IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 ARBITRATION APPEAL NO. 86 OF 2025

NARAYAN SO RAJARAM LANDGE

VERSUS

PROJECT DIRECTOR NATIONAL HIGH AUTHORITY OF INDIA AND ANOTHER

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Advocate for Appellant : Mr. Atul B. Hawale

Advocate for Respondent 1 : Mr. U.B. Bondar

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CORAM : ARUN R. PEDNEKER, J.

Dated : March 17, 2026

PER COURT :-

1. Heard.

2. By the present arbitration appeal, the appellant/claimant is challenging the judgment and order dated 14.6.2024 passed by the learned Principal District Judge, Beed in Civil M.A. No. 205/2023, confirming the award of the Collector/Arbitrator dated 19.5.2023 under section 3 (G) (5) of the National Highways Act 1956. By the award the claimant's application for enhancement of compensation is rejected.

3. The learned counsel for the appellant points out that for exactly identical land situated in the same village, the Arbitrator has granted compensation at the rate of Rs.1050/- per sq. mtr. whereas for the land of the claimant/appellant, which is adjacent to the above land,

compensation at the rate of Rs.166.5 per sq. mtr. has been granted by the CALA and the Collector has dismissed the arbitration application filed under section 3(G)(5) of the National Highways Act.

4. In the application under section 34 of the Act filed by the appellant, the District Court in it's order dated 14.6.2024 at paras 14 & 15 has observed as under :-

> "14. Regarding discrimination done by Arbitrator and violation of Section 18 of 'The Act', it was pointed out that in Arbitration Proceedings of village Bahirwadi where the impugned land of both the appellants in this appeal are situated in Gut No.5 and which is near adjoining to land Gut No.3 and both the lands were acquired by NHAI for same purpose and CALA had determined compensation for all these lands at the rate of Rs. 16,65,000/- per Hectare. Both the land owners had filed with the Arbitrator. The appeal filed by the appellants were rejected.
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> In Arbitration Proceeding No. 295/20219 dealing with Gut No.3 in which 35R land was acquired from Taraf Bahirwadi, Arbitratior by passing Award on 30/06/2023 had awarded enhanced rate of compensation to Rs. 1050/- per sq. mtr. Similarly, in respect of another land acquired in Gut No.3, admeasuring 44R land from Taraf Bahirwadi Arbitrator by passing award again on 30/06/2023 had enhanced compensation of Rs. 1050/- per sq. mtr.
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> Now considering both awards, it is evident that, land of appellants is situated in Gut No.5 which is near and adjoining land to Gut No.3. Both the lands are from Taraf Bahirwadi. CALA had determined compensation for all these lands at the rate of Rs.16,65,000/- per Hectare. Appellants and owners of land Gut No.3 had challenged award before Arbitral Tribunal. The Ld. Arbitrator had granted enhanced compensation of Rs. 1050/- per sq. mtr to them. Whereas in the appeal filed by the appellants, Ld. Arbitrator observed that the amount granted by

CALA i.e. Rs. 16,65,000/- to be appropriate and both the appeal filed by the appellant were rejected.

15. Thus, Arbitrator had treated parties unequally. He had discriminated between land of applicant and that of the owners of land in Gut No. 3. Impugned award was passed on 19.5.2023 and thereafter award of land in Gut No. 3 were passed on 30.6.2023. It clearly indicates that even for adjoining land, Arbitrator did not award same price. It clearly denotes that, Arbitrator had acted arbitrarily and in capricious manner. There was no application of mind on the part of Arbitrator. It was distressing for Court to hear the argument that Award was vitiated by corruption or fraud and the allegations made against the Arbitrator, wo is also a District Collector. He had discriminated between the parties. Give different value for same land situated in vicinity. Such award has to be interfered by modifying rate of compensation that is to be granted to the applicant. AS the modification of award is not mandated by S. 34 of The Act and as observed by Hon'ble Apex Court in the case of **M. Hakeem**, this Court refrains from modifying the award."

Although, the District Court has observed that the appellant's application is dismissed, while the neighbours land got the enhanced compensation, the District Court while exercising powers under section 34 and considering the law laid down in the case of **The Project Director, National Highways No. 45 E and 220 National Highways Authority of India V. M. Hakeem and Anr., reported in AIR 2021 SC 3471** has not interfered with the award. The Court observed that it has limited jurisdiction under Section 34 to interfere with the arbitral award.

5. Ordinarily, the award passed with respect to other similarly circumstanced land owners should be taken into consideration to award just and fair compensation to the similarly situated land owner. Fair compensation ought to be granted by the acquiring body to the similarly placed land owners and it is also duty of the Court to ensure that just and fair compensation is awarded to the land owners and there should be uniformity in awarding compensation to similarly circumstanced land owners. The arbitrator under section 3(G)(5) is required to follow the principles for determining the fair price of the land as provided under section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in view of notifications by the Central Government under Section 105 of 2013 Act.

6. While considering fair compensation under section 26, the arbitrator is required to take into consideration average of highest sale deed for similarly placed lands. The Hon'ble Supreme Court in the case of **Madhya Pradesh Road Development Corporation Vs. Vincent Daniel and Ors, reported in AIR 2025 SC 1825** has also observed that for assessing and determining the market value of the land the Courts also needs to apply the parameters of computation of compensation as determined by the Hon’ble Supreme Court and the High Court and as given under section 26 of Right to Fair Compensation Act. The relevant paras are 18,

19, 20, 21, 24 and 42, which are as under :-

> "18. Section 26 deals with the determination of the market value of the land by the Collector. Sub-section (1) to Section 26 consists of three Clauses, (a), (b) and (c), each prescribing a criterion or standard for assessing the market value. Clause (a) prescribes the consideration of the market value specified in the Stamp Act for the registration of agreements/sale deeds in the area where the concerned land is situated.
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> 19. Clause (b) to Section 26(1) requires the Collector to consider the average sale price for similar types of land situated in the nearest village or the nearest vicinity. This test of average sale price is similar to the exemplar test which is adopted and applied in cases of acquisition under the Land Acquisition Act, 1894, but with modifications in terms of Explanations 1 to 4. Computation under Clause (b) is in relative terms. Therefore, while drawing a comparison with the average price of the other lands under Clause (b), the Collector must consider all such factors that have been held to be relevant for accurate valuation by this Court. These include the theory of deduction, the principle of belting, and accounting for other advantages or disadvantages of the acquired land, in comparison to the lands existing in the same vicinity.
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> 20. Clause (c) to Section 26(1) of the Acquisition Act, 2013 requires the Collector to take into consideration the amount of compensation agreed upon by the parties under Section 2(2) of the Acquisition Act, 2013 in cases involving the acquisition of land for private companies or public-private partnership projects. These agreements are entered into voluntarily, based upon consent terms, and reflect the market value as settled inter se the parties.
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> 21. It is important to note that the values computed in terms of Clauses (a), (b) and (c) of Section 26(1) of the Acquisition Act, 2013 are not to be averaged. The highest of the values as determined by Clauses (a), (b) and (c), is to be treated as the market value under Section 26(1) of the Acquisition Act, 2013.
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> 22. ……..

> 24. Explanation 4 requires specific attention, as it brings the element of discretion while computing the market value under Section 26(1) to the forefront. Explanation 4 is divided into two parts. The first part refers to sub-section (1) to Section 26 – the higher value determined as per Clauses (a), (b) and (c) of Section 26(1) of the Acquisition Act, 2013. The second part is specific to the average sale price referred to in Clause (b) to Section 26(1) read with Explanations 1 and 2. In either case, where the Collector is of the opinion that the value/price computed by applying these provisions is not indicative of the actual prevailing market value, they may discount or enhance it to arrive at the accurate market value.
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> 42. In the absence of any material to support the same, we cannot accept the argument advanced by the Appellant, Madhya Pradesh Road Development Corporation, that this circle rate is not the baseline or floor rate, and is too high. Concerned authorities should fix circle rates scientifically and in accordance with the law. It is their responsibility to ensure that circle rates are neither inflated nor disproportionately low. When the citizens are required to pay stamp duty on the notified circle rate, the public authorities, including state development corporations acquiring land from private individuals, must adhere to the same. We do not appreciate the Appellant, Madhya Pradesh Road Development Corporation complaining about the circle rate fixed by the State Government. If the circle rate is inflated or does not reflect the true market value, it is incumbent upon the State Government to take corrective steps. The State Government or the development corporation under the State Government cannot complain that they have been compelled to acquire land at the circle rate fixed by the State."

7. The arbitrator in the instant case having failed to take into consideration the similarly placed awards passed and has merely dismissed the application of the claimant without considering the similarity. Considering the same, this Court finds that the arbitrator has

committed patent illegality as it has failed to compute the value of land applying Sections 26 to 30 of the 2013 Act. This Court in exercise of powers under section 37 thus sets aside the arbitral award.

8. In view of the above, the impugned judgment and order passed by the learned Principal District Judge, Beed and the award dated 19.5.2023 passed by the Arbitrator are quashed and set aside. 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 Award being set aside, has 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 matter before arbitrator appointed by the Central Government. The arbitration proceedings are remitted before the Arbitrator i.e. Collector (Beed) for deciding the amount of compensation afresh by considering the awards passed of similarly placed lands. The appeal is disposed of accordingly.

(ARUN R. PEDNEKER, J.)

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