IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO.5290 OF 2024 C/W MISCELLANEOUS FIRST APPEAL NO.5292 OF 2025 (AA)

IN MFA NO. 5290/2024

BETWEEN:

NATIONAL HIGHWAY AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT
MANGALORE, DOOR NO.3-29
"BETHEL", THARETHOTA
NEAR PUMPWELL (NH-66)
MANGALORE-575 005
REP. BY ITS THE PROJECT DIRECTOR

...APPELLANT

(BY SRI: PRAKASHA ANGADI B V, ADVOCATE)

AND:

Digitally signed by PAVITHRA B
Location: HIGH COURT OF KARNATAKA

1. SRI. SADANANDA A V
   S/O VENKATA SUBBAYYA
   R/AT DOOR NO. 16-54/1
   SURATHKAL VILLAGE
   MANGALURU TALUK

2. THE ARBITRATOR AND
   DEPUTY COMMISSIONER
   D.K.DISTRICT
   MANGALURU-575 001

3. THE SPECIAL LAND ACQUISITION OFFICER
   AND COMPETENT AUTHORITY

NHAI, N.G.O.S BUILDING
MINI VIDHANA SOUDHA COMPOUND
MANGALURU-575 001

...RESPONDENTS

(BY SRI: SACHIN B S, ADVOCATE FOR R1;
SRI: BYREGOWDA N, AGA FOR R2 & R3)

THIS MFA IS FILED UNDER SECTION 37(1)(c) OF THE ARBITRATION AND CONCILIATION ACT, AGAINST THE ORDER DATED 18.04.2024 PASSED IN AP.No.43/2023 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K.MANGALURU, DISMISSING THE PETITION FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT.

IN MFA NO. 5292/2025

BETWEEN:

MR. SADANAND A.V. ALIAS
SADANANDA A.V
S/O MR. VENKATASUBBAYYA
ALIAS VENKATA SUBBALAH
AGED ABOUT 60 YEARS
RESIDING AT DOOR NO. 16-54/1
SURATHKAL VILLAGE
MANGALORE TALUK-575 014

...APPELLANT

(BY SRI: SACHIN B S, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER
OFFICER AND COMPETENT AUTHORITY
NATIONAL HIGHWAYS
KUNDAPUR-SURATHKAL SECTION
NEAR MINI VIDHANA SOUDHA
OPP. TOWN HALL, HAMPANKATTA
MANGALORE-575 001

2. NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT
THARETHOTA, MANGALORE-575 002
REPRESENTED BY ITS PROJECT DIRECTOR

3. THE ARBITRATOR AND
DEPUTY COMMISSIONER
DAKSHINA KANNADA DISTRICT
NEAR HAMILTON CIRCLE
MANGALORE- 575 001

...RESPONDENTS

(BY SRI: BYREGOWDA N, AGA FOR R1 & R3;
SRI: PRAKASHA ANGADI B V, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, AGAINST THE ORDER DATED 04.04.2025 PASSED IN A.P.NO.13/2023 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, COMMERCIAL COURT, DAKSHINA KANNADA, MANGALULRU, DISMISSING THE PETITION FILED UNDER SECTION 34 OF ARBITRATION AND CONCILIATION ACT 1996.

THESE APPEALS, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24.09.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **T.P.VIVEKANANDA J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

MFA.No.5290/2024 is filed by the appellant-**National Highway Authority of India** challenging the award dated 20.12.2022 passed by the Arbitrator and the Deputy Commissioner, Dakshina Kannada District, in proceedings No.C.DIS.ARB(2) NH.LAQ.CR-198/2018-19, so also the judgment dated 18.04.2024 in AP.No.43/2023 passed by I Additional District Judge, Dakshina Kannada, Mangaluru.

2. MFA.No.5292/2025 is filed by the **land owner** challenging the award dated 20.12.2022 passed by the Arbitrator and the Deputy Commissioner, Dakshina Kannada District, in proceedings No.C.DIS.ARB(2) NH.LAQ.CR-198/2018-19, so also the judgment dated 04.04.2025 in AP.No.13/2023 passed by IV Additional District Judge and Commercial Court, Dakshina Kannada, Mangaluru being dissatisfied with the determination of market value by the learned Arbitrator as confirmed by the Commercial Court.

3. The brief facts leading to filing of the present appeals are as follows. The parties are referred to as the **NHAI** and **land owner.**

4. The lands measuring 61 square meters (1.51 cents) in Survey No.61/4, 192 square meters (4.74 cents) in Survey No.61/16A and 81 square meters (2 cents) in Survey No.184/4B of Surathkal Village, Mangaluru Taluk, were notified for acquisition through Preliminary Notification dated 08.09.2012 under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as "the Act" for short), which was followed by the Final Notification dated 29.08.2013 issued under Section 3D(1) of the Act.

5. It is stated that the first respondent-landowner namely Sri. Sadananda A.V, had filed W.P.No.672/2014 along with other landowners challenging the acquisition notifications on several grounds. During the pendency of the said writ petition, the Special Land Acquisition Officer, NHAI, passed an award under Section 3G of the Act determining the market value of the acquired land at

Rs.43,262/- per cent in Survey No.61/4 measuring 61 square meters (1.51 cents), and in Survey No.61/16A measuring 192 square meters (4.74 cents) and Rs.22,461/- per sq mtrs in respect of land measuring 81 sq mtrs in Sy.No.184/4B of Surathkal Village. Simultaneous with the challenge to the acquisition proceedings, the respondents-landowners had filed a petition under Section 3G(5) of the Act before respondent No.2 seeking redetermination of compensation for the acquired land. The said petition having been allowed by order dated 20.12.2022 by redetermination of the compensation at Rs.3,24,800/- per cent considering the Survey No.61/4 measuring 61 square meters (1.51 cents), and in Survey No.61/16A measuring 192 square meters (4.74 cents) as a garden land and at Rs.3,13,600/- per cent for 81 cents in Sy.No.184/4B considering the said land as Dry land.

6. To arrive at the aforesaid value, respondent No.3 - Deputy Commissioner/Arbitrator has relied upon an award dated 22.09.2011 concerning the land situated at

Surathkal Village. The other prayer of the landowners for determination of market value at Rs.21,000/- per square meter has been rejected by the learned Arbitrator holding that in support of the said claim, no documentary evidence has been placed on record. It was the observation of the learned Arbitrator that for determination of the market value of the land prevailing as on the date of issuance of Section 3A(1) Notification and according to the learned Arbitrator, the award passed on 22.09.2011 in respect of an another extent of land in Surathkal Village could be the guiding factor.

7. Before the learned Arbitrator, the landowner has produced a copy of the sale deed dated 03.12.2012, which was registered after three months from the date of issuance of the Notification under Section 3A of the Act. The land owner in question has acquired the subject lands under the sale deed dated 03.12.2012. The learned Arbitrator had refused to consider the said sale deed on the ground that the said sale deed was executed and registered after the issuance of the Preliminary

Notification. Therefore, the same cannot be considered for the purpose of determination of the market value.

8. Aggrieved by the determination of market value at Rs.3,24,800/-per cent considering the subject land as a garden land and at Rs.3,13,600/- per cent considering the subject land as Dry land, NHAI had filed AP.No.43/2023 before the I Additional District Judge, Dakshina Kannada, Mangaluru. Similarly, being dissatisfied with the determination of market value by the learned Arbitrator, the landowner has filed AP.No.13/2023 before the IV Additional District and Sessions Judge and Commercial Court, DK, Mangalore. Though, both the petitions were filed challenging the very same arbitrators Award for the reasons best known to the parties, no request was made for clubbing of both the Arbitration Petitions. AP.No.13/2023 filed by the landowners had been disposed of on 04.04.2025 and AP.No.43/2023 filed by the NHAI was disposed of on 18.04.2024.

9. The fact of disposal of AP.No.43/2023 was not brought to the notice of the Court, in which

AP.No.13/2023 was pending. Nevertheless, both the Arbitration Petitions filed by the landowners, so also by the NHAI are dismissed confirming the award passed by the learned Arbitrator. While dismissing the Arbitration Petitions filed by the landowner, so also the NHAI, the District Court/Commercial Court has held that the petitioners in both the petitions have failed to make out a ground for setting aside the award of the learned Arbitrator within the parameters and the grounds enumerated in Section 34(2) of the Arbitration and Conciliation Act, 1996. It is the specific finding of the District Court that the petitioners in both the petitions have failed to make out a ground for setting aside the arbitral award.

10. There is a finding by the District Court in the appeal filed by the landowners that, since the subject land was abutting the National Highway and the portion of the land belongs to the petitioners have been acquired for the purpose of expansion of National Highway, though, the land is an agricultural land, the potentiality of the

agricultural land for use of the same for non-agricultural purposes cannot be ruled out. It is also the observation of the District Court that the learned Arbitrator was persuaded to re-determine the market value, since the subject land is a garden land.

11. As stated supra, the NHAI as well as the landowners are before this Court through the aforesaid two separate appeals. The ground urged in the appeal filed by the NHAI is that the landowners are entitled for the market value, which was prevailing on the date of issuance of the Preliminary Notification. However, the learned Arbitrator has not considered the market value of the land as on the date of Preliminary Notification. Therefore, the award suffers from the patent illegality. The claim of the landowners for redetermination of compensation could not have been considered by the learned Arbitrator. It is his further submission that in view of the pendency of W.P.No.672/2014, the possession of the notified land was never handed over/surrendered by the landowners to the National Highway Authority.

Therefore, even if this Court were to confirm the award of the learned Arbitrator, so also the judgment of the District Court, the landowners cannot be made entitled for payment of interest on the market value in terms of Section 3H(5) of the NHAI Act. The appeal filed by the landowners is with the delay of 11 days.

12. It is also a fact that the subject land is abutting and facing the National Highway. Therefore, the determination of the market value by the learned Arbitrator based on an award passed in the year 2011 in respect of another extent of land in the very same village cannot be found fault with. It is now well established that there cannot be different yardstick for determination of the market value in respect of the lands situated in the very same village.

13. The learned counsel for the appellant in MFA.No.5292/2025, that is, the appeal filed by the landowner, has advanced the contention that a sale exemplar subsequent to the issuance of the preliminary notification could also be considered if the date of sale is

within close proximity to the date of issuance of the preliminary notification. In support of the said contention, reliance is placed on the judgment of the Hon'ble Apex Court in the case of ***Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona***[1] and also on other judgments laying down the very same proposition. It is the submission of the learned counsel that the sale deed dated 03.12.2012, which was registered within three months of issuance of the preliminary notification, discloses a sale consideration of Rs.14,964/- per square metre and that the said value ought to have been considered by the learned Arbitrator.

14. The aforesaid contention deserves to be rejected for the reason that the purchaser of the property under the sale deed referred to supra is the Appellant, and the land purchased by him under the said sale deed was also notified for acquisition in the very same preliminary notification. The said purchaser has also approached the learned Arbitrator for redetermination of compensation.

[1] (1988) 3 SCC 751

The learned Arbitrator had rejected the claim of Land Owner for redetermination of compensation, taking note of the sale consideration shown in the sale deed dated 03.12.2012. From the above, it is discernible that, knowing fully well that the land was notified under the preliminary notification, Appellant had purchased the land at a higher value, probably with a view to claim compensation at the same rate as the sale consideration reflected in the registered instrument multiplied by applicable factor under 2013 Act. This transaction of sale under the sale deed dated 03.12.2012, entered into by the Land owner himself, whose land was notified for acquisition, cannot be considered a bona fide transaction so as to place reliance on the registered sale deed for the purpose of redetermination of market value in respect of the lands which are the subject matters of the instant appeals.

15. Insofar as the appeal filed by the NHAI is concerned, the District Court has come to a categorical conclusion that the NHAI has not made out any ground for

setting aside the arbitral award within the parameters of Section 34(2) of the Arbitration and Conciliation Act, 1996. If the District Court while exercising the power under Section 34(2)of the Arbitration and Conciliation Act, 1996, has held that no grounds are made out for setting aside the arbitral award, this Court while considering an appeal under Section 37 of the Arbitration and Conciliation Act, 1996, is not in a position to take a different view than that of the view taken by the District Court under Section 34 of the Arbitration and Conciliation Act, 1996. The grounds urged by the NHAI in the memorandum appeal, so also the arguments advanced would not in any way make out a ground for interference of the arbitral award as confirmed by the District Court.

16. The scope of interference of this Court in an appeal under Section 37 of the Arbitration Act has been categorically laid down by the Apex Court ***MMTC Ltd. v. Vedanta Ltd[2].*** The Apex Court held as follows:-

[2] (2019) 4 SCC 163

*"**11.** As far as Section 34 is concerned, the position is well-settled by now that the Court does not sit in appeal over the arbitral award and may interfere on merits on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the "fundamental policy of Indian law" would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and Wednesbury reasonableness. Furthermore, "patent illegality" itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract.*

***12.** It is only if one of these conditions is met that the Court may interfere with an arbitral award in terms of Section 34(2)(b)(ii), but such interference does not entail a review of the merits of the dispute, and is limited to situations where the findings of the arbitrator are arbitrary, capricious or perverse, or when the conscience of the Court is shocked, or when the illegality is not trivial but goes to the root of the matter. An arbitral award may not be interfered with if the view taken by the arbitrator is a possible view based on facts.*

***14.** As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the*

> *scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section 34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings."*

17. These principles were reaffirmed in ***Konkan Railway Corpn. Ltd. v. Chenab Bridge Project***[3], wherein the Apex Court held that the jurisdiction of the court under Section 37 of the Arbitration Act is akin to its jurisdiction under Section 34 of the Arbitration Act, and that the scope of interference in an appeal under Section 37 of the Arbitration Act, while examining an order setting aside or refusing to set aside an award, is restricted to and subject to the same grounds as a challenge under Section 34 the Arbitration Act. It was also held that the jurisdiction under Sections 34 and 37 the Arbitration Act is not in the nature of normal appellate jurisdiction.

18. The narrow jurisdiction under Section 37 of the Arbitration Act was also laid down in ***UHL Power Company Ltd. v. State of Himachal Pradesh***[4]. This line

[3] (2023) 9 SCC 85
[4] (2022) 4 SCC 116

of reasoning was further affirmed in ***Larsen Air Conditioning & Refrigeration Co. v. Union of India***[5], wherein the Apex Court held that the jurisdiction of the court under Section 34 of the Arbitration Act is limited and extremely circumscribed, permitting interference only on the ground of patent illegality which goes to the root of the matter and is not of a trivial nature.

19. The Apex Court in ***Punjab State Civil Suppliers Corporation Limited and Another v. M/s Sanman Rice Mills and Others***[6]***,*** held that an Arbitral Award is not liable to be interfered with only on the ground that the award is illegal or is erroneous in law, that too upon reappraisal of the evidence adduced before the arbitral trial. Even an award which may not be reasonable or is non-speaking to some extent cannot ordinarily be interfered with by the Courts. It is also well settled that even if two views are possible, there is no scope for the Court to reappraise the evidence and to take the different view other than what has been taken by the arbitrator.

[5] (2023) 15 SCC 472
[6] 2024 INSC 742

20. Further, in ***Somdatt Builders-NCC-NEC(JV) v. National Highways Authority of India and Ors***[7], the Apex Court after considering the case law on the point, held as under:-

> *"42. As already discussed above, the Arbitral Tribunal had interpreted Clause 51 in a reasonable manner based on the evidence on record. This interpretation was affirmed by the learned Single Judge exercising jurisdiction under Section 34 of the 1996 Act. Therefore, Division Bench of the High Court was not at all justified in setting aside the arbitral award exercising extremely limited jurisdiction under Section 37 of the 1996 Act by merely using expressions like 'opposed to the public policy of India', 'patent illegality' and 'shocking the conscience of the court'. As reiterated by this Court in Reliance Infrastructure Ltd. (supra), it is necessary to remind the courts that a great deal of restraint is required to be shown while examining the validity of an arbitral award when such an award has been upheld, wholly or substantially, under Section 34 of the 1996 Act. Frequent interference with arbitral awards would defeat the very purpose of the 1996 Act."*

21. In addition to the above, before the learned Arbitrator except for the oral statement and the statement made in the petition that the subject lands are situated very near to the National Highway and within the limits of Mangaluru City Corporation and are located within the vicinity of several Engineering Colleges and Hospitals, no

[7] 2025 INSC 113

other material evidence was placed before the learned Arbitrator.

22. In the result:

(i) MFA.No.5290/2024 filed by the NHAI and MFA.No.5292/2025 filed by the landowner are ***dismissed***.

(ii) It is clarified that the entitlement of interest at 9% per annum on the compensation redetermined by the learned Arbitrator/Deputy Commissioner would be only from the date on which the landowners surrenders/handover the acquired land in favour of the NHAI in terms of Section 3H(5) of the National Highways Act, 1956.

(iii) The aforesaid observation is made in view of the contention urged by the learned counsel for NHAI that in view of pendency of W.P.No.672/2014,which was disposed of on 08.06.2026, the landowners have not either

surrendered or handed over possession to the NHAI and NHAI could not carry out any developmental work in the subject lands.

(iv) The registry is directed to refund the amount deposited by NHAI in MFA.No.5290/2024 along with accrued interest to enable it to disburse the compensation to the landowner/landowners in terms of the award of the learned Arbitrator confirmed by the District Court, so also by this Court forthwith.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB