



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

ARBITRATION APPEAL NO.113 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Digambar Hiwale
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.33 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Rasul Shaikh Chotu,
Age-Major, Occupation – Agriculturist
R/o. At Post Deolai, Tq. & Dist. Aurangabad.
- 2] Shaikh Shabbir Chotu
Age-Major, Occupation-Agriculturist,
R/o. At Post Deolai, Tq. & Dist. Aurangabad.
- 3] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.36 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Ismail Shaikh Usman,
Age-Major, Occupation – Agriculturist,
R/o. At Post Deolai, Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,

Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.37 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Ismail Shaikh Shahanoor,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Shaikh Hasan Shaikh Shahanoor
Age-Major, Occupation – Agriculturist,
R/o. As above.
- 3] Shaikh Ibrahim Shaikh Shahanoor,
Age-Major, Occupation – Agriculturist,
R/o. As above.
- 4] Shaikh Husain Shaikh Shahanoor,
Age-Major, Occupation-Agriculturist,
R/o. As above.
- 5] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.147 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Ammir Habib,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.35 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,

Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Irfan Karim
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
 - 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.
- .. RESPONDENTS**

AND

ARBITRATION APPEAL NO.52 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Imran Karim,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
 - 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.
- .. RESPONDENTS**

AND
ARBITRATION APPEAL NO.118 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajanagar-431 005.

.. APPELLANT

VERSUS

- 1] Ravsaheb Hiwale,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Amol Hiwale,
Age-Major, Occupation-Agriculturist,
R/o. As above.
- 3] Digambar Hiwale,
Age-Major, Occupation – Agriculturist,
R/o. As above.
- 4] Shaikh Husain Shaikh Shahanoor,
Age-Major, Occupation-Agriculturist,
R/o. As above.
- 5] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajanagar-431 005.

.. RESPONDENTS

AND
ARBITRATION APPEAL NO.117 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Dada Shaikh Behalim
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND
ARBITRATION APPEAL NO.122 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Nawaj Shaikh Maheboob,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.143 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Sattar Gulab,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.54 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT**VERSUS**

- 1] Mohammad Ishaq Gulab Patel
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS**AND****ARBITRATION APPEAL NO.34 of 2026**

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT**VERSUS**

- 1] Sharifabi Shaikh Amin,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Akhtarbi Shaikh Allabaksh,
Age-Major, Occupation – Agriculturist,
R/o. At Post Deolai, Tq. & Dist. Aurangabad.
- 3] Salima Shaikh Munir,
Age-Major, Occupation – Agriculturist,
R/o. At Post Deolai, Tq. & Dist. Aurangabad.
- 4] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.148 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Feyyaz Khan Ahemad Khan,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,

Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.119 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Ravsaheb Hiwale,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO. 120 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,

Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Ravsaheb Hiwale
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
 - 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.
- .. RESPONDENTS**

AND

ARBITRATION APPEAL NO.145 of 2025

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Ismail Shaikh Shahanoor,
Age-Major, Occupation–Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Shaikh Hasan Shaikh Shahanoor,
Age-Major, Occupation-Agriculturist,
R/o. As above.

- 3] Shaikh Ibrahim Shaikh Shahanoor,
Age-Major, Occupation-Agriculturist,
R/o. As above.
- 4] Shaikh Husain Shaikh Shahanoor,
Age-Major, Occupation-Agriculturist,
R/o. As above.
- 5] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND

ARBITRATION APPEAL NO.42 of 2026

National Highways Authority of India,
Through its Project Director,
Amrish Manik Mankar,
Age-49 years, Occ-Service,
Office at Project Implementation Unit,
At 2nd Floor Jal Bhavan,
Administrative Building, Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. APPELLANT

VERSUS

- 1] Vasundhara Kisanrao Kudmulvar,
Age-Major, Occupation-Agriculturist,
R/o.At Post Deolai Tq. & Dist. Aurangabad.
- 2] Competent Authority Land Acquisition,
2nd Floor Jal Bhavan, Administrative Building,
Maharashtra Jivan Pradhikaran,
Near Devgiri College ITI Road, Vedant Nagar,
Chhatrapati Sambhajnagar-431 005.

.. RESPONDENTS

AND
ARBITRATION APPEAL NO.121 of 2025

National Highways Authority of India,
 Through its Project Director,
 Amrish Manik Mankar,
 Age-49 years, Occ-Service,
 Office at Project Implementation Unit,
 At 2nd Floor Jal Bhavan,
 Administrative Building, Maharashtra Jivan Pradhikaran,
 Near Devgiri College ITI Road, Vedant Nagar,
 Chhatrapati Sambhajanagar-431 005.

.. APPELLANT

VERSUS

- 1] Shaikh Taru Shaikh Hasan,
 Age-Major, Occupation–Agriculturist,
 R/o.At Post Deolai Tq. & Dist. Aurangabad.

- 2] Competent Authority Land Acquisition,
 2nd Floor Jal Bhavan, Administrative Building,
 Maharashtra Jivan Pradhikaran,
 Near Devgiri College ITI Road, Vedant Nagar,
 Chhatrapati Sambhajanagar-431 005.

.. RESPONDENTS

...

Mr.S.J.Rahate, Advocate for the appellants
 Mr.R.M.Patil, Advocate a/w. Mr.P.H.Patil, Advocate for the
 respondent no.1.
 Mr.A.G.Talhar, D.S.G.I. a/w. Mr.S.S.Deve, Mr.U.B.Bondar,
 Mr.R.S.Sarvadnya, Mr.R.B.Bagul, Mr.R.D.Sanap, Mr.S.W.
 Munde, Mr.N.T.Tribhuwan, Mr.N.U.Yadav, Mr.N.S.Salunke,
 Mr.R.R.Bangar, Mr.N.T.Bhagat, Mr.K.S.Solanke, Advocates
 for the respondent– CALA

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CORAM : ARUN R. PEDNEKER, J.

DATE : 07.04.2026

JUDGMENT :

1] By the present Arbitration Appeals, the National Highway Authority of India [NHAI] challenges the order passed by the Principal District Judge, Aurangabad under Section 34 of the Arbitration and Conciliation Act, 1996, dismissing the appellants' applications, to set aside the award passed by the Arbitrator, granting compensation to the claimants @ Rs.7966/- per sq. mtrs. to the lands acquired from village Deolai, Taluka and District Aurangabad [Chhatrapati Sambhajinagar].

Brief facts leading to filing the present Appeals are as under :

2] The lands of the respondents – land owners situated at village Deolai were acquired for widening of National Highway-211 and the preliminary Notification for acquisition under Section 3-A (1) of the National Highways Act, 1956 [for short 'Act of 1956'] was issued on

18.09.2025. The Competent Authority passed award in respect of acquisition of the lands from more than 23 villages for National Highway-211.

3] The CALA passed first Award on 15.07.2017 in respect of the lands in village Deolai granting compensation @ Rs.7966/- per sq. meter for small lands and for large lands at lesser rates after making deductions.

4] The CALA passed second Award for the same lands of village Deolai on 28.07.2017 giving different rates of compensation, considering three different categories of the land @ Rs.4966/- per sq.mtrs., Rs.5000/- per sq. mtrs. and Rs.5500/- per sq. mtrs. Since the second award was passed for the same lands, the second award dated 28.07.2017 was challenged before this Court in various Writ Petitions. This Court, by order dated 26.08.2021 in Writ Petition Nos.12279/2019 along with connected Writ Petitions, set aside the second award dated 28.07.2017 of CALA in respect of the same lands of Deolai for which the first award was already passed. The second award of CALA

was set-aside by this Court, being without jurisdiction.

5] The appellant–NHAI, thereafter, invoked Reference for arbitration under Section 3-G (5) of the Act of 1956 on 24.01.2022, assailing the first award dated 15.07.2017. The possession of the lands have been taken in 2016. There was no deposit made in terms of Section 3-H (1) & (2) of the Act of 1956 in terms of first award dated 15.07.2017, however, the amounts were paid in terms of second award. The Arbitrator passed an award on 19.01.2024 and dismissed the applications filed by the NHAI challenging the award of CALA dated 15.07.2017. The NHAI thereafter filed application under Section 34 of the Arbitration and Conciliation Act before the District Court, challenging the arbitral award dated 19.01.2024.

6] The District Court by order dated 15.11.2025 dismissed the application filed by NHAI under Section 34 of the Arbitration and Conciliation Act and maintained the arbitral award dated 19.01.2024. By the present Appeals, the appellant - NHAI has challenged the

Arbitral Award dated 19.01.2024 passed by the Collector and Arbitrator, Aurangabad, so also, the order dated 15.11.2025 passed by the District Court under Section 34 of the Arbitration and Conciliation Act.

SUBMISSIONS :

7] It is contended by the learned counsel Mr.Satyajeet J.Rahate for the appellant – NHAI that in all 91 sale deeds were received from the office of Sub-Registrar, Aurangabad. The CALA had called for the sale deeds of last three years i.e. 2012 to 2015 from the office of Sub-Registrar, Aurangabad. Out of 91 sale deeds, the CALA has selected 43 sale deeds from group-II land. Thereafter, the CALA, out of 43 sale deeds, had taken in all 22 sale deeds of Group-II land and proceeded to determine the compensation @ Rs.7966/- per sq. mtrs. However, the CALA, while passing second award dated 28.07.2017, had specifically rejected 10 sale deeds, which were abutting to the Highways. It is also submitted that the ready-reckoner was required to be called while making award by the CALA.

8] It is submitted that the Arbitrator so also the District Judge failed to appreciate that the CALA has relied upon the sale-deeds of the land, situated adjacent to Dhule-Solapur National Highway-211. It is stated that the lands are not situated at Dhule-Solapur, National Highway-211, because it was yet to be constructed. It is also stated that the CALA had failed to consider the sale deeds of gut numbers from where the lands has been acquired and comparable sale deeds of similar lands are required to be taken into consideration.

9] It is further submitted that the Principal District Judge has erred in recording the findings that the appellant - NHAI has not challenged the compensation awarded @ Rs.13,656/- per sq. mtrs. to the proximate location of villages Deolai and Satara. The Principal District Judge has failed to consider the matter on merits and failed to consider that the award is not just and fair.

10] It is further stated that the complaints were made on 18.06.2018, 29.10.2018, 19.02.2019, 01.09.2020

by the various persons against CALA, who had passed the award for village Satara and also of Deolai. The CALA had illegally prepared forged and fabricated documents for his personal benefits.

11] The learned Advocate for the appellant – NHAI has given long written submissions raising grounds primarily relating to the conduct of Arbitrator and not granting NHAI fair hearing in the matter. The primary contention of the appellant - NHAI is that the Arbitrator did not act fairly and did not give an opportunity of hearing to the appellant-NHAI to lead evidence and that the various applications filed before the Arbitrator for amendment of pleading, for stay and other applications were not decided by the Arbitrator and the Arbitrator has proceeded to decide the matter on merits without considering the supporting documents and affidavit filed by the appellant - NHAI. Thus, the prayer is made to set aside the arbitral award dated 19.01.2024 and remand the matter back to the Arbitrator.

12] *Per contra*, the learned counsel Mr.R.M.Patil for

the respondent no. 1 submits that the First Award was passed on 15.07.2017 and the same was not challenged. Subsequently, second award was passed on 28.07.2017 for the same lands and thus the said second award was set aside by the High Court. Thereafter the First Award dated 15.07.2017 of CALA was challenged before the Arbitrator by filing Reference under Section 3-G (5) of the Act of 1956. The appellant NHAI had failed to deposit an amount as required under Section 3-H (1) and (2) of the Act of 1956. The arbitration application was filed on 24.01.2022 and the date of filing evidence was given to both the parties between 02.08.2023 till 14.08.2023. However, the appellant NHAI filed affidavit in evidence but failed to file the documents in support of the evidence. The claimants had filed its evidence.

13] The Arbitrator on the basis of evidence led by the claimants found that the price granted by CALA is less than the market value but did not enhance the same as there was no independent challenge to the award of CALA

by the claimants under Section 3-G (5) of the Act of 1956. After the award was passed on 19.01.2024, the NHAI submitted documents by e-mail on 22.01.2024 i.e. two years after filing of the arbitration application. The learned counsel for the respondent no.1 has placed on record letter of Arbitrator and pointed out that the Arbitrator had written a letter to the Project Officer stating that the various opportunities were granted to lead the evidence, however, the Advocate of the NHAI has failed to lead the evidence and as such on 12.10.2023 request was also made that the affidavits be filed.

14] It is pointed out that although some of the awards passed in respect of village Satara wherein compensation @ Rs.21,000/- per sq. mtrs. was granted was challenged before the District Judge, the same were compromised by NHAI, wherein the claimants have given up only one year interest on the award amount.

15] He also pointed out that for matters arising from Satara before the Arbitrator, the NHAI has not even

led any evidence and directly proceeded for written argument and the award. Although the allegations are made in respect of corruption in determining the price of the lands for village Satara, the NHAI has not challenged the same. He further submits that for large number of matters in Satara village compensation is granted @ Rs.13,656/- per sq. mtrs. and the same are not challenged by the NHAI. He further submits that in the instant case the appellant NHAI had failed to lead the evidence despite several opportunities were granted to the appellant and as such the appellant had deliberately delayed the matter before the Arbitrator. It is submitted that the compensation granted is reasonable, as such, the award of Arbitrator confirming the award of CALA and the order passed by the District Court is just and proper.

CONSIDERATION :

16] Having considered the rival submissions, the few facts are required to be noted. Though the CALA has granted compensation at the basic valuation of Rs.7,966/-

per sq. mtrs., the CALA has reduced the said rate by creating slabs of the total area of the same land into five categories for compensation as under :

Upto 500 sq.m.	501 to 2000 sq.m.	2001 to 4000 sq.m.	4001 to 10000 sq.m.	Above 10000 sq. mr.
Rs.7,966/-	Rs.7,169/-	Rs.6,373/-	Rs.4,780/-	Rs.3,983/-

Depending on the total area of land owner, the compensation @ Rs.7,966/- per sq. mtrs. is granted only up to 500 square meter of the acquired land. Beyond 500 square meter, there are slabs of different rates and they get lower as the area of land increases. The CALA has taken 22 sale deeds into consideration and in award dated 15.07.2017, has observed as under:

भुमी संपादन, पुनर्वसन व पुनर्स्थापन करताना वाजवी भरपाई मिळण्याच्या व पारदर्शकतेचा हक्क अधिनियम 2013 नुसार जमीनीचे मूल्यांकन निश्चित करण्यात आलेले आहे. कलम 3A ची प्रसिध्दीची अंतिम तारीख ग्राह्य धरण्यात आली आहे. जमिनीचे मूल्यांकन नविन अधिनियमानुसार निश्चित करण्यात येत आहे. मौजे देवळाई येथील खरेदी विक्री पैकी ग्रुप 2 चे 43 व्यवहार पैकी निम्मे 22 खरेदी विक्री व्यवहार संपादित जमिनीचे मूल्यांकन ठरवितांना विचारात घेण्यात आले आहे.

17] On 28.07.2017, without repudiating or canceling the above Award dated 15.07.2017, the CALA

declared second award in respect of same lands covered under the first award and determined the compensation @ Rs.4,996/- per sq. mtrs., Rs.5000/- per sq. mtrs. and Rs.5,500/- per sq. mtrs. into three different categories and the Second Award of the CALA was set aside by the High Court in Writ Petition No.14710/2019 along with connected matters.

18] The NHAI had thereafter challenged the price determination by CALA by Award dated 15.07.2017 by filing an application dated 08.06.2020 under Section 3-G (5) of the Act of 1956. The Arbitrator dismissed the application filed by NHAI by award dated 19.01.2024 and the same was challenged by filing an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the District Court and the same is also dismissed, and accordingly, the present Arbitration Appeals are filed by the appellant - NHAI.

19] It is to be noted that the matter was pending before the Arbitrator for more than two years, however, no

documents were filed in support of the affidavit in evidence filed by the NHAI. The NHAI submitted the documents by e-mail on 22.01.2024 after the award was passed by the Arbitrator. The affidavit evidence and supporting documents were filed by the respondent – claimants whereas the NHAI has failed to do so.

20] While considering the application under Section 3-G (5) of the Act of 1956, Arbitrator has taken into consideration the market value determined for the other localities, the landowners were awarded Rs.16,700/- per square meter for Satara, Rs.13,300/- per square meter for Kanchanwadi. The Arbitrator has also taken into consideration the fact that the Assistant Director, Town Planning, Aurangabad, vide communication dated 15.06.2017, has also recommended the amount of Rs.7,966/- to be correct market value of the acquired land placed in Group-II of village Deolai on the basis of the average of the highest sale instances, as calculated by the Competent Authority Land Acquisition. It is also observed

that as per the provisions of Section 26 of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 the Competent Authority Land Acquisition has rightly determined the correct market value. While taking into consideration the average sale instances of the preceding three years from the publication of notification under Section 3 (A) of the National Highways Act, 1956, the provisions of Section 26 to 30 of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 have been appropriately applied. Considering the above, the Arbitrator has dismissed the application under Section 3-G (5) of the Act of 1956.

21] The learned Arbitrator has also observed that the evidence produced by the claimants show that the prices of the acquired lands is much higher than the compensation granted and vide Award dated 19.01.2024, has observed as under :

On examination of the sale deeds, it is clear that the market value is much higher. The average of

sale deeds as per Respondent is more than Rs.12191/- per sq. mtrs. Therefore, the market value mentioned in the sale deeds seems to be appropriate. Though the respondent no.2 has claimed enhancement by way of counter claim, I am not inclined to decide the same in this proceeding as the same has been initiated at the instance of the applicants. Nevertheless, the evidence produced by the respondent can be used for verifying claim of applicants. From the market value mentioned in sale deeds, it is ample clear that the market value of acquired land is more than what is awarded by the CALA i.e. more than Rs.7966/- per sq. mtrs. It would also be apt to mention here that market value discovered by CALA is further reduced on the basis of the size of the acquired land.

Therefore, the market value determined by the CALA is much less.

22] The argument of the learned counsel for the NHAI that no fair opportunity was granted to the NHAI while passing the award and the Award be set aside and the matter be remitted back, does not appeal to this Court. The NHAI has filed its affidavit dated 30.10.2023 before the Arbitrator where at para nos. 46, 47, 48 and 49, it has stated as under :

46. The CALA has stated in the award dated 24.07.2017, 11.08.2017 and 28.02.2018 that Mauje Satara Tq. & District

Aurangabad is situated on National Highway No.211 Dhule-Solapur. Prior to the notification of 3 A nor at the time of passing of the above said awards there was no existing National Highway 211 Dhule-Solapur by-pass road newly constructed passing through Mauje Devlai, Satara Tq. & Dist. Aurangabad nor Mauje Devlai Satara Tq. Dist. Aurangabad is situated on Beed bypass and the CALA has shown in the awards that the lands from Mauje Devlai Satara are adjacent and situated on National Highway 211 Dhule-Solapur. The sale deeds considered by the CALA are not nearby to the acquired land.

47. That the CALA has awarded rate 13656/- per sqr.mtr. In the first award dated 24.07.2017 of village Satara for the acquired land bearing Gut No.318 and other acquired lands from different guts. After passing of the second award dated 11.08.2017 of village Satara the CALA has reduced the rates for the lands acquired from different Guts except the above said land acquired from the above said Gut. It is contended in the complaints that as the agreed amount of bribe by the land losers were not given to CALA, second award was passed by reducing the rates.

48. That the CALA has passed award dated 28.02.2018 awarding the rate Rs.16721/- to the land acquired from the Gut No.318 & 310. The CALA has abnormally increased the rate for the above said Gut within a period of six months between the rates awarded in the award dated 24.07.2017, 11.08.2017 and 28.02.2018. The true market value is very less than the awarded rates.

49. From the above said scenario the possibility of passing of the impugned award is induced, affected by fraud and corruption cannot be ruled out as there are complaints lodged against the said CALA by various persons stating that the

Competent Authority of Land Acquisition with collusion with his associates awarded the rates of Highways to the lands which are not on Highways and the inquiry report also support to the contends spelt in the complaints above said.

23] In the above noted affidavit dated 30.10.2023 of NHAI, it is stated that there has been possible corruption in considering the sale deeds and awarding compensation for lands in neighbouring village Satara by the CALA and that the CALA has awarded the compensation of Rs.13,656/- per sq. mtr. in it's award dated 24.07.2017 of the village Satara for the acquired land bearing Gut No.318 and other acquired lands from different guts. After passing of the second award dated 11.08.2017 of village Satara, the CALA has reduced the rates for the lands acquired from different Guts and that there were various complaints of bribe being taken. The CALA has also awarded compensation @ Rs.16,721/- for some land in Satara village and that the possibility of corruption cannot be ruled out in the cases of determination of compensation in the acquired lands of village Deolai.

24] From the record produced, it can be seen that the awards passed by the Arbitrator in respect of adjacent village Satara granting compensation @ Rs.13,656/- per sq. mtrs. and Rs.16,721/- per sq. mtrs. were not challenged by the NHAI. It is also seen from para no.10 of the Award dated 30.05.2023 in respect of acquisition for village Satara for expansion of the same Highway that both the parties have filed the joint pursis on 24.11.2022 for closing their evidence and prayed for final hearing of the Arbitration Reference without leading any evidence and later on the NHAI, by letter dated 03.10.2023, has accepted the arbitral award declared by the Arbitrator. Thus, in one hand the National Highway Authority are alleging that for village Satara the award was passed granting compensation @ Rs.13,656/- per sq. mtrs. by fraud, however, the same award is not challenged by the NHAI. Thus, the NHAI is blowing hot and cold at the same time.

25] The respondent has also given details of acquisition of adjacent village Satara where the

compensation for some lands are granted @ Rs.21,397/- per square meters and yet the National Highway Authority has entered into settlement with the claimants where the claimants waived only one year interest and were granted compensation as under :

Satara Settlement Detail

Sr.No	Civil M.A. No.	Party Name	Gut No.	Acquired area in sq.m.	CALA awarded compensation Rs. Per sq. m.	Arbitral compensation per sq. m.	Settlement compensation after deducting CALA Awarded compensation in (Rs.)
1.	35/21	NHAI Vs CALA & others	311	4800	11,528/-	21,397/-	19,15,79,700/-
2.	36/21	NHAI Vs CALA & others	311	2100	11,528/-	21,397/-	7,57,12,054/-
3.	38/21	NHAI Vs CALA & others	318	7400	16,721/-	21,397/-	22,20,71,782/-
4.	39/21	NHAI Vs CALA & others	310	7200	16,721/-	21,397/-	21,44,86,225/-
	Total Settled Compensation Rs.						70,38,49,761/-

26] The lands of adjacent village Satara acquired for expansion of the same Highway and the NHAI has accepted the awards where compensation is granted @ Rs.13,656/- per sq. mtrs. and Rs.16,721/- per sq. mtrs. and have compromised some of the matters before the District Court where compensation is granted @ Rs.21,397/- per sq. mtrs.

In the present case, the NHAI has not filed any documents on record for a period of 2 years to establish its case before the Arbitrator and the NHAI has failed to demonstrate its case before the Arbitrator.

27] The respondent filed affidavit, which shows that the lands are acquired at higher value, however, the Arbitrator has refused to accept such higher value in absence of separate arbitral application by the claimants under Section 3-G (5) of the Act of 1956. In this situation, the Arbitrator has dismissed the application of National Highway Authority under Section 3-G (5) of the Act of 1956.

28] In the appeal, the District Court by a detail order has considered all the arguments raised by the petitioner. The District Court has observed that the material produced by the landowners showed that the acquired land is of more value and the Arbitrator has observed that the NHAI has not been able to disprove the sale deeds filed by the claimants, nor they have produced any evidence. As

regards the allegation of NHAI that opportunity of placing documents on record being not provided by the Arbitrator, the Court has observed that the Advocate of NHAI has forwarded the documents to the Collector by mail on 22.01.2024 i.e. after the matter was closed and award was passed on 19.01.2024 in respect of Deolai village. It is pertinent to mention that the subject of aforesaid mail was “Index-II, Satara, Deolai, Gandheli, Asegaon, Talesaman, Rail-Nawadi, Makranpura, Kannad”, which shows that it was common mail for both Talesaman and Deolai cases. Having himself sent the documents belatedly after the declaration of the impugned award, it is a misleading argument on behalf of the NHAI to contend that their documents are not considered by the Arbitrator. It is also observed that the Advocates for both sides were heard on several dates and in the case of Deolai, the Advocates filed various applications from time to time and served copies upon each other. On 06.06.2013, roznama states that last chance is granted to NHAI for filing affidavit evidence. Though last chance was granted, again on 13.06.2023,

NHAI did not file the affidavit and again 'last chance' was granted till 20.06.2023. Again on 20.06.2023, no steps were taken by NHAI and same order was repeated. On 05.07.2025 also, affidavit was not filed and again matter is adjourned to 12.07.2023. Even on 12.07.2023, 19.07.2023 and 26.07.2023 no affidavit was filed. The District Court examined all the facts and stated that NHAI is at fault in not filing its document along with affidavit in evidence and NHAI has failed to do so.

29] The District Court has observed that the Arbitrator has dismissed application filed by the NHAI by award dated 19.01.2024 considering that the CALA has relied upon 22 sale deeds and also considering that no evidence was led by the initial for two years, the Arbitrator has proceeded with determination of the award. The claimants have filed evidence before the Arbitrator indicating that the acquired lands were of higher price than what is granted by CALA. The award of the Arbitrator has been examined by the District Court in application filed

under Section 34 of the Arbitration and Conciliation Act, 1996. The District Court has also examined all the allegations made against the Arbitrator and rejected the same. Considering the above, this Court do not see patent illegality in the award of the Arbitrator more particularly when the lands in the adjacent village are granted much higher compensation. This Court would, thus, not entertain the prayer to set-aside the Arbitral award and remand the matter back to the Arbitrator.

30] The power of the court while entertaining an application under Section 34/37 of the Act is circumscribed by the limitation under Section 34/37 of the Arbitration Act, 1996. The Hon'ble 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 held 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.

31. Similarly, in the case of **Government of Jammu and Kashmir Vs. Hindustan Construction Company Ltd. and others**, MANU/JK/0116/2017 : AIR 2017 J&k 82, has observed as under:

“12. The Supreme Court in Mc Dermott International Inc. v. Burn Standard Co. Ltd. MANU/SC/8177/2006: (2006) 11 SCC 181: (2006 AIR SCW 3276 while taking note of the decision rendered by it in Renusagar Power Co. Ltd. v. General Electric Co., MANU/SC/0195/1994 : 1994 Supp (1) SCC 644: (AIR 1994 SC 860) held that an arbitral award can be set aside if it is contrary to fundamental policy of Indian law; the interests of India; or justice or morality. However, subsequently, in the case of ONGC Ltd. v. Saw Pipes Ltd., MANU/SC/0314/2003: (2003) 5 SCC 705: (AIR 2003 SC 2629), the Supreme Court added another ground for exercise of Courts' jurisdiction for setting aside the award i.e. if it is patently arbitrary. In Centrotrade Minerals & Metals Inc. v. Hindustan Copper Ltd., MANU/SC/8146/2006: (2006) 11 SCC 245: (AIR 2007 SC (Supp) 1770) it was held by the Supreme Court that if an award suffers from patent illegality which goes to the root of the matter, the Court can interfere with the award passed by the arbitrator. Thereafter in a recent decision in the case of Associate Builders v. Delhi Development Authority,

MANU/SC/1076/2014: (2015) 3 SCC 49: (AIR 2015 SC 620) the Supreme Court after taking note of various previous judgments rendered by it with regard to scope of interference with the arbitral award held that none of the grounds contained in Section 34(2)(a) of the Act deals with the merits of the decision rendered by an arbitrator. It is only when the award is in conflict with the public policy of India as prescribed in Section 34(2)(b)(ii) of the Act that the merits of an arbitral award are to be looked into under certain specified circumstances. It was further held that the Court would interfere with an award passed by an arbitrator if it is in violation of statute, interest of India, justice or morality, patent illegality, contravention of the Act or terms of the contract. It was also held that the Court hearing an appeal does not act as a Court of appeal and consequently errors of fact cannot be corrected. A possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus, an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on this score."

32] The District Court in detail has examined all the contentions of the petitioner. I have also already observed that the valuation of Rs.7966/- per sq. mtrs. for village Deolai in comparison to the compensation granted to the adjacent village of Satara appears to be reasonable, if not

undervalued, more particularly, when the evidence by the claimants shows that the lands of village Deolai could be of higher value than granted by the CALA. Considering that, the award of CALA being not disturbed by the Arbitrator so also the District Court having rejected the application under Section 34 of the Arbitration and Conciliation Act, no case is made out by the petitioner under Section 37 of the Arbitration Act. Hence, the present Arbitration Appeals are dismissed.

33] In view of the dismissal of the Arbitration Appeals, all pending Civil Applications are also disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC