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APHC010618272023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3602]**
(Special Original Jurisdiction)

WEDNESDAY, THE 11th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CIVIL MISCELLANEOUS APPEAL Nos: 573 OF 2023 & 83 OF 2024

CMA.No.573 of 2023:

Between:

1. THE COMPETENT AUTHORITY AND LAND ACQUISITION, NATIONAL HIGHWAYS AUTHORITY OF INDIA, REPRESENTED BY ITS PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT, PLOT NO 21, TEACHERS COLONY, GUMNANAK ROAD, VIJAYAWADA.

...APPELLANT

AND

1. DUTTA RAMACHANDRA RAO, S/O SEETHA RAMAIAH, HINDU, AGED ABOUT 67 YEARS, R/O HANUMAN JUNCTION, BAPULAPADU MANDAL, KRISHNA DISTIICT.
2. ADDITIONAL JOINT COLLECTOR CUM SOLE ARBITRATOR, NATIONAL HIGHWAYS NH 5 AND NH 9, KRISHNA DISTRICT, MACHALIPATNAM.
3. THE COMPETENT AUTHORITY CUM SUB COLLECTOR, NUZIVID, KRISHNA DISTRICT.

...RESPONDENT(S):

Appeal Under Section_____against ordersPleased to grant stay of all further proceedings in furtherance of the order passed in AOP.No. 17/2016 by the Principal District Judge, Krishna dt. 14/2/2023 and pass

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to condone the delay of 100 days in filing the present Appeal against the order passed in AOP.No. 17/2016 by the Principal District Judge, Krishna dt. 14/2/2023 and pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to grant stay of all further proceedings in furtherance of the order passed in AOP.No. 17/2016 by the Principal District Judge, Krishna dt. 14/2/2023 and pass

Counsel for the Appellant:

1. S S VARMA (SC FOR NHAI)

Counsel for the Respondent(S):

1. HEMANTH KUMAR VEMURI

CMA.No.83 of 2024:

Between:

1. DUTTA RAMACHANDRA RAO,, S/O. SEETARAMAIAH, AGED ABOUT 70 YEARS, R/O. HANUMAN JUNCTION, BAPULAPADU VILLAGE AND MANDAL, KRISHNA DISTRICT.

...APPELLANT

AND

1. THE COMPETENT AUTHORITY AND ACQUISITION, NATIONAL HIGHWAYS AUTHORITY OF INDIA, REP. BY PROJECT OFFICER, PUI, PLOT NO.21, TEACHER'S COLONY, GURUNANAK ROAD, VIJAYAWADA.

2. THE COMPETENT AUTHORITY CUM SPECIAL COLLECTOR, NUZIVID, KRISHNA DISTRICT, AP.

3. THE ADDITIONAL JOINT COLLECTOR, SOLE ARBITRATOR, NATIONAL HIGHWAYS FOR NH5 AND NH9, KRISHNA DISTRICT, MACHILIPATNAM.

...RESPONDENT(S):

Appeal Under Section_____against orderspleased to allow the C.M.A. by setting aside the Order in AOP No. 13/2016 dt. 14-02-2023 passed by the Principal District Judge, Krishna at Machilipatnam.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to condone the delay of 106 days in filing the present Appeal and pass

Counsel for the Appellant:

1. HEMANTH KUMAR VEMURI

Counsel for the Respondent(S):

1. PADMA RAO G S LAKKARAJU
2. S S VARMA (SC FOR NHAI)

The Court made the following:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CIVIL MISCELLANEOUS APPEAL Nos: 573 OF 2023 & 83 OF 2024

COMMON JUDGMENT: (Per Hon'ble Smt Justice Sunitha Gandham)

These two Civil Miscellaneous Appeals are filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, "the Arbitration Act") against the common order dated 14.02.2023 in A.O.P.Nos.13 of 2016 and 17 of 2016 passed by the learned Principal District Judge, Krishna at Machilipatnam, whereunder, the learned Principal District Judge dismissed both applications filed under Section 34 of the Arbitration Act and confirmed the Award dated 01.05.2015 in Rc.G1/31/2014/NH-5 passed by the Additional Joint Collector-Cum-Arbitrator, Krishna District.

2. C.M.A.No.573 of 2023:

Assailing the order dated 14.02.2023 in A.O.P.No.17 of 2016 passed by the learned Principal District Judge, Krishna at Machilipatnam, appellant/NHAI has preferred the instant appeal for dismissing the application.

3. C.M.A.No.83 of 2024:

Assailing the order dated 14.02.2023 in A.O.P.No.13 of 2016 passed by the learned Principal District Judge, Krishna at Machilipatnam, appellant/land owner has preferred the instant appeal for dismissing the application.

4. The parties are being referred to as the National Highways Authority of India (NHAI), the landowner and the statutory authorities for the sake of convenience and clarity.

5. The factual matrix leading to the present appeals are that notification under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as "the NH Act, 1956") was published in the Official Gazette as 29.11.2011 and the declaration under Section 3D of the NH Act, 1956 was published on 22.11.2012 to acquire lands for the public purpose of constructing the Hanuman Junction Bypass on National Highway No.5 (Vijayawada to Gundugolanu section) and accordingly, lands in an extent of 8,284 square meters belonging to the landowner in R.S. Nos. 569/1D1 and 569/1E2, along with other lands in Veluru Village, Bapulapadu Mandal, Krishna District were acquired and having considered the basic registration values and discarding several exemplar sale transactions on various grounds, the Competent Authority for Land Acquisition (CALA)-Cum-Sub Collector, Nuzvid, passed Award dated.14.11.2013 in proceedings No. 25/2013-14/NH-5, determining the market value of the subject lands at Rs. 502/- per square meter (equivalent to Rs. 420/- per square yard).

6. Being dissatisfied with the quantum fixed by CALA, the landowner initiated arbitration proceedings under Section 3G(5) of the NH Act, 1956 before the Sole Arbitrator-Cum-Additional Joint Collector, Krishna District and after evaluating the materials on record and having considered the registered

sale deed No. 79/2011 dated 17.01.2011 in respect of Survey No. 569/1D and proximity, fertility and developmental potentiality of the land adjacent to the existing National Highway, the learned Arbitrator passed the award dated 01.05.2015 enhancing the compensation from Rs. 502/- per square meter to Rs. 2,151/- per square meter and statutory benefits including solatium and interest.

7. Aggrieved by the said award, the land owner filed A.O.P. No. 13 of 2016 seeking further enhancement of compensation to Rs.7,500/- per square meter in view of the Lok Adalat award and non-possessory agreement and the NHAI filed A.O.P. No. 17 of 2016 to set aside the enhancement made by the Arbitrator, contending that the lands are agricultural in nature, that small extent sales cannot form the basis for valuing large acquired extents, and that statutory additions such as interest/solatium were improperly awarded. At the culmination of enquiry, the learned Principal District Judge, Krishna at Machilipatnam, dismissed both A.O.P. No. 13 of 2016 and A.O.P. No. 17 of 2016 vide common order dated 14.02.2023, holding that the court exercising jurisdiction under Section 34 of the Act, 1996 does not sit as a court of appeal and cannot reappraise evidence and further observed that neither party established grounds under Section 34(2) of the Act, 1996 to warrant interference with the arbitral award.

8. Heard Sri S.S. Varma, learned counsel for the appellant in C.M.A.No.573 of 2023 and for respondent No.2 in C.M.A.No.83 of 2024 and

Sri V. Hemanth Kumar, learned counsel for the appellant in C.M.A.No.83 of 2024 and for respondents in C.M.A.No.573 of 2023.

9. On hearing both sides and upon perusing the material available on record including the impugned common order dated 14.02.2023, the point that would arise for consideration is as follows:

> "Whether the common order dated 14.02.2023 passed by the learned Principal District Judge, Krishna at Machilipatnam is sustainable in facts and law?"

10. The learned counsel for the NHAI while arguing that the arbitrator had enhanced the market value by relying on a small-extent exemplar (242 square yards) without making any development deduction and as such, the award suffered from patent illegality and relied upon the judgment of Punjab and Haryana High Court in ***National Highways Authority of India v. Resham Singh and Others***[1].

11. Per contra, the learned counsel for the landowner would argue that the land is acquired specifically for the purpose of highway widening or bypass construction, the question of deducting any development charges from the market value does not arise, as the acquiring body is not required to lay out roads, drainage, or civic amenities as in a residential layout and the Arbitrator rightly took into account the actual market rates and relied upon the landmark

[1] 2023:PHHC:053158-DB

decision of the Hon'ble Supreme Court in ***C.R. Nagaraja Shetty v. Special Land Acquisition Officer and Estate Officer***[2].

12. It is well-settled principle of law, as emphasized in ***Resham Singh (supra)*** and ***Project Director, National Highways Authority of India v. M. Hakeem and Another***[3], that the jurisdiction of a court under Section 34 or Section 37 of the Act, 1996 is strictly supervisory and limited and the court cannot rewrite, modify or recalculate the quantum of compensation awarded by an Arbitrator, however, the court can only either uphold the award or set it aside if it strictly falls within the narrow parameters of Section 34(2) or Section 34(2A) for patent illegality.

13. In the present case, the learned Principal District Judge did not attempt to modify or alter the award passed by the Arbitrator; rather, dismissed both Section 34 petitions and confirmed the arbitral award in its entirety. Therefore, the decision in ***Resham Singh (supra)*** actually supports the course adopted by the learned Principal District Court in refraining from modifying the award or substituting its own views on valuation for that of the Arbitrator.

14. Section 3G(5) of the NH Act provides for determination of compensation by an Arbitrator appointed by the Central Government where the amount determined by the competent authority is not acceptable to either party. By virtue of Section 3G(6), subject to the provisions of the NH Act, the Arbitration Act applies to such arbitration. Section 3G(7) requires the competent authority

[2] (2009) 11 SCC 379
[3] (2021) 9 SCC 1

or the Arbitrator, while determining the amount, to take into consideration the market value of the land on the date of publication of the notification under Section 3A, the damage, if any, sustained by reason of severance, the injury caused to other immovable property or earnings, and reasonable expenses where the person interested is compelled to change residence or place of business.

15. Therefore, the relevant date for determining the market value under Section 3G(7)(a) is the date of publication of the notification under Section 3A. The date of taking possession under Section 3D is relevant for the statutory consequences flowing from possession and payment, but it cannot be substituted for the date expressly specified in Section 3G(7)(a) for determining market value. The precise date of publication of the applicable Section 3A notification must be ascertained from the Gazette notification and the acquisition record. The references in the impugned order to different notification dates require verification against the original Gazette and cannot be resolved merely by relying on a recital in the pleadings.

16. Regarding the objection of the NHAI that the Arbitrator erred in relying upon a small plot sale exemplar and has not applied development deduction, the market value is the price which a willing purchaser would reasonably pay to a willing seller in an ordinary transaction on the relevant date. Genuine and bona fide sale transactions of comparable lands in the vicinity, proximate in time to the notification, are relevant. While considering such transactions, the

nature and location of the lands, their extent, access, level of development, existing use, potential for development and the similarity of the lands to the acquired lands must be examined. A sale of a small developed plot may not, without suitable analysis, furnish the market value of a large undeveloped tract and at the same time, a sale transaction cannot be discarded merely because it relates to a small extent or because the acquired land is intended for a public project. The reasons for accepting or rejecting each material exemplar must be discernible from the award. The basic value or guideline value maintained by the Registration Department may be a relevant piece of material in an appropriate case, but it cannot, by itself, conclude the determination of market value. The competent authority and the Arbitrator are required to examine the evidence of comparable transactions and the relevant factors under Section 3G(7). The entries in the basic value register are maintained primarily for registration and stamp duty purposes.

17. In the present case, the arbitral award refers to sale transactions which were discarded by the competent authority on the grounds that they related to house sites, were situated at a distance of about 400 to 500 metres, or involved small extents. The Arbitrator also referred to a registered sale transaction dated 17.01.2011 in respect of 242 square yards in Survey No.569/1D. The award further refers to the proximity of the acquired lands to Hanuman Junction and the existing National Highway and to their potential for development. These are relevant considerations. The lands of the land owner in Survey Nos. 569/1D1 and 569/1E2 were acquired for formation of the

Hanuman Junction Bypass on National Highway No. 5. Since the lands were acquired for linear highway construction and already possessed high potentiality due to its close proximity to the existing highway, the learned Arbitrator enhanced the rate from Rs.502/- to Rs.2,151/- per square meter basing on sale deed No. 79/2011 dated 17.01.2011 in respect of Survey No. 569/1D, without applying development deduction and in the judgment relied upon by the learned counsel for the landowner in ***C.R. Nagaraja Shetty (supra),*** it is held that where land is acquired for the purpose of widening a national highway or creating highway infrastructure, the conventional deduction towards development charges is unwarranted because the acquiring authority is not required to construct residential layouts or leave open spaces.

18. The competent authority erred in solely relying on basic valuation registers, which are maintained primarily for revenue and stamp duty collection. In this regard, it is to be noted in ***Jawajee Nagnatham v. Revenue Divisional Officer[4],*** it is held that basic Valuation Register maintained by the Revenue Department for the purpose of collecting stamp duty and registration charges cannot, by itself, be treated as the basis for determining the market value of acquired land under Section 23 of the Land Acquisition Act. So, the learned Arbitrator correctly relied upon genuine registered transaction in respect of the land situated in the same survey number, executed prior to the notification under Section 3A of the Act.

[4] (1994) 4 SCC 595

19. So far as the award in respect of statutory interest and solatium, the legal position is settled by the Constitution Bench of the Hon'ble Supreme Court in ***Union of India v. Tarsem Singh and Others***[5], wherein it was held that the exclusion of solatium and interest under Section 3G of the NH Act, 1956 is unconstitutional and land acquired under the NH Act, 1956 carries entitlement to solatium and interest on par with acquisitions under general land acquisition laws. So, finding of the learned Arbitrator in awarding statutory benefits and interest at 9% per annum from the date of taking possession under Section 3D is perfectly sustainable.

20. The controlling consideration in a challenge to an arbitral award is the limited scope of Sections 34 and 37 of the Arbitration Act. In this regard, it is to be noted that in ***National Highways Authority of India v. Sri P. Nagaraju @ Cheluvaiah***[6], the Hon'ble Supreme Court emphasised that the arbitration under Section 3G(5) is a statutory mechanism for determination of just compensation and that the limited grounds under Section 34 must nevertheless be applied with due regard to the nature of the acquisition and the Arbitrator is required to consider the relevant statutory factors and give reasons for the determination, and if the award suffers from an inadequacy of reasons which can be cured by the Arbitrator, the procedure contemplated under Section 34(4) may be considered, subject to its statutory requirements, including a request by a party and the stage at which such request is made,

[5] (2019) 9 SCC 304
[6] (2022) 8 SCC 1070

and further, the Court cannot use Section 34(4) as a device to reappreciate evidence or to rewrite the award.

21. For the foregoing reasons, this Court is of the considered view that the learned Principal District Judge, Krishna at Machilipatnam, correctly exercised jurisdiction under Section 34 of the Act, 1996 and dismissed both the petitions. The Award dated 01.05.2015 does not suffer from any patent illegality, conflict with public policy, or perversity, and findings of the learned Arbitrator are well-supported by material, evidence and the settled legal principles.

22. C.M.A.No.573 of 2023:

In the result, and in view of the foregoing reasons, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

23. C.M.A.No.83 of 2024:

In the result, and in view of the foregoing reasons, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

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JUSTICE BATTU DEVANAND

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JUSTICE SUNITHA GANDHAM

Dt:11.11.2026
knl

Whether the order is :

Speaking Yes/No ✓ / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No