



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

8 ARBITRATION APPEAL NO. 46 OF 2025

ABARAO EKNATH BELE

VERSUS

THE PROJECT DIRECTOR AND OTHERS

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar
Advocate for Respondent No.1 : Mr. S. P. Urgunde
Advocate for Respondent No.2 : Mr. R. D. Sanap

...

AND

...

9 ARBITRATION APPEAL NO. 57 OF 2025

NAGNATH GANGARAM MASKE

VERSUS

**THE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS**

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar
Advocate for Respondent No.1 : Mr. Urgunde Suhas P.
Advocate for Respondent No.2: Mr. Bangar Ravi Raosaheb

...

AND

...

10 ARBITRATION APPEAL NO. 58 OF 2025

DEVRAO JYOTI GUND

VERSUS

**THE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS**

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar
Advocate for Respondent No.1 : Mr. Urgunde Suhas P.
Advocate for Respondent No.2: Mr. R. B. Bagul

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AND

...

11 ARBITRATION APPEAL NO. 59 OF 2025

JIJABAI RAVSAHEB GUND
VERSUS
THE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...
Advocate for Appellant :
Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar
Advocate for Respondent No.1 : Mr. Urgunde Suhas P.
Advocate for Respondent No.2: Mr. R. B. Bagul

...
AND
...

12 ARBITRATION APPEAL NO. 60 OF 2025
MAINABAI MAHADEV GUND
VERSUS
THE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...
Advocate for Appellant :
Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar
Advocate for Respondent No.1 : Mr. Urgunde Suhas P.
Advocate for Respondent No.2: Mr. U. B. Bondar

...
AND
...

13 ARBITRATION APPEAL NO. 61 OF 2025
SANDIP SUBHASH KADAM
VERSUS
THE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...
Advocate for Appellant :
Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar
Advocate for Respondent No.1 : Mr. Urgunde Suhas P.
Advocate for Respondent No.2: Mr. U. B. Bondar

...
AND
...

14 ARBITRATION APPEAL NO. 62 OF 2025
MAINABAI MAHADEV GUND
VERSUS
THE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar

Advocate for Respondent No.1 : Mr. Urgunde Suhas P.

Advocate for Respondent No.2: Mr. S. W. Munde

...

AND

...

15 ARBITRATION APPEAL NO. 63 OF 2025

LAXMAN MASAJI MASKE

VERSUSTHE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar

Advocate for Respondent No.1 : Mr. Urgunde Suhas P.

Advocate for Respondent No.2: Mr. R. D. Sanap

...

AND

...

16 ARBITRATION APPEAL NO. 64 OF 2025

PRATAP DADARAO ROCKHARI

VERSUSTHE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar

Advocate for Respondent No.1 : Mr. Urgunde Suhas P.

Advocate for Respondent No.2: Mr. N. T. Bhagat

...

AND

...

17 ARBITRATION APPEAL NO. 65 OF 2025

ARUN JYOTI GUND

VERSUSTHE PROJECT DIRECTION, NATIONAL HIGHWAY AUTHORITY OF
INDIA, AND OTHERS

...

Advocate for Appellant :

Mr. Shashikiran N Patil a/w. Mr. N. S. Birajdar

Advocate for Respondent No.1 : Mr. Urgunde Suhas P.

Advocate for Respondent No.2: Mr. N. T. Tribhuwan

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CORAM : ARUN R. PEDNEKER, J.

DATE : 23.03.2026

PER COURT:

1. Heard.

2. The appellants challenge the impugned Awards passed by the Arbitrator, so also, the impugned Orders passed by the Principal District Judge, Osmanabad dismissing the Applications under Section 34 of the Arbitration and Conciliation Act, 1996.

3. Brief facts giving rise to the present appeals are that the appellants are the owners of the acquired lands for extension of the National Highway No.361. Notification dated 24.09.2016 was issued for acquisition of the lands abutting the National Highway No.361 by the Ministry of Road Transport and Highways under Section 3A of the National Highways Act, 1956. Final notification under Section 3D(1) of the National Highways Act, 1956 was published on 17.11.2016, acquiring various lands of the different appellants herein situated at village Tadavala, Taluka Tuljapur, District Osmanabad for widening of National Highway No.361.

4. The above noted facts are not disputed before this court. It appears that the Competent Authority for Land

Acquisition (CALA) awarded compensation in three categories determining the compensation in Group 1 category at the rate of Rs.40 per Sq. Mtr., in Group 2 category there are further three subcategories in which there is compensation granted at the rate of Rs.680/-, Rs.40 and Rs.79 per Sq. Mtr. and, in Group 3 category at the rate of Rs.44 per Sq. Mtr.

Thereafter, the appellants filed the Applications under Section 3G(5) for referring the matters to the Arbitrator. The Arbitrator maintained the compensation at the rate of Rs.680/- per Sq.Mtr. for the lands abutting the highway and in respect of all other lands granted compensation at the rate of Rs.399/- per Sq. Mtr.

The appellants, who are granted compensation at the rate of Rs.399/- per Sq. Mtr. challenged the Awards under Section 34 of the Arbitration and Conciliation Act, 1996. The proceedings are dismissed.

Challenging the Awards of the Arbitrator and the order of the learned Principal District Judge, Osmanabad dismissing the Section 34 applications in the present appeals, the learned counsel for the appellants relies upon the Judgment of the **Madhya Pradesh Road Development Corporation Vs. Vincent Daniel and others, (2025) 7 SCC 798**. He submits that Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 (*for brevity “2013 Act”*) is made applicable for determination of the compensation under the National Highways Act. He further submits that Section 105 of the 2013 Act, notifications are to be issued by the Central Government applying Sections 26 to 30 of the 2013 Act for determination of the compensation for the lands acquired under the National Highways Act.

5. The learned counsel for the appellants submits that, while applying Section 26 of the 2013 Act the highest sale deed has to be taken into consideration. He also submits that the similarly placed lands have to be granted similar compensation. He relies upon paragraphs no.24 and 42 of the above referred Judgment and submits that while passing the awards the arbitrator has not applied the principles while determining the compensation and, thus, the Awards are patently illegal and perverse and have to be set aside.

6. Per contra, the learned counsel appearing for the Respondents / National Highway Authority submits that the arbitrator has rightly determined the compensation for 2 different categories, some lands which are abutting highway are granted Rs.680/- per Sq. Mtr., whereas the lands little away from the highway are granted compensation at the rate of Rs.399/- per Sq.

Mtr. He submits that under Section 34 of the Arbitration and Conciliation Act, 1996, the power of the court is extremely restricted and only in cases of patent illegality the award can be interfered. He also submits that the arbitrator was justified in bifurcating the lands in 2 different categories and he has also taken into consideration NA potential of the lands and has allowed enhancement of compensation which is granted by CALA at the rate of Rs.40, 79 and 44 to uniformly Rs.399/- per Sq. Mtr. and the same is rightly not interfered with by the District Court under Section 34 of the Arbitration and Conciliation Act, 1996.

7. Considered rival submissions.

8. IN the case of the **Madhya Pradesh Road Development Corporation Vs. Vincent Daniel and others** (*supra*), the Hon'ble Supreme Court has observed that the courts also needs to apply the general parameters under Land Acquisition Act as laid down by the Hon'ble Supreme Court and the High Court, while determining the compensation under Section 26 of the 2013 Act. One of the principal contention is that all acquired lands have NA potential lands and are abutting the highway and they cannot be granted separate compensation. It is thus submitted that the arbitrator has committed patent illegality and perversity in differentiating the

similarly placed lands and, thus, the Awards need to be interfered with.

9. This court by order dated 18.03.2026 in Arbitration Appeal No.10 of 2026 with connected appeals, at paragraphs no.60, 61 and 62, considered the Judgments of the Hon'ble Supreme Court dealing with the power of the court under Section 34 and 37 of the Arbitration and Conciliation Act to interfere with the arbitral Award as under:

"60. ...The Supreme Court in the case of PSA Sical Terminals Private Limited Vs. Board of Trustees of V.O. Chidambaranar Port Trust Tuticorn and Anr. reported in (2023) 15 SCC 781 has observed that it is a settled legal position, that in an application under Section 34, the court is not expected to act as an appellate court and reappreciate the evidence. The scope of interference would be limited to grounds provided under Section 34 of the Arbitration Act. The interference would be so warranted when the award is in violation of "public policy of India", which has been held to mean "the fundamental policy of Indian law". A judicial intervention on account of interfering on the merits of the award would not be permissible. However, the principles of natural justice as contained in Section 18 and 34(2)(a)(iii) of the Arbitration Act would continue to be the grounds of challenge of an award. The ground for interference on the basis that the award is in conflict with justice or morality is now to be understood as a conflict with the "most basic notions of morality or justice". It is only such arbitral awards that shock the conscience of the court, that can be set aside on the said ground. An award would be set aside on the ground of patent illegality appearing on the face of the award and as such, which goes to the roots of the matter. However, an illegality with regard to a mere erroneous application of law would not be a ground for interference. Equally, reappreciation of evidence would

not be permissible on the ground of patent illegality appearing on the face of the award.

61. *The Hon'ble Supreme Court in **PSA Sical Terminals Private Limited** (supra) has further observed that a decision which is perverse, though would not be a ground for challenge under "public policy of India", would certainly amount to a patent illegality appearing on the face of the award. However, a finding based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside on the ground of patent illegality.*

62. *To appreciate the test of perversity, the Hon'ble Supreme Court in **PSA Sical Terminals Private Limited** (supra) in para 42 has further held as under :-*

*"42. To understand the test of perversity, it will also be appropriate to refer to paragraph 31 and 32 from the judgment of this Court in **Associate Builders** (supra), which read thus:*

31. The third juristic principle is that a decision which is perverse or so irrational that no reasonable person would have arrived at the same is important and requires some degree of explanation. It is settled law that where:

(i) a finding is based on no evidence, or

(ii) an Arbitral Tribunal takes into account something irrelevant to the decision which it arrives at; or

(iii) ignores vital evidence in arriving at its decision,

such decision would necessarily be perverse.

*32. A good working test of perversity is contained in two judgments. In **Excise and Taxation Officer-cum-Assessing Authority v. Gopi Nath & Sons** [1992 Supp (2) SCC 312], it was held:*

"7. ... It is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law."

In Kuldeep Singh v. Commr. of Police (1999) 2 SCC 10, it was held:

"10. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with."

10. In the instant case, the Arbitrator having bifurcated the lands in different categories has committed patent illegality and perversity and uniformity ought to have been maintained. The arbitrator ought not to have differentiated the lands. The little distance of few feet makes no difference as all the acquired lands have NA potentiality and are near the highway. Section 26 of the 2013 Act also provides for determination of the compensation based on average of highest sale deed, as such, the compensation granted to the land considering highest sale deed of Rs.680/- per Sq. Mtr. ought to have been applied to the present lands.

11. Considering the above, this court has find that the Arbitrator has committed patent illegality in granting different compensation to similarly placed lands. In this view of the matter, the impugned Awards to the extent of the present appellants,

wherein compensation is granted at the rate of Rs.399/- per Sq. Mtr. are quashed and set aside.

12. Appointment of arbitrator under the National Highways Act is exclusive jurisdiction of the Central Government under Section 3G(5) of the National Highways Act. The impugned Arbitral Awards being set aside, have to be again referred to the arbitrator appointed by the Central Government under Section 3G(5) of the National Highways Act. Considering this, I deem it appropriate to directly refer the matters before arbitrator appointed by the Central Government. The matters are remitted back to the Arbitrator to be determined within four (04) months. All contentions are left open.

13. The Arbitration Appeals stand disposed of accordingly.

[ARUN R. PEDNEKER, J.]

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