner from claiming compensation. Needless to state, the structure standing on his 100 square meters land has already been subjected to determination of compensation. Therefore, we leave all contentions of the petitioner open to be considered in L.A.R.No.02/2019, which is pending before the Arbitrator at Ahmednagar."

6. This court observed that, the claimant is entitled to compensation from acquired land. However, since, the arbitration

proceedings were pending the High Court granted liberty to the claimant to claim compensation before the Arbitrator. The Arbitrator passed the Award dated 31.12.2021 and determined the market rate at Rs.723/- per Sq. Mtr. The same was challenged by the Respondent by filing application under Section 34 before the District Court. The District Court by impugned order dated 11.01.2023 has set aside the arbitral award and it has observed that the arbitrator erred in holding that ownership of the applicant's acquired land vested with the Government. The Arbitrator also applied the same logic of CALA without fully appreciating the observations of the High Court order dated 07.07.2021 in Writ Petition No.6815 of 2020. The District Court observed that there is no automatic vesting of the land to the Government without payment of compensation as observed in the above noted order dated 07.07.2021 of the High Court. As such, the court held that the arbitrator has acted illegally and quashed and set aside the arbitral award. However, the court proceeded further to observe that the compensation as determined by the CALA has to be paid to the Respondent / Claimant.

7. The learned Senior Advocate appearing for the National Highways Authority challenges this part of the order of the District Court wherein it has observed that the claimant is entitled to

receive compensation in terms of Award dated 15.07.2019 of CALA at the rate of Rs.4821/- per Sq.Mtr. with other components as mentioned in the Award of CALA. The learned counsel for the Appellant submits that the court under Section 34 of the Act can only quash and set aside the Arbitral Award and cannot direct to make payment to the respondent if it does not agree with the Arbitrator's Award.

8. Per contra, the learned counsel appearing for the Respondent / Claimant submits that in terms of Section 3G(1) of the National Highways Authorities Act, determination of compensation is made and the amount is required to be deposited under Section 3(H) of the National Highways Act. However, on an erroneous assumption CALA held that the National Highways Authority is not required to pay the amount in view of the letter of the Assistant Director of Town Planning. CALA held that the lands are required to be surrendered to the State and, although, amount of compensation was determined the final determination was made as Zero. The Award of CALA was challenged before the High Court in Writ Petition No.6815 of 2020 and by order dated 07.07.2021 the High Court observed that there is no procedure where there is automatic vesting without payment. The land has to be reserved for expansion but payments for the same on acquiring the land

have to be made. In view of the observations of the High Court it was not available to the CALA or any authority not to make payment of any amount as determined, if there was no other impediment.

9. Considering the observations of the High Court in Writ Petition No.6815 of 2020 and also the determination made by CALA the claimant is entitled to receive compensation at the rate as determined by CALA, under Section 3G(1) of the National Highways Act.

10. The court under Section 34 of the Act has not worked out independent amount, while setting aside the award of Arbitrator, it has merely said that the determination by CALA has to be paid to the claimants.

11. In stricto sensu i.e. in strict sense it is possible that the court under Section 34 may not travel to this extent. However, in view of the provisions of the National Highways Act, particularly, Section 3(H) the amount determined by the CALA has to be paid to the respondent before taking possession of the land. In view of the High Court order in Writ Petition No.6815 of 2020, dated 07.07.2021, as noticed above, the National Highways Authority was liable to pay the amount determined.

12. Considering the above fact of the matter in my jurisdiction under Section 37 of the Arbitration and Conciliation Act, 1996 this court would not go into the technicalities to remit the matter back to the Arbitrator. In any event, the claimant is entitled to at least the amount determined by CALA, in absence of any challenge to the same by the National Highways Authorities. This court in exercise of jurisdiction under Section 37 of the Arbitration Act would not interfere with the impugned order dated 11.01.2023 of the District Court under Section 34 of the Act.

13. With the above observations, the Arbitration Appeal stands dismissed.

[ARUN R. PEDNEKER, J.]

14. After pronouncement, the learned counsel for the Claimant seeks withdrawal of the amount deposited in this court in the pending Civil Application No.8402 of 2025.

The learned counsel for the National Highways Authority submits that the authority intends to challenge the order passed in this Arbitration Appeal and the amount may not be disbursed.

15. Since, I have dismissed the Arbitration Appeal, the amount deposited is permitted to be withdrawn, subject to the undertaking that, in the event, the Appellant succeeds in getting a favourable order in the Hon'ble Supreme Court, the claimant would revert the amount withdrawn within four (04) weeks. Civil Application No.8402 of 2025 stands disposed of accordingly.

[ARUN R. PEDNEKER, J.]

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