



HC-KAR

NC: 2026:KHC-D:9208-DB
MFA No. 105456 of 2025
C/W MFA No. 105455 of 2025

IN THE HIGH COURT OF KARNATAKA AT DHARWAD
DATED THIS THE 9TH DAY OF JULY, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND



THE HON'BLE MRS JUSTICE K.G.SHANTHI

MISCELLANEOUS FIRST APPEAL NO.105456 OF 2025 C/W

MISCELLANEOUS FIRST APPEAL NO.105455 OF 2025 (AA)

IN MFA NO. 105456/2025:

BETWEEN:

1. THE NATIONAL HIGHWAYS AUTHORITY OF INDIA,
THROUGH IS PROJECT DIRECTOR SHIRISH GANGADHAR,
AGE: MAJOR, OCC. THE PROJECT DIRECTOR IN CHARGE,
PIU, CHITRADURGA, R/O. PROJECT IMPLEMENTATION
UNIT, CHITRADURGA-577501.
2. THE MANAGER (TECH)/ SLAO AND OFFICE OF
THE COMPETENT AUTHORITY OF INDIA FOR LAND
ACQUISITION, NATIONAL HIGHWAYS AUTHORITY OF
INDIA, KSRTC DEPO ROAD, CHITRADURGA,
NOW AT: 1ST MAIN ROAD, BANK COLONY,
CHITRADURGA-577501.

- APPELLANTS

(BY SRI. B.P. MATHAPATI AND SRI. S.G. HIREMATH, ADVOCATES)

AND:

1. IRAVVA W/O. CHANNABASAPPA P.,
AGE: 69 YEARS, OCC. HOUSEHOLD,
R/O. DEVAGIRI-YALLAPUR,
TQ. HAVERI, DIST. HAVERI-581110.
2. THE DEPUTY COMMISSIONER AND ARBITRATOR,
NH-4, HAVERI, DIST. HAVERI-581110.

- RESPONDENTS

(BY SRI. LAXMAN T. MANTAGANI, ADVOCATE FOR R1;
SRI. PRAVEEN K. UPPAR, AGA FOR R2)





THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S 37(1) OF ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO SET ASIDE THE REVISED JUDGMENT PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, HAVERI IN ARBITRATION PETITION NO.93/2022 DATED 31.01.2024 AND ETC.

IN MFA NO. 105455/2025:

BETWEEN:

1. THE NATIONAL HIGHWAYS AUTHORITY OF INDIA,
THROUGH ITS PROJECT DIRECTOR SHIRISH GANGADHAR,
AGE: MAJOR, OCC. THE PROJECT DIRECTOR IN CHARGE,
PIU, CHITRADURGA, R/O. PROJECT IMPLEMENTATION UNIT,
CHITRADURGA-577501.
2. THE MANAGER (TECH) / SLAO AND OFFICE OF THE
COMPETENT AUTHORITY OF INDIA FOR LAND ACQUISITION
NATIONAL HIGHWAYS AUTHORITY OF INDIA,
KSRTC DEPOT ROAD, CHITRADURGA,
NOW AT: 1ST MAIN ROAD, BANK COLONY,
CHITRADURGA-577501.

- APPELLANTS

(BY SRI. B.P. MATHAPATI AND SRI. S.G. HIREMATH,
ADVOCATES)

AND:

BALABHEEMAPPA @ BASAPPA THROUGH LEGAL
REPRESENTATIVES MANOHAR AND ORS,

MANOHAR S/O. BASAPPA MALAGOD @ DODDAMANI,
SINCE DECEASED BY HIS LRS,

1. GIRIJAVVA W/O. GIRISH GACHCHINAMANI,
AGE: 35 YEARS, OCC. HOUSEHOLD,
R/O. DEVAGIRI-YALLAPUR,
TQ. HAVERI, DIST. HAVERI-581110.
2. DARMARAJ S/O. MANOHAR MALAGOD,
AGE: 35 YEARS, OCC. AGRICULTURE,
R/O. DEVAGIRI-YALLAPUR,
TQ. HAVERI, DIST. HAVERI-581110.



3. CHANDRAKALA W/O. VENKATESH PATRODI,
AGE: 29 YEARS, OCC. HOUSEHOLD,
R/O. DEVAGIRI-YALLAPUR,
TQ. HAVERI, DIST. HAVERI-581110.
4. SHIVANAND S/O. MANOHAR MALAGOD,
AGE: 30 YEARS, OCC. AGRICULTURE,
R/O. DEVAGIRI-YALLAPUR,
TQ. HAVERI, DIST. HAVERI-581110.
5. KUMAR S/O. MANOHAR MALAGOD,
AGE: 28 YEARS, OCC. AGRICULTURE,
R/O. DEVAGIRI-YALLAPUR,
TQ. HAVERI, DIST. HAVERI-581110.
6. THE DEPUTY COMMISSIONER AND ARBITRATOR,
NH-4, HAVERI, DIST. HAVERI 581110.

- RESPONDENTS

(BY SRI. LAXMAN T. MANTAGANI, ADVOCATE FOR R1 TO R5;
SRI. PRAVEEN K. UPPAR, AGA FOR R6)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 37(1)(E) OF THE ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO SET ASIDE THE REVISED JUDGMENT PASSED BY THE HON'BLE PRINCIPAL DISTRICT AND SESSIONS JUDGE, HAVERI IN ARBITRATION PETITION NO.92/2022 DATED 30.01.2024 AND ETC.

THESE MISCELLANEOUS FIRST APPEALS COMING ON FOR FURTHER ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
HON'BLE MRS JUSTICE K.G.SHANTHI



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ORAL JUDGMENT

(PER: HON'BLE MRS JUSTICE K.G.SHANTHI)

Since both the appeals are arising out of the same question of law and facts they are taken up together for discussion.

2. The judgment and award passed by the learned Principal District & Sessions, Haveri (for short, '**trial Court**') in Arbitration Petition No. 92/2022 and No.93/2012 dated 22.05.2023 are under challenge in these appeals under Section 37(1) of **The Arbitration and Conciliation Act, 1996** (for short, '**Act**') by the National Highways Authority of India (for short, '**NHAI**').

3. Brief facts of the case of the appellant is that the lands of the respondents herein was acquired by the appellant for four lane project of the NHAI at Devagiri-Yellapur village. The award was passed by the competent authority and acquired lands particulars are disclosed in the following chart.



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Case No.	Order No. (LAQ /ARBT/ NH/CR)	Sy. No.	Acquired area in Sq.Mtrs (Dry land-NA land)	Awarded rate by SLAO per Sqm.	Award of Arbitrator
Arb.P.92/22	546/ 2009-10	92/2+3/13	4957	35.60	346/-
Arb.P.93/22	3/2013-14	95/1+2/B & 2(95/1+2/B)	11620	35.60	346/-
Arb.P.96/22	390/ 2009-10	92/1A+2B & 100	2326 and 1671	35.60	346/-

Aggrieved by the rates fixed for acquisition, the claimants have filed claim petitions which are referred to the Arbitrator and the Arbitrator awarded compensation at the rate of Rs.346/- per sq.ft. Being aggrieved by the same, the NHAH filed Arbitration Petition No. 92/2022 and 93/2022 which were disposed of vide judgment dated 22.05.2023 confirming the award of the Deputy Commissioner/Arbitrator, Haveri. The landlosers preferred Review Petition before the trial Court seeking review of the judgment. The trial Court on hearing the matter modified the award of the Arbitrator by order dated 31.01.2024 which have been challenged in the present appeals.



4. Upon service of notice the respondents appeared through their counsel and opposed the contention taken in the appeal.

5. Learned Advocate for the appellant in the appeals contended that the trial Court has violated the provisions of Section 34 of the Act, wherein it modified the award which is not permissible under law. Further, it is argued that the trial Court has reviewed its own judgment in Review Petition No. 11/2023 and No. 12/2023 which is beyond the scope of the Civil Court.

6. Learned Advocate for the appellant has drawn the attention of this Court the order passed by the Coordinate Bench of this Court in the case of ***The Deputy General Manager (Tech) and The Project Director, National Highways Authority of India and Another Vs. Durgavva and another (M.F.A. No. 102334/2024) dated 28.10.2024*** which is passed under similar circumstances. In the said judgment a reference is made to



the judgment of the Apex Court in the case of ***Project Director, National Highways Authority of India Vs. M.Hakeem and another (2021) 9 SCC 1*** wherein the Apex Court while dealing with the powers of the District Court in a suit filed under Section 34 of the Act, in paragraphs No. 42 and 48 has held as under:

"42. It can therefore be said that this question has now been settled finally by at least 3 decisions of this Court. Even otherwise, to state that the judicial trend appears to favour an interpretation that would read into Section 34 a power to modify, revise or vary the award would be to ignore the previous law contained in the 1940 Act; as also to ignore the fact that the 1996 Act was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 which, as has been pointed out in Redfern and Hunter on International Arbitration, makes it clear that, given the limited judicial interference on extremely limited grounds not dealing with the merits of an award, the 'limited remedy' under Section 34 is co-terminus with the 'limited right', namely, either to set aside an award or remand the matter under the circumstances mentioned in Section 34 of the Arbitration Act, 1996.

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48. Quite obviously if one were to include the power to modify an award in Section 34, one would be crossing the Lakshman Rekha and doing what, according to the justice



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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."

7. Further, the Hon'ble Apex Court in ***Gayathri Balaswamy v. M/s ISG Novasoft Technologies Limited (Civil Appeal No.(s) 6178-6179/2025***, the Apex Court observed at conclusion (f) has observed as under:

*"(f) **Hakeem (supra)** is not per incuriam insofar as it held that a Section 34 Court cannot modify the award and will be read with the only exception made in this judgment now. On the principle of actus curiae neminem gravabit (act of Court shall prejudice no one) computation, clerical and typographical errors or other errors of similar nature is permissible to be corrected by the Section 34 Court, in terms of the holding above."*



8. The Hon'ble Apex Court in the case of ***Oil and Natural Gas Corporation Ltd., Vs. Saw Pipes Ltd.***, reported in ***AIR 2003 Supreme Court Cases 2629***, has held as under:

"31. Therefore, in our view, the phrase "public policy of India" used in Section 34 in context is required to be given a wider meaning. It can be stated that the concept of public policy connotes some matter which concerns public good and the public interest. What is for public good or in public interest or what would be injurious or harmful to the public good or public interest has varied from time to time. However, the award which is, on the face of it, patently in violation of statutory provisions cannot be said to be in public interest. Such award/judgment/decision is likely to adversely affect the administration of justice. Hence, in our view in addition to narrower meaning given to the term "public policy" in Renusagar case¹⁰ it is required to be held that the award could be set aside if it is patently illegal. The result would be — award could be set aside if it is contrary to:

- (a) fundamental policy of Indian law; or*
- (b) the interest of India; or*
- (c) justice or morality, or [pic](d) in addition, if it is patently illegal.*

Illegality must go to the root of the matter and if the illegality is of trivial nature it cannot be held that award is against the public policy. Award could also be set aside if it is so unfair and unreasonable that it shocks the conscience



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of the court. Such award is opposed to public policy and is required to be adjudged void."

9. The Apex Court in ***Project Director, National Highways no. 45 E and 220 National Highways Authority of India Vs. M. Hakeem and another*** at paragraphs no. 42 and 48 has held as under:

"42. It can therefore be said that this question has now been settled finally by at least 3 decisions of this Court. Even otherwise, to state that the judicial trend appears to favour an interpretation that would read into [Section 34](#) a power to modify, revise or vary the award would be to ignore the previous law contained in the 1940 Act; as also to ignore the fact that the 1996 Act was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 which, as has been pointed out in Redfern and Hunter on International Arbitration, makes it clear that, given the limited judicial interference on extremely limited grounds not dealing with the merits of an award, the 'limited remedy' under [Section 34](#) is co-terminus with the 'limited right', namely, either to set aside an award or remand the matter under the circumstances mentioned in [Section 34](#) of the Arbitration Act, 1996.

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48. Quite obviously if one were to include the power to modify an award in [Section 34](#), one would be 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."

10. The Apex Court in ***Mcdermott International INC Vs Burn Standard Co. Ltd., and Others*** reported in ***(2006) 11 Supreme Court Cases 181*** has held at paragraphs no. 52 and 59 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, 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.

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59. *Such patent illegality, however, must go to the root of the matter. The public policy violation, indisputably, should be so unfair and unreasonable as to shock the conscience of the court. Where the Arbitrator, however, has gone contrary to or beyond the expressed law of the contract or granted relief in the matter not in dispute would come within the purview of [Section 34](#) of the Act. However, we would consider the applicability of the aforementioned principles while noticing the merit of the matter."*

The Apex Court observed that:

"The Court cannot correct the errors of Arbitrator. It can only quash the award leaving the parties free to begin the arbitration again if it is so desired". The Arbitral Award can be set aside, which is contrary to:

- (a) fundamental policy of Indian law; or*
- (b) the interest of India; or*
- (c) justice or morality; or*
- (d) in addition, if it is patently legal."*

11. The Apex Court in ***S.V.Samudram Vs. State of Karnataka and another*** reported in **(2024) 3 SCC 623**, it is observed as under:

"Any Court under Section 34 of the 1996 Act would have no jurisdiction to modify the arbitral award, which at best, given the same to be in conflict with the grounds specified under Section 34 of the 1996 Act would be wholly unsustainable in law.



It is also observed that,

Any attempt to 'modify an award' under Section 34 would amount to 'crossing the Lakshman Rekha'.

13. In ***Gayatri Balaswamy*** (supra) the Apex Court in detail observed as under:

"(a) The Courts exercising power under Section 34 and Courts hearing appeals thereunder have no power to 'modify' an award;

(b) The power to modify is not a lesser power to that of the power to set aside, as the two operate in separate spheres and are not of the same genus.

(c) The inherent power under Section 151 C.P.C. cannot be used to modify awards as it will be contrary to the express power mentioned in Section 34. Similarly, there is no scope for applying the doctrine of implied power to modify awards.

(d) Article 141 of the Constitution of India will not be exercised by this Court to modify awards passed by arbitrators as it is well settled that the Article 142 power cannot be used to give a go by to the substantive statutory provision.

(e) Interest awarded also cannot be modified in exercise of powers of setting aside and the course of action under Section 34(4) will have to be adopted as discussed in the judgment."



14. In the case on hand the trial Court reviewed and modified its own judgment which is not sustainable. This is when the law is clear that the Court has no jurisdiction to modify the award under Section 34 of the Act. Hence this Court is of the opinion that the impugned judgment and award passed by the trial Court in a case filed u/S 34 of the Act, is not proper and correct. The principle and law is very clear that the District Court has the power either to confirm or set aside the award of the Arbitrator and remand the matter to the Arbitrator. However, in the case on hand the trial Court has modified the award of the Arbitrator passed u/S 34 of the Act which is not sustainable in law.

15. For the foregoing reasons, this Court is of the opinion that the impugned award passed by the Learned Principal District Judge is liable to be set aside and matter is remanded back for fresh consideration in accordance with law. Ordered accordingly.



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Pending application/s also stand disposed of.

Sd/-
(S.SUNIL DUTT YADAV)
JUDGE

Sd/-
(K.G.SHANTHI)
JUDGE

BVV
LIST NO.: 2 SL NO.: 47