Case Citation: (2026) ibclaw.in 6185 HC

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ARBITRATION APPEAL No. 199 of 2024

CNR No.: MPHC020394382024

RADHA RAMAN SONI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Prateek Jain, learned counsel for the appellants.

Shri Kratik Mandloi, learned Panel Lawyer for the respondent / State.

Shri Kavidia Chetan Arvind, learned counsel for respondent No.3 through video conferencing.

Heard on : 08.05.2026

Pronounced on : 06.10.2026.

ORDER

The appellants have filed the present appeal in terms of Section 37 of the Arbitration and Conciliation Act, 1996 being aggrieved by the award dated 10.09.2024 passed by the learned Additional District Judge, Tarana, Ujjain in MJC (AV) No.2/2019, which had been filed by the appellants in terms of Section 34 of the said Act.

1.1 The District Judge rejected the application of the appellants by holding that no patent illegality was found in the impugned award.

Facts of the case :

2. The relevant facts for the purposes of the present case are that the National Highways Authority of India (NHAI) for the purpose of four-laning and upgradation of National Highway No.3 from Shivpuri to Dewas, requested

acquisition of land in Village Golva. As such, *vide* notification dated 29.04.2011, the Sub-Division Officer (Revenue) Tarana was appointed as the competent authority for acquisition of land. Thereafter, on 08.08.2011, notification under Section 3A of the National Highways Act, 1956 was published and after considering the objections received, declaration of acquisition in terms of Section 3D of the said Act was made by the Land Acquisition Officer.

2.1 After receiving the objections against the assessment of compensation, the Land Acquisition Officer passed award dated 31.01.2013 proposing the compensation based on the determination of market value of the land. In the present case, land bearing Survey No.8/2 situated in Village Golva, Tehsil Tarana, District Ujjain admeasuring 0.620 hectares is involved. The Land Acquisition Officer determined total compensation of Rs.1,71,072/- in favour of the appellants.

2.2 The calculation sheet appended to the award contains the entry of the present appellant(s) at Serial No.55. The nature of the land in Column No.3 is recorded as 'diverted'. The land was treated as unirrigated and thus the rate thereof was determined at Rs.28,80,000/- per hectares. Thus, for 0.054 hectare of land, total compensation at Rs.1,71,072/- was determined.

2.3 The appellants, being aggrieved by the aforesaid determination, received the compensation amount under protest and challenged the determination of market value by filing application for arbitration in terms of Section 3G of the National Highways Act, 1956 before the Commissioner Ujjain Division / Arbitrator under the said Act.

2.4 The case of the appellants before the Arbitrator was that the land in question was diverted land on which Shriji Cement Pipe Factory had been established by the appellants. Around 20 labourers were employed in the said

factory. However, the determination of market value was done by the Land Acquisition Officer based on the guideline value of unirrigated land, whereas the land of the appellants was commercial in nature as the factory was situated thereon.

2.5 It was stated in Para 7 of the application filed before the Arbitrator that the land in question was surrounded by boundary wall which is around 500 feet in length and 5 feet in height. Two gates had also been installed in the said boundary wall. Due to the acquisition of the land, the appellants allegedly suffered loss of around Rs.2,00,000/- on account of removal of parts of the said boundary wall and gates.

2.6 In Para 8, it was asserted that the value of the acquired land was around Rs.35,00,000/-. However, the competent authority by treating the land as unirrigated land, determined the total compensation at only Rs.1,71,072/-. It was further averred in Para 9 that due to the acquisition of land, additional portion of the land of the appellants to the extent of 10 feet adjoining the acquired land had also become unusable for the purposes of the factory, as it was impossible to carry out industrial work on land adjacent to the national highway. It was further stated that the boundary wall and gate were required to be reconstructed.

2.7 It was further averred in Para 12 that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 had come into effect and thus the compensation ought to have been calculated based on the said Act. In Para 13, it was averred that no spot inspection had been done, even the Patwari's report had not been called for. It was further contended that no assessment of the adjoining land had been done.

2.8 Notably, there was no averment regarding the existence of trees on the acquired land in the application submitted before the Arbitrator. However, list of

trees standing on the acquired land was placed before the Arbitrator, wherein total 27 trees of different varieties were mentioned.

2.9 Apart from this, Khasra for the year 2011-12, showing the land as non-agriculture was also placed on record.

2.10 In addition thereto, licence to work the factory issued in terms of Rule 5 of the M.P. Factories Rules, 1962 was also placed before the Arbitrator. The certificate issued by the District Industries Centre (DIC), Ujjain indicating the date of commencement of production of RRC Hume Pipe and RRC Fencing Poles as 01.10.2010 was also produced.

2.11 The certificate issued by the concerned Gram Panchayat in the year 2009 for establishment of the factory was also placed on record.

3. In light of the above pleadings and documents, the appellants asserted before the Arbitrator that the land in question was commercial in nature; however, the same had been treated as unirrigated land for the purpose of determination of compensation.

3.1 The arbitrator passed the award on 08.10.2018. In the said award, the Arbitrator recorded the contentions of the respective parties from Paras 1 to 5 (including sub-paras) and recorded his conclusions in Para 6. However, without dealing with any of the contentions raised by the appellants, the Arbitrator merely observed that the notification had been issued on 08.08.2011 and that after receiving objections, the compensation had been determined based on the guidelines value for the year 2011-12. The Arbitrator further observed that the appellants had already received the compensation amount.

3.2 The Arbitrator held that, as the notification had been issued in accordance with law and the compensation had been determined based on the

prevailing guideline values after considering objections, no interference is required. Thus, by the said cryptic award, the application of the appellants filed in terms of Section 3G(5) of the National Highways Act was rejected by the statutory Arbitrator / Commissioner, Ujjain Division.

3.3 The appellants, being aggrieved by rejection of his application, challenged the same by filing application under Section 34 of the Arbitration and Conciliation Act, 1996 before the competent Court. The said case was registered as MJC (AV) No.2/2019.

4. The learned Additional District Judge, Tarana framed solitary issue to the effect that whether the award passed by the Arbitrator on 08.10.2018 was liable to be set aside in terms of Section 34 of the Act of 1996.

4.1 The District Court without adverting to the specific contentions of the appellants or recording any factual findings, observed in Para 12 that the market value of the land had been determined and compensation had been paid in terms of Section 3G(7) based on the prevailing guideline values. In Paras 13 to 16 the Court further observed that with respect to the applicability of the Act Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Arbitrator had already considered the said aspect in Paras 4.3 and 6 of the award. The Court further observed that since the appellants had received the compensation amount on 28.01.2015, the provisions of the Act of 2013 were not applicable. Thus, the application filed under Section 34 of the Arbitration and Conciliation Act, 1996 was dismissed.

Submissions by the learned counsel for the appellants :

5. Learned counsel for the appellants while criticising the impugned award passed by the Arbitrator as well as the order passed by the learned Additional District Judge, submits that neither of them has adverted to the specific

contentions raised by the appellants. It is submitted that neither the Arbitrator nor the Court exercising jurisdiction under Section 34 of the Act has dealt with any of the issues raised by the appellants, particularly the issue regarding the applicability of the guidelines.

5.1 He submits that the notification under Section 3-A of the National Highways Act was issued on 08.08.2011 and therefore, according to the provisions of Section 3G(7) of the National Highways Act, the guideline values applicable for the relevant year were required to be considered. However, according to learned counsel, the present case involves certain peculiar aspects.

5.2 He submits that a perusal of the guideline values for the year 2011-12 would show that two categories were provided for Golva village namely 'Golva Road' and 'Golva Andar' (inside the village of Golva). According to him, the land of the appellants do not fall within either of the said categories because the land is situated on A.B. road and not on Golva road. Apart from this, it is contended that another peculiar aspect of the matter is that neither the category of irrigated land nor that of unirrigated land would apply in the present case, since the land in question was commercial in nature and factory was being run thereon by the appellants, in support of which relevant documents had been placed on record.

5.3 It is further submitted that the authorities never considered the category of commercial land and that it was only in the guideline year 2014-15 that separate category for land situated on A.B. road was introduced.

5.4 Learned counsel further submits that it is also undisputed that the appellants received the compensation amount only on 28.08.2015, whereas the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 were made applicable to acquisition under the National Highways Act with effect from 01.01.2015. Thus,

according to him, the provisions of sad Act would also apply to the present acquisition proceedings.

5.5 The submission of the learned counsel for the appellants is that none of these aspects was considered by the Court while deciding the application under Section 34 of the Act. It is submitted that the Court merely by referring to several judgments of the Hon'ble Apex Court, held that no ground was made out for setting aside the award on the ground of patent illegality. However, the Court completely ignored the aspect of non-consideration of the several grounds raised by the appellants before the Arbitrator.

5.6 Learned counsel further submits that in support of the aforesaid submissions, reliance has been placed upon the judgment of the Hon'ble Apex Court in the case of ***National Highways Authority of India vs. P. Nagaraju Alias Cheluvaiah and Another*** reported in ***(2022) 15 SCC 1***.

Submissions by the learned counsel for the respondents :

6. *Per contra*, learned counsel for the respondent submits that each and every aspect has been considered by the reference Court. He refers to Paras 12 and 13 of the impugned order passed by the reference Court and submits that all the relevant aspects have been considered therein.

6.1 As regards the determination of market value, learned counsel submits that it is now well settled that the market value is required to be determined on the basis of the guidelines value applicable for the relevant year.

6.2 In support of his submissions, learned counsel refers the order passed by this Court in the case of ***Gani vs. Collector and Others*** in ***AA No.8/2025***.

6.3 He thus submits that both the Arbitrator as well as the Court under Section 34 of the Act have correctly passed orders rejecting the application filed

by the appellants. Thus, the present appeal deserves to be dismissed.

Consideration and conclusions :

7. Heard learned counsel for the parties and perused the record.

8. The case of the appellants before the learned Arbitrator was that the acquired land was diverted land on which Shriji Cement Pipe Factory was being run, wherein around 20 labourers were employed. Ignoring this aspect, the Land Acquisition Officer determined the market value of the acquired land by treating it as unirrigated agricultural land. However, in view of the fact that the appellants' factory was situated on the said land, the same ought to have been treated as commercial land for the purpose of determining its market value.

9. Apart from this, a very specific point was raised by the appellants in as much as the notification under Section 3A of the Act was issued on 08.08.2011 and therefore the guidelines applicable for the years 2011 and 2012 were relevant for determining the market value of the acquired land. However, under the said guidelines, only two categories namely 'Golva Road' and 'Golva Andar' (i.e. land situated inside the village of Golva) were provided for. The land of the appellants did not fall within either of these categories, as the same was situated on AB Road and this category was later added in the guidelines of the year 2014-15. None of these aspects have been dealt with either by the Arbitrator or by the District Court in the proceedings under Section 34 of the Arbitration and Conciliation Act by the appellants.

10. Apart from this, a perusal of the record would show that the appellants had raised several grounds before the Arbitrator. The same grounds were repeated before the District Court. For instance, in Para 7, the question relating to the wall was raised before the Arbitrator. In Para 8, the valuation of the land was asserted, whereas in Para 12, it was contended that the provisions of the New Act of 2013

would be applicable. In Para 9, it was asserted that the additional 10 feet of land belonging to the appellants had been rendered unusable. Further, list of 27 trees was placed before the Arbitrator, which forms part of the record.

11. The Khasra Entry for the year 2011-12 was also placed on record. However, a perusal of the award would show that from Paras 1 to 5, the contentions of the rival parties have been mentioned, whereas in Para 6, the Arbitrator has recorded his conclusion. The said conclusion is nothing but reproduction of the area of land of the appellants that was acquired, the date of notification and the fact that compensation had been determined based on the applicable guidelines without dealing with any of the aspects raised by the appellants.

12. Again the learned District Court reproduced several judgments of the Hon'ble Apex Court as well as the provisions of Section 34 of the Arbitration and Conciliation Act. Ultimately, some factual discussion was made in Paras 12 and 13; however, even that discussion was confined to the award passed by the Arbitrator on 08.10.2018 and the award passed by the Land Acquisition Officer on 31.01.2013. The learned District Court simply recorded in Para 13 that the appellants had raised objection to the effect that the provisions of the New Act of 2013 would be applicable and thereafter rejected the reference.

13. Thus, even in the proceedings before the District Court, there is complete absence of any consideration of the various issues and grounds specially raised by the appellants.

14. In the considered view of this Court, the award passed by the Arbitrator is clearly in conflict with the most basic notions of justice. It suffers from patent illegality. The arbitrator is required to deal with each and every factual aspect raised by the appellant while determining the validity of the impugned award of

Land Acquisition Officer. However, there is complete absence of consideration of the several issues raised by the appellants. The learned District Court has also committed the same error. It is settled position of law that the jurisdiction of this Court under Section 37 of the Act of 1996 is akin to the jurisdiction of the District Court under Section 34 of the said Act. As such, in view of the non-consideration of the contentions raised by the appellants both by the Arbitrator as well as by the learned District Court, the impugned order dated 10.09.2024 passed by the learned District Court in MJC (AV) No.2/2019 as well as the award dated 08.10.2018 passed by the Arbitrator in Case No.451 (57)/2016-17/Misc. are hereby set aside. The appellants are free to institute fresh arbitration proceedings before the Arbitrator in accordance with law.

15. Considering that the land in question was acquired in the year of 2011 and the award by the LAO was passed in the year of 2013, if the appellant files for fresh arbitration before the statutory arbitrator then same shall be decided as early as possible however not later than four months from the date of its filing.

Certified copy as per rules.

(PAVAN KUMAR DWIVEDI)
JUDGE

Anushree