HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 1034 OF 2026 (AA)

BETWEEN:

1. SRI P. NAGARAJU
S/O LATE PUTTASWAMAIAH
AGED ABOUT 63 YEARS
RESIDING AT MAYAGANAHALLI
KASABA HOBLI
RAMANAGARA TALUK
CURRENTLY BENGALURU
SOUTH DISTRICT - 562 128

...APPELLANT

(BY SRI M.R RAJAGOPAL, SENIOR ADVOCATE A/W
SRI THILAKRAJ S.V., ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY
NH-275, MUNICIPAL BUILDING
B.M. ROAD, MAHAVEER CIRCLE
B.M. ROAD, MANDYA TOWN
MANDYA - 571 401

2. THE PROJECT DIRECTOR (TECHNICAL)
PROJECT IMPLEMENTATION UNIT
NH - 275, BASAVANA PURA VILLAGE
(RAMADEVARAPADA)

MAYAGANAHALLI POST
KASABA HOBLI
RAMANAGARA TALUK
AND DISCTRICT
CURRENTLY BENGALURU
SOUTH DISTRICT

3. THE DEPUTY COMMISSIONER
ARBITRATOR N.H. 275
RAMANAGARA DISTRICT
RAMANAGARA
CURRENTLY BENGALURU
SOUTH DISTRICT - 562 128

…RESPONDENTS

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO SET ASIDE THE ORDER 29/11/2025 PASSED BY THE LEARNED PRINCIPLE DISTRICT & SESSIONS JUDGE, RAMANAGARA IN ARBITRATION APPLICATION No.79/2023 TO THE EXTENT OF REMANDING THE MATTER TO THE DESIGNATED ARBITRATOR & ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [**A&C Act**] read with Section 13(1A) of the Commercial Courts Act, 2015

impugning an order dated 29.11.2025 [**impugned order**] passed by the Principal District and Sessions Judge, Ramanagara [**District Court**] in Arbitration Application No.79/2023. The appellant had filed the said application under Section 34 of the A&C Act, praying that the award dated 04.07.2023 [**impugned award**] rendered by respondent No.3 [**Arbitral Tribunal**] be set aside. The appellant also sought that the compensation for the acquired lands be fixed at the rate of ₹32,340/- per sq. mtr. and the compensation be paid along with 12% additional compensation, solatium, interest, and other benefits as payable under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013 [hereafter **2013 Act**].

2. The appellant owned lands measuring 631 sq. mtrs. comprised in Sy. No.42/1 and 50 sq. mtrs. comprised in Sy. No.92/2 of Mayaganahalli Village, Bidadi Hobli, Ramanagara Taluk and District. These lands [hereafter **the subject lands**] were the subject matter of acquisition for expansion and widening of Mysuru-Bengaluru National Highway No.25. A preliminary notification under Section 3A of the National Highways Act, 1956 [**NH Act**], *inter alia*, with respect to the subject lands, was issued on 01.02.2016 and

the final notification under Section 3D of the NH Act was issued on 23.09.2016.

3. Respondent No.1 – the Special Land Acquisition Officer and Competitive Authority [**SLAO**] – determined the compensation payable for 631 sq. mtrs. falling in Sy. No.42/1 at the rate of ₹7,833 per sq. mtr. and the lands falling in Sy. No.92/2 at the rate of ₹2,026/- per sq. mtr. The SLAO found that the lands in Sy. No.42/1 were converted residential lands, and the lands falling in Sy. No.92/2 was dry agricultural land. The compensation was determined on the basis of the guidance value of such lands. The appellant was dissatisfied with the compensation awarded and filed an application (claim for enhancement of compensation) under Section 3G(5) of the NH Act.

4. The Arbitral Tribunal passed an award dated 13.08.2019, enhancing the compensation to ₹15,400/- per sq. mtr. The appellant was dissatisfied with the said compensation and filed an application (A.S No.17/2019) before the learned District Court under Section 34 of the A&C Act seeking the setting aside of the

Arbitral Tribunal's award dated 13.08.2019. The learned District Court dismissed the said application by an order dated 26.02.2021.

5. The learned District Court's order dated 26.02.2021 was challenged in an appeal filed before this court (MFA No.2042/2021) under Section 37(1)(c) of the A&C Act. This court dismissed the said appeal by an order dated 26.07.2021. Aggrieved by the said order, the appellant filed an appeal before the Supreme Court [Civil Appeal No.4671/2022 arising from SLP (C) No.19775/2021]. The said appeal was disposed of by an order dated 11.07.2022. The Supreme Court issued certain directions and remanded the matter to the Arbitral Tribunal for reconsideration of the appellant's claim. The Supreme Court also granted liberty to the appellant to produce the relevant documents relating to the market value of the subject lands and directed that the same be considered and a fresh order be passed in accordance with law.

6. Pursuant to the orders passed by the Supreme Court, the Arbitral Tribunal once again considered the appellant's claim under Section 3G(5) of the NH Act. The appellant had also filed an application to amend his claim – an application under Section 3G(5) of the NH Act – which was allowed. The appellant claimed

compensation at the rate of ₹32,340/- per sq. mtr. before the Arbitral Tribunal. This court is informed that in the meantime, the appellant received ₹1,59,24,024/- as compensation for the acquired land.

7. The learned Arbitral Tribunal considered the appellant's claim for enhancement of the compensation and passed the impugned award, determining the compensation for 631 sq. mtrs. of acquired land falling in Sy. No.42/1 at the price of ₹8,300/- per sq. mtr. and for 50 sq. mtrs. of land falling in Sy.No.92/2 at ₹2,236/- per sq. mtr. The Arbitral Tribunal also held that the multiplication factor of 1.5 is applicable and the appellant would also be entitled to solatium, interest and other benefits under the 2013 Act.

8. The appellant, being dissatisfied with the impugned award, preferred an application under Section 34 of the A&C Act to set aside the same before the learned District Court. The learned District Court referred to the directions issued in the order dated 11.07.2022 passed by the Supreme Court in Civil Appeal No.4671/2022 and found that the Arbitral Tribunal had not complied with the same. The learned District Court noted that the Arbitral

Tribunal had not considered the higher compensation in respect of the appellant's land falling in Sy. No.92/2. The District Court found that the Arbitral Tribunal had not considered the documents produced by the appellant and accordingly, set aside the arbitral award and remanded the matter to the Arbitral Tribunal for a fresh disposal in accordance with law.

9. The learned Senior Counsel appearing for the appellant submitted that the learned District Court ought to have decided the quantum of compensation and determined the same without relegating the appellant to another round of litigation before the Arbitral Tribunal. He contended that the learned District Court should exercise the powers inherent in the court. He also submitted that the Arbitral Tribunal (respondent No.3) was a government official and, therefore, was not eligible to act as an arbitral tribunal. He also submitted that the issue of whether a government official could consider an application for enhancement of compensation was under consideration by the Supreme Court in a pending matter. He submitted that Hon'ble Punjab and Haryana High Court had passed an order setting aside the provisions of Section 3G(5)

of the NH Act. Although the said order had been stayed by the Supreme Court, the matter is under consideration.

10. As it is apparent from the above, the appellant's challenge to the impugned order is confined to the directions remanding the matter to respondent No.3 (Arbitral Tribunal) for a fresh consideration.

11. At this stage, it would be relevant to refer to Sub-section (5) of Section 3G of the NH Act, which reads as under:

> **"3G. Determination of amount payable as compensation.**
>
> xxx xxx xxx xxx
>
> (5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government."

12. In terms of Sub-section (5) of Section 3G of the NH Act, if the compensation determined is not acceptable to the parties, the same is to be referred to an arbitrator appointed by the Government. It is also expressly provided that the provisions of the A&C Act would be applicable to such arbitration. Thus, the impugned award is required to be construed as an arbitral award

under the A&C Act, and the challenge to the award is required to be examined to the extent and manner as permissible under the A&C Act.

13. It is settled law that a court, while considering the application to set aside the arbitral award under Section 34 of the A&C Act, cannot modify the said award. In **McDermott International Inc. v. Burn Standard Co. Ltd.**[1], the Supreme Court held as under:

> *"52.* The 1996 Act makes provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness. Intervention of the court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc. The court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So, the scheme of the provision aims at keeping the supervisory role of the court at minimum level and this can be justified as parties to the agreement make a conscious decision to exclude the court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it."

14. In **NHAI v. M. Hakeem**[2], the Supreme Court referred to the earlier decisions of various courts and observed as under:

> "**48.** Quite obviously if one were to include the power to modify an award in Section 34, one would be

[1] (2006) 11 SCC 181
[2] (2021) 9 SCC 1

> crossing the Lakshman Rekha and doing what, according to the justice of a case, ought to be done. In interpreting a statutory provision, a Judge must put himself in the shoes of Parliament and then ask whether Parliament intended this result. Parliament very clearly intended that no power of modification of an award exists in Section 34 of the Arbitration Act, 1996. It is only for Parliament to amend the aforesaid provision in the light of the experience of the courts in the working of the Arbitration Act, 1996, and bring it in line with other legislations the world over."

15. The question whether the court could modify the award was also considered by the Constitution Bench of the Supreme Court in a recent decision in **Gayatri Balasamy v. ISG Novasoft Technologies Limited**[3]. The Supreme Court, by a majority held that the arbitral award could be modified to a limited extent to rectify computable, clerical or typographical errors as well as other manifest errors. However, the Supreme Court also clarified that the same was subject to such modification not necessitating a merits-based evaluation. Thus, the Court exercising the power under Section 34 of the A&C Act cannot re-adjudicate the disputes and substitute its opinion on the merits of the disputes in place of the award of the arbitral tribunal.

[3] (2025) 7 SCC 1

16. We may also note that the Supreme Court specifically considered the question, whether the court could modify the award under the NH Act and enhance the quantum of compensation and rejected the same in the following words:

> " **VIII.** ***The NHAI Act — Expansive modification of arbitral awards is impermissible***
>
> **71.** It has been argued that Section 34 should be expansively interpreted to permit modification of awards under the NHAI Act. In particular, it is suggested that courts should be allowed to modify the quantum of compensation awarded, as the Act involves statutory arbitration. This argument is, however, untenable. The jurisdiction conferred under Section 34 does not distinguish between statutory and non-statutory arbitration in terms of the scope of courts' power of review. Hence, this argument stands rejected"

17. In view of the above, the contention that the impugned order should be set aside on the ground that the learned District Court ought to have adjudicated the appellant's claim for enhanced compensation is unmerited and is, accordingly, rejected.

18. We also note that the court has no power to remand to the Arbitral Tribunal, except in accordance with Section 34(4) of the A&C Act. Thus, the arbitral award under Section 33G (5) of the NH Act being set aside, the applicant would be required to once again, *prima facie,* move the Arbitral Tribunal. However, this is not an

issue raised by the appellant, and we do not consider it necessary to examine it in detail.

19. As noted, the learned Senior Counsel had touched on the question of the validity of the provisions of the NH Act for referring the disputes to an arbitrator appointed by the Central Government. He had also submitted that the said issue is pending consideration before the Supreme Court. However, in the present case there is no challenge to the provisions of the NH Act or to the constitution of the Arbitral Tribunal. Further, the impugned award was rendered pursuant to the specific directions issued by the Supreme Court. Thus, it would not be apposite for this Court to examine any such issue in these proceedings.

20. In view of the above, we find no ground to interfere with the impugned order. The appeal is, accordingly, dismissed.

21. We, however, clarify that we have not examined whether the impugned award was rightly set aside by the learned District Court. Thus, this order would not preclude the respondents from availing any remedies in this regard, if so advised, in accordance with law.

22. The pending interlocutory application also stands disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

AHB
List No.: 2 Sl No.: 12