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. 6164 OF 2025 (AA)

BETWEEN:

1. MRS. JAYANTHI HEGDE
   D/O LATE LEELA SHEDTHI
   AGED 67 YEARS

2. MRS. JAYANI
   D/O LATE LEELA SHEDTHI
   AGED 64 YEARS

3. MRS. PREMA
   D/O LATE LEELA SHEDTHI
   AGED ABOUT 64 YEARS

4. MRS. JAYAKANTHI
   D/O LATE LEELA SHEDTHI
   AGED 61 YEARS

5. MR. JAGADISH SHETTY
   D/O LATE LEELA SHEDTHI
   AGED 58 YEARS

6. MRS. JAYALAXMI
   D/O LATE LEELA SHEDTHI
   AGED 55 YEARS

7. MR. PRAVEEN SHETTY
   S/O LATE LEELA SHEDTHI
   AGED 52 YEARS

   APPELLANT NOS.1 TO 7 ARE RESIDING AT
   BEERANNA SHETTY HOUSE
   MUKKA, SURATKAL

Digitally signed by PAVITHRA B
Location: HIGH COURT OF KARNATAKA

MANGALORE-574 146
APPELLANT NOS.1 TO 4, 6 AND 7 ARE
REPRESENTED BY THEIR G.P.A HOLDER NO.5
MR. JAGADHISH SHETTY

...APPELLANTS

(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 U/S.37(1)(c) OF THE ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE ORDER DT. 01.03.2025 PASSED IN AP.NO. 21/2023 ON THE FILE OF THE IV ADDITIONAL DISTRICT JUDGE AND COMMERCIAL COURT, D.K.MANGALURU, DISMISSING THE PETITION FILED U/S.34 OF THE ARBITRATION AND CONCILIATION ACT 1996.

THIS APPEAL, 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.6164/2025 is filed by the appellant-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-197/2018-19, so also the judgment dated 01.03.2025 in AP.No.21/2023 passed by IV Additional District Judge and Commercial Court, Dakshina Kannada, Mangaluru.

2. The brief facts leading to filing of the present appeal are as follows:

3 The lands measuring 435 square meters (10.75 cents) in Survey No.31/11B2 and 80.94 square meters (2 cents) in Survey No.31/11A3 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.

4. It is stated that the appellants along with other land owners had filed W.P.No.672/2014 challenging the acquisition notifications on several grounds. During the pendency of the said writ petition, Special Land Acquisition Officer, NHAI, passed an award under Section 3G of the Act determining the market value of the garden land measuring 435 square meters (10.75 cents) in Survey No.31/11B2 at Rs.43,262/- per cent and in respect of dry land measuring 80.94 square meters (2 cents) in Survey No.31/11A3 at Rs.22,462/- per cent. Appellant-landowners had filed a petition under Section 3G(5) of the Act before respondent No.3 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 subject land as a garden land and

Rs.3,16,600/- per cent considering the subject land as Dry land.

5. 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 another extent of land in Surathkal Village could be the guiding factor.

6. Before the learned Arbitrator, the landowners have 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 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.

7. Being dissatisfied with the determination of market value by the learned Arbitrator, the landowners have filed AP.No.21/2023 before the Commercial Court, the said petition came to be disposed of on 01.03.2025.

8. While dismissing the Arbitration Petition filed by the landowners, the District Court/Commercial Court has held that the petitioners 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 have failed to make out a ground for setting aside the arbitral award.

9. 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 lands involved a garden land.

10. 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 56 days.

11. Learned counsel for the NHAI has brought to our notice that the landowners have filed W.P.No.672/2014, whereby the acquisition proceedings itself was challenged. When that being the position, the reasons assigned for delay of 56 days do not constitute sufficient reason. Therefore, the application for condonation of delay is liable to be rejected. Despite the same we have considered the appeal on merits also.

12. Learned counsel for the landowners has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Suresh Kumar Vs. State of Haryana and Others***[1] to persuade this Court to condone the delay of 56 days on the ground that in the cases relating to acquisition of land and grant of compensation liberal approach to be adopted while considering the application for condonation of delay. The said judgment was rendered in the context

[1]2025 Supreme (SC) 695

of acquisition of land under the Land Acquisition Act, 1894 and therefore, the same cannot be made applicable to the facts of the present case.

13. Learned counsel has further relied upon the judgment of the High Court of Kerala in the case of ***National Highways Authority of India Vs. P.V.George***[2] and contend that the National Highways Act does not prescribe a limitation period for arbitration and therefore, the Limitation Act does not apply. The said judgment is rendered in the context of filing a petition before the learned Arbitrator and not while considering an appeal under Section 37 of the Arbitration and Conciliation Act, 1996. The facts involved in the judgment relied upon by the learned counsel for the landowners is not applicable to the facts of the present case.

14. The learned counsel for the appellant in MFA.No.6164/2025, that is, the appeal filed by the landowners, has advanced the contention that a sale exemplar subsequent to the issuance of the preliminary

[2]2024 Supreme (Ker) 733

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,*** reported in ***(1988) 3 SCC 751***, 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.

15. The aforesaid contention deserves to be rejected for the reason that the purchaser of the property under the sale deed referred to supra is one Sri Sadananda A.V., 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. The learned Arbitrator had rejected the claim of Sri Sadananda A.V. 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, Sri Sadananda A.V. 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 a person whose land was itself 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 all the lands covered under the preliminary notification in question.

16. It is not in dispute that the present proceedings rose out of the proceedings under Section 37 of the Arbitration and Conciliation Act, 1996, challenging the

judgment passed by the Commercial Court in the proceedings under Section 34 of the Arbitration and Conciliation Act, 1996. Though, the appeal filed by the NHAI and landowners are classified as miscellaneous first appeals,however, in effect the appeals are not only under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996, it is also under Section 13(1A) of the Commercial Courts Act, 2015. Therefore, law of limitation in respect of the appeals filed under the provisions of the Commercial Courts Act is equally applicable in respect of the present appeals. The Hon'ble Supreme Court in the cases of ***Government of Maharashtra (Water Resources Department) Vs. Borse Brothers Engineers and Contractors Private Limited***[3] has clearly held that sufficient cause for condonation of delay must be assessed in the context of the statutory object of speedy resolution of disputes. The Hon'ble Supreme Court held the following:-

[3](2021) 6 SCC 460

"58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in Basawaraj v. LAO , has held : (SCC pp. 85-88, paras 9-15)

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.

10. In Arjun Singh v. Mohindra Kumar this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only

be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, Para 605 p. 266:

'605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that

a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.'

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches.

14. In P. Ramachandra Rao v. State of Karnataka this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamount to showing utter disregard to the legislature."

x x x xx

> *63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."*

17. In the case of ***State of Uttar Pradesh Vs. Satish Chand Shivhare and Brothers***[4], the Hon'ble Supreme Court declined to interfere with the dismissal of an appeal under Section 37 where sufficient cause had not been shown for a delay. It was held that the right of appeal is subject to limitation and that a liberal approach requires a plausible explanation for the delay.

18. In the light of the aforesaid enunciation of law by the Hon'ble Supreme Court, we do not find it appropriate to condone the delay of 56 days in filing the appeal by the landowners. Insofar as the appeal filed by

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[4]2022 SCC ONLINE SC 2151

the NHAI is concerned, the District Court has come to a categorical finding 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.

19. 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.

20. 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.*** reported in ***(2019) 4 SCC 163.*** The Apex Court held as follows:-

> ***"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.*
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> ***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."*

21. These principles were reaffirmed in ***Konkan Railway Corpn. Ltd. v. Chenab Bridge Project***[5], 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

[5] (2023) 9 SCC 85

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.

22. The narrow jurisdiction under Section 37 of the Arbitration Act was also laid down in ***UHL Power Company Ltd. v. State of Himachal Pradesh***[6]. This line of reasoning was further affirmed in ***Larsen Air Conditioning & Refrigeration Co. v. Union of India***[7]***,*** 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.

23. The Apex Court in ***Punjab State Civil Suppliers Corporation Limited and Another v. M/s Sanman Rice Mills and Others***[8]***,*** held that an Arbitral

[6] (2022) 4 SCC 116
[7] (2023) 15 SCC 472
[8] 2024 INSC 742

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.

24. Further, in ***Somdatt Builders-NCC-NEC(JV) v. National Highways Authority of India and Ors***[9], 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*

[9] 2025 INSC 113

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."

25. 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 other material evidence was placed before the learned Arbitrator.

26. In the result:

(i) MFA.No.6164/2025 filed by the landowners is ***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.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB