IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

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

MISCELLANEOUS FIRST APPEAL NO. 3600 OF 2024 (AA)

BETWEEN:

NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION UNIT
DOOR NO.3-29, BETHEL, THARETHOTA
NEAR PUMPWELL (NH-66)
MANGALORE-575 005
REPRESENTED BY ITS DGM (TECH)
AND PROJECT DIRECTOR
SRI. ABDULLA JAVED AZMI

...APPELLANT

(BY SRI. PRASAD K.R. RAO, ADVOCATE FOR
SRI. HANUMANTHA REDDY G, ADVOCATE)

AND:

1. SRI. ABDUL KHADAR
S/O GULAM BEARY
NEKKILADI VILLAGE
NEKKILADI POST
PUTTUR TALUK-574 325

2. THE ARBITRATOR (NH) AND
DEPUTY COMMISSIONER AND ARBITRATOR
D.K.DISTRICT
MANGALORE-575 001

3. THE COMPETENT AUTHORITY AND
THE SPECIAL LAND ACQUISTION OFFICER
(NHAI), NH-75, HASSAN-DC ROAD
SECTION, NO.HIG-64

DTDC COURIER OFFICE
BUILDING FLOOR, KHB COLONY
CHANNAPATNA, OPP.KSRTC NEW
BUS STAND HASSAN-573 201

…RESPONDENTS

(BY SRI. CHIDANANDA KEDILAYA M, ADVOCATE FOR R1;
R2 AND R3 ARE SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, AGAINST THE ORDER DATED 11.03.2024 PASSED IN A.P.NO. 205/2023 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANGALURU, DISMISSING THE ARBITRATION PETITION FILED UNDER SECTION 34 OF ARBITRATION AND CONCILIATION ACT READ WITH 3G(6) OF NATIONAL HIGHWAYS ACT.

THIS MFA, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 02.09.2026 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)

This appeal is filed by the National Highways Authority of India (NHAI) challenging the Arbitral Award dated 17.01.2023 passed by respondent No.2 and the judgment and decree dated 11.03.2024 in A.P.No.205/2022 passed by I Additional District and Sessions Judge, Dakshina Kannada, Mangaluru.

2. Brief facts of the case are that, the land measuring 121 square meters - 2.98 cents in Survey No.123/2B4 of Nekkiladi Village, Puttur Taluk, belonged to respondent No.1 was notified for acquisition by the appellant - NHAI. The Preliminary Notification dated 07.07.2020 under Section 3A(1) followed by the Final Notification dated 01.09.2020 under Section 3D(1) were issued under the provisions of National Highways Act, 1956 (hereinafter referred to as 'NH Act' for short).

3. The purpose of acquisition is for widening of the National Highway No.75. Respondent No.3 passed an award under Section 3G(1) of the NH Act determining the market value of the subject land at Rs.22,906/- per Cent with all consequential benefits. Being not satisfied with the determination of the market value, respondent No.1 - land owner sought reference under Section 3G (5) of the NH Act on 02.03.2022. Respondent No.2 who is the Arbitrator appointed under the NH Act has registered the petition filed by the respondent - land owner in proceedings No.C.DIS.ARB(3) NH.LAQ.CR.180/2021-22 vide Annexure-B.

4. Upon notifying the appellant, respondent No.2 has conducted the proceedings. The contention of the land owner before the Arbitrator was that the acquired land had the potentiality of a residential property, since the land was abutting the existing road. The claimant has also relied upon the order of conversion bearing No.C.DIS.LNA(3).CR.134/1998-99 dated 05.10.1999 and sought for determination of market value considering the land in question as a converted land and fixation of the market value considering the land in question as an agricultural dry land is erroneous. The claim of the land owner before the Arbitrator was Rs.1 Crore as a lump sum compensation for the land acquired. Respondent No.2-Arbitrator considering the land in question as residentially converted land has enhanced the market value from Rs.22,906/- to Rs.2,22,848/- with all statutory benefits including interest @ 9% p.a., under the provisions of Section 3-H (5) of the NH Act.

5. Being not satisfied with the determination of compensation at Rs.2,22,848/- per Cent and claiming enhancement of the market value, respondent No.1-land owner has preferred A.P.No.138/2023. Challenging the enhancement of market value from Rs.22,906/- to Rs.2,22,848/-, the

appellant - NHAI had filed AP.No.205/2023 before the I Addl. District and Sessions Judge, Mangaluru. Both the petitions were clubbed together and heard. Though, several points were framed for consideration, however, the prime issue which had to be considered by Section 34 Court was (i) as to whether the market value determined by the learned Arbitrator is just and proper (ii) whether the award passed by the learned Arbitrator could be interfered with under Section 34 of the Arbitration and Conciliation Act, 1996 (iii) whether both the petitioners have made out a ground for interference with the Arbitral Award.

6. On considering the rival contentions, Section 34 Court has concluded at paragraph No.34 of the judgment as follow:

> *"34. Petitioners in both petitions have not made out any grounds to interfere with the well reasoned order passed by the learned Arbitrator. The impugned order is not in conflict with public policy of India as contended by the petitioners. In the considered opinion of this court, the reasoning of the learned arbitrator is not called for interference by this court as no grounds under Sub Section 2 or 2-A of Section 34 of the Arbitration and Conciliation Act have been made by the petitioner.*

*Hence, Point No.4 & 5 taken up for consideration is held in the **negative**."*

7. Challenging the award passed by respondent No.2 and the judgment of the District Court the present appeal is filed by the appellant-NHAI. Though, several grounds have been urged in the memorandum of appeal, however, at the time of hearing, the submission made on behalf of the appellant are as follows:

(i) No reasons are assigned by respondent No.2 to enhance the market value from Rs.22,906/- per Cent to Rs.2,22,848/-.

(ii) Respondent No.2 has relied upon the order of conversion dated 05.10.1999 as the one relating to the subject land and has come to the conclusion that the guidance value of the converted land in the vicinity is Rs.2,22,848/- and therefore, enhanced the market value at Rs.2,22,848/-, which is wholly erroneous. Inasmuch as the order of conversion relied upon by respondent No.2 is not relating to the subject land, however, the same pertains to the other portion of the land in the very same survey number, which was also notified for acquisition in the very same notification. Thus, there is a patent

illegality in the award passed by respondent No.2, which fact ought to have been considered by Section 34 Court to set aside the entire award.

(iii) The increase of market value from Rs.22,906/- to Rs.2,22,848/- nearly 10 times the market value determined by the SLAO is wholly irrational and perverse. Therefore, Section 34 Court ought to have set aside the award passed by respondent No.2 on the ground of it being opposed to fundamental policy of Indian law.

Thus, prayed for setting aside the award of the learned Arbitrator, so also the judgment of Section 34 Court.

8. Learned counsel for the appellant taking us through the award passed by the SLAO points out that even in respect of the converted lands, SLAO has determined the market value at Rs.1,79,716/- taking into consideration the sale statistics and average sale price of the vicinity and therefore, re-determination of market value by respondent No.2 at Rs.2,22,484/- is wholly erroneous. However, he further contended that the determination of market value at Rs.1,79,716/- cannot become the basis for determination of compensation in respect of the subject land.

9. Learned counsel for respondent No.1-land owner fairly conceded that the land belonged to respondent No.1 is not a converted land. However, it had the potentiality of the residential property and the order of conversion relied upon by respondent No.2 - Arbitrator is in respect of other portion of the land in the very same survey number, which is the subject matter of the present appeal. It is his submission that merely because the subject land is not converted, the difference of market value between the converted land and non-converted land in the very same survey number cannot be 10 times, at best it is only the expenses that may be incurred for obtaining the order of conversion would be a relevant consideration and which could be deducted from the market value determined.

10. Respondent No.1 further contended that he while determining the market value SLAO himself has considered a sum of Rs.1,79,716/- per Cent in respect of the non-converted lands by taking note of the average sale price/sale statistics, therefore, at any stretch of imagination, the market value of the land in question cannot be Rs.22,906/- as determined by the SLAO.

11. Learned counsel for respondent No.1 by producing the copy of Guidance Value Notification dated 27.12.2018, which is of the relevant period contends that even in respect of agricultural lands measuring 12.5 Cents or below, the value of the sites in vicinity will have to be taken into consideration. In support of the same, he relies upon Appendix-1 and 2 of the Guidance Value Notification dated 27.12.2018, which reads as follows:

> *"Special instructions regarding application of Guidance Value:*
>
> *The following rates shall be applied in respect of the agricultural lands coming within the jurisdiction of the Office of the Sub Registrars, excluding Mangalore Taluk, Mulki and Mangalore city of Mangalore District:*

i	If the land is 12.50 cents or below	The rates of sites within the respective areas shall be applied.
ii	If the lands measuring above 12.50 cents upto 19 cents	70% of the price of the sites in respective areas or value of the agriculture land, whichever is higher (The rates after conversion of the value per acre to per sq mtrs shall be applied).
iii	If the lands measuring above 19 cents upto 25 cents	50% of the price of the sites in respective areas or value of the agriculture land, whichever is higher (The rates after conversion of the value per acre to per sq mtrs shall be applied).

12. We have given our anxious consideration to the submission made on behalf of the appellant and respondent No.1 and perused the appeal papers, so also trial Court records.

13. The point that arises for our consideration is, whether the award passed by respondent No.2-Arbitrator confirmed by Section 34 Court requires interference or necessary modification, if so, to what extent and on what terms.

14. It is not in dispute that the land in question was in the agricultural status as on the date of issue of notification for acquisition. It is also not in dispute that the subject land was having residential potentiality as on the date of Preliminary Notification. It is also not in dispute that other portion of the land in the very same survey number was converted on 05.10.1999, for which, the market value has been determined by the SLAO at the rate of Rs.1,79,716 per Cent. The only difference between the land in question and other portion of the very same survey number is that the "conversion" and "non-conversion".

15. Learned counsel for the appellant has conceded that in respect of other portion of land in the same survey number, the market value has been determined at Rs.1,79,716/- and the contention of the learned counsel for the appellant is that the said value cannot be taken into consideration in the present case, since the subject land is not converted. We are unable to accept the said contention for two reasons:

(i) If the other portion of land in the very same survey number is converted, it is quite obvious that the remaining extent of land in the very same survey number would have the potentiality of being used as residential property. Non-conversion of the land will not make huge difference of market value. It is only for the purpose of payment of stamp duty there will be differentiation.

(ii) The Guidance Value Notification of the relevant year stipulates that if the extent of land is 12.5 Cents or below, the value of the sites shall be the basis for the purpose of payment of stamp duty. Since, in the present case, the extent of land is 2.98 Cents, the afore-extracted provisions of Guidance Value Notification is squarely applicable.

16. The contention of the learned counsel for the appellant that the Guidance Value Notification, which is produced before this Court was not produced before the learned Arbitrator or before Section 34 Court and therefore, the same cannot be taken into consideration in the present appeal cannot be accepted. Since, what is necessary for this Court to consider is as to whether the land loser is granted with just compensation for the land, which he has lost on account of compulsory acquisition. In addition, the guidance value notification is a notification issued under the Karnataka Stamp Act, which is available in the public domain and which has a statutory force. In our opinion, there is no impediment to consider a statutory notification in this appeal.

17. Though, the submission of learned counsel for the appellant that the Guidance Value Notification was not produced before the learned Arbitrator or before Section 34 Court is acceptable, however, we are of the opinion that it was for the Land Acquisition Officer to take note of the relevant provisions of the Guidance Value Notification of the relevant year and determine the market value taking note of the fact that in respect of the lands measuring 12.50 cents or below, the value of that sites shall be taken into consideration.

18. Remanding the matter for fresh consideration by setting aside both the arbitration award and Section 34 Court order only to the aforesaid extent would not meet the ends of justice. The remand and re-consideration would be an empty formality on account of which the land owner would be exposed to another round of litigation.

19. It is apposite to refer to paragraph Nos.41 and 42 of the judgment of the Hon'ble Supreme Court in the case of ***Gayatri Balaswamy Vs. ISG Novasoft Technologies Limited*** reported in ***(2025) 7 SCC 1,*** which reads as follows:

> *"41. To deny courts the authority to modify an award—particularly when such a denial would impose significant hardships, escalate costs, and lead to unnecessary delays—would defeat the raison d'être of arbitration. This concern is particularly pronounced in India, where applications under Section 34 and appeals under Section 37 often take years to resolve.*
>
> *42. Given this background, if we were to decide that courts can only set aside and not modify awards, then the parties would be compelled to undergo an extra round of arbitration, adding to the previous four stages: the initial arbitration, Section 34 (setting aside proceedings), Section 37 (appeal proceedings), and Article 136 (SLP proceedings). In effect, this interpretation would force the parties into a new arbitration process merely to affirm a decision that could easily be arrived at by the Court. This*

would render the arbitration process more cumbersome than even traditional litigation."

20. In the light of the aforesaid proposition enunciated by the Hon'ble Supreme Court in order to meet the ends of justice, we have undertaken the task of modifying the award passed by the Arbitrator.

21. Thus, we are of the opinion that the point formulated for consideration in this appeal is to be answered partly in favour of the landowner/respondents and partly in favour of the appellant resulting in modification of the judgment of Section 34 Court.

22. In the result,

(i) The appeal is ***allowed-in-part***.

(ii) The Arbitral Award bearing No.C.DIS.ARB (3) NH.LAQ.CR.180/2021-22 dated 17.01.2023 passed by respondent No.2 vide Annexure-B and confirmed in AP No.205/2022 by the I Additional District and Sessions Judge, Dakshina Kannada, Mangalore is modified.

(iii) The market value of the land in question is determined/fixed at Rs.1,79,716/- per Cent with all statutory benefits including interest.

(iv) The amount in deposit before this Court is directed to be released infavour of the respondent No.1, which shall be adjusted by the appellant at the time of payment of remaining compensation in terms of this judgment.

Ordered accordingly.

No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB