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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

WEDNESDAY, THE 8TH DAY OF JULY 2026 / 17TH ASHADHA, 1948

ARB.A NO. 26 OF 2021

AGAINST THE ORDER DATED 24.3.2021 IN OP(Arb) NO.525
OF 2018 OF III ADDITIONAL DISTRICT COURT,
THIRUVANANTHAPURAM

APPELLANT/3rd RESPONDENT:

SREEKALA K.V.
AGED 53 YEARS
D/O.VIJAYALEKSHMI AMMA, KALA SADANAM, VAZHAVILA
VEEDU, KEEZHAMMAKOM, CHENKAL, VLATHANKARA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.
SHRI.M.V.THAMBAN
SMT.THARA THAMBAN
SRI.ARUN BOSE
SRI.B.BIPIN
SRI.N.SUNIL JOSEPH
SHRI.ARJUN R.



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RESPONDENTS/PETITIONER & RESPONDENTS 1 & 2:

- 1 THE PROJECT DIRECTOR
N.H. AUTHORITY OF INDIA, (MINISTRY OF ROAD
TRANSPORT & HIGHWAYS), PROJECT IMPLEMENTATION
UNIT, T.C.36/414(5), KOIKKAL VEEDU, KAVU LANE,
PALKULANGARA, THIRUVANANTHAPURAM DISTRICT, PIN
695 024.
- 2 THE DISTRICT COLLECTOR & ARBITRATOR
COLLECTORATE CAMPUS, THIRUVANANTHAPURAM DISTRICT,
PIN 695 043.
- 3 SPECIAL DEPUTY COLLECTOR & COMPETENT AUTHORITY
LA (NH), THIRUVANANTHAPURAM DISTRICT,
PIN 695 033.

BY ADVS.
DR.K.P.SATHEESAN (SR.)
SRI.P.MOHANDAS (ERNAKULAM)
SRI.K.SUDHINKUMAR
SRI.S.K.ADHITHYAN
SRI.SABU PULLAN
SRI.GOKUL D. SUDHAKARAN

THIS ARBITRATION APPEAL HAVING COME UP FOR ADMISSION
ON 18.06.2026, THE COURT ON 08.07.2026 DELIVERED THE
FOLLOWING:



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S.MANU, J.

Arb.Appeal No.26 of 2021

Dated this the 08th day of July, 2026

JUDGMENT

Third respondent in O.P.(Arb.)No.525 of 2018 of the Additional District Court-III, Thiruvananthapuram has filed this appeal challenging the Order dated 24.03.2021 passed by the learned Additional District Judge, by which the Arbitration Award dated 30.1.2018 in LAC No.1095 of 2013 of the Arbitrator under the National Highways Act was set aside.

2. A summary of facts essential for the disposal of this appeal is as follows:-

An extent of 11.11 Ares of land comprised in Resurvey No.330/1 of Chenkal Village was acquired from the



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appellant for forming a bypass road to NH 47. The land was surveyed after rejecting the objection of the appellant and a notification under Section 3(D) was issued. The Special Deputy Collector and Competent Authority, Thiruvananthapuram fixed the land value at ₹61,750/- and awarded a total compensation of ₹7,54,647/-. Appellant was not contented with the compensation granted by the Competent Authority. An application was submitted under Section 3(G)(5) of the National Highways Act to refer the dispute to arbitrator. The arbitrator considered the dispute and passed an award, enhancing the compensation. The arbitrator directed to grant an increase of 50% of the market value of the land fixed by the Competent Authority and 10% user's right for the enhanced amount. In addition to those amounts, it was declared that the appellant was also eligible to get 9% interest per annum on the excess amount from the date of taking possession, till the date of



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actual deposit. Aggrieved by the award passed by the arbitrator, the 1st respondent filed O.P.(Arb.)No.525 of 2018 under Section 34 of the Arbitration and Conciliation Act, 1996.

3. The learned Additional District Judge heard the parties and passed the impugned order setting aside the award passed by the Arbitrator. Assailing the order passed by the learned Additional District Judge, the appellant preferred this appeal under Section 37 of the Arbitration and Conciliation Act, 1996.

4. Heard the learned counsel for the appellant and the learned Standing Counsel for the 1st respondent.

5. The learned counsel for the appellant submitted that the learned Additional District Judge passed the impugned order surpassing the jurisdiction under Section 34 of the Arbitration and Conciliation Act. The learned counsel argued that the learned Additional District Judge failed to take note of the



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consensus agreement arrived at between the Requisitioning Authority, Competent Authority and the affected parties. The learned counsel further submitted that the learned Additional District Judge went wrong in holding that the interdict contained in Sections 75 and 81 of the Arbitration and Conciliation Act cannot be applied in the facts and circumstances of the case. The learned counsel further argued that the finding of the learned Additional District Judge that there was no material on record to show that the Competent Authority had determined the land value as on the date of notification was totally erroneous. It was also submitted that the learned Judge seriously erred in relying on the judgment of a Division Bench of this Court in **Udayakumar v. National Highway Authority of India** [2019 (1) KLT 519]. The learned counsel argued that in the said case the factual situation was totally different. He submitted that in the case considered by the Division Bench, no



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attempt was made by the Arbitrator to make an independent assessment of the market value of the land as on the date of the notification. Therefore, the Division Bench held that the award was patently illegal and also in conflict with public policy. The learned counsel submitted that in the case at hand, the arbitrator had independently analysed the market value of the land acquired and therefore the principles laid down by the Division Bench in **Udayakumar** (supra) are not applicable. The learned counsel also submitted that no grave illegality was committed by the arbitrator and therefore the Additional District Court ought not to have exercised the jurisdiction under Section 34 of the Act. Further the learned counsel submitted that the acquisition in the instant case happened long ago and the appellant was deprived of just compensation because of the interference by the learned Additional District Judge in the OP(Arbitration). He submitted that the order passed by the



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learned Additional District Judge is therefore liable to be set aside upholding the award passed by the arbitrator.

6. The learned Standing Counsel for the 1st respondent, on the other hand, submitted that the order passed by the learned Additional District Judge is only to be upheld. He argued that the arbitrator, as also the Competent Authority had not followed the provisions of the National Highways Act and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 while passing the respective awards. The learned Standing Counsel made specific reference to the provisions of Section 3G(7) of the National Highways Act and submitted that the various aspects to be mandatorily taken into consideration by the Competent Authority or the arbitrator as the case may be have been specified thereunder. He submitted that perusal of the award passed by the arbitrator would clearly show that the arbitrator



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had not adhered to the mandate of Section 3G(7) while passing the impugned award. He also argued that the arbitrator made specific reference to the amount fixed by the DLPC and thereafter granted enhancement by 50% of the market value of the land fixed by the Competent Authority. He argued that the arbitrator was apparently influenced by the compensation fixed by the DLPC and thereafter, without giving any reasons or justification for granting such an increase, the arbitrator directed to grant 50% increase in the market value fixed by the Competent Authority. The learned Standing Counsel argued that the arbitrator jumped into such a conclusion without giving any reasons. He submitted that the reference made by the arbitrator to the amount fixed in the DLPC meeting can be considered only as a reference to an irrelevant circumstance or factor in the matter of fixing of market value by the arbitrator. He submitted that in the facts and circumstances of the case, interference by



the learned Additional District Judge in exercise of the jurisdiction under Section 34 was inevitable and the learned Additional District Judge has rightly passed the impugned order setting aside the arbitral award. He submitted that the award is vitiated by various factors mentioned under Section 34 of the Arbitration and Conciliation Act and hence the impugned order is perfectly justified.

7. The jurisdiction under Section 34 of the Arbitration and Conciliation Act is a constricted one. An original petition filed under Section 34 cannot be considered like an appeal. Interference with the award passed by the arbitrator is permissible only on limited grounds. However, the learned District Judge has interfered with the award and set aside the same, holding that the award was passed in violation of the mandate of Section 3G(7) of the National Highways Act. The learned Additional District Judge has also held that the arbitrator



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committed a serious error by mentioning that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are not applicable to the acquisitions under the National Highways Act. The learned Additional District Judge also observed that the arbitrator had virtually accepted land price fixed by the DLPC for the purpose of determining the amount of compensation. Nevertheless, in the conclusions recorded, the arbitrator directed to grant an increase by 50% to the market value fixed by the Competent Authority. Hence the learned Additional District Judge observed that the arbitrator arrived at the final conclusion, deviating from his own reasoning. The learned Additional District Judge rejected the contention of the 1st respondent that the arbitrator violated the interdict contained in Sections 75 and 81 of the Arbitration and Conciliation Act. The learned Judge concluded that the arbitral award was patently



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illegal as it was in contravention with the fundamental policy of Indian law. The learned Judge held that the award was liable to be set aside and accordingly the impugned order was passed.

8. I have carefully perused the award passed by the Arbitrator. I find considerable merit in the submission made by the learned counsel for the 1st respondent that the arbitrator has not determined the market value of the acquired property with reference to the factors mentioned in Section 3G(7) of the National Highways Act. It is also evident that the arbitrator was influenced by the market value fixed by the DLPC. However finally what has been granted by the Arbitrator is 50% increase to the market value fixed by the Competent Authority. As rightly observed by the learned Additional District Judge, the ultimate conclusion of the Arbitrator is not in tune with the reasoning given in the award. The learned counsel for the appellant had vehemently submitted that the arbitrator had independently



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analyzed the relevant aspects, pointing out the fact that there is a reference in the arbitral award to the basic document relied on by the Competent Authority. As noted above, he argued forcefully that the principles laid down in **Udayakumar** (supra) were not applicable to the facts and circumstances of the instant case and hence the reliance placed by the learned Additional District Judge on the said judgment was improper. However, it is noted that the principles laid down in **Udayakumar** (supra) pertaining to the requirement of independent assessment by the arbitrator cannot be said to be not applicable in the instant case.

9. Above all, the arbitrator has not properly applied his mind in the matter of fixing of market value with reference to the various factors enumerated under Section 3G(7) of the National Highways Act. Failure in this regard is a patent illegality. Exercising the authority to pass an award, overlooking the provisions of the enabling statute, is definitely an act in



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contravention of the fundamental policy of Indian law. The said glaring contravention justifies interference in a proceeding under Section 34 of the Arbitration and Conciliation Act.

10. In view of the above discussion, I do not find any reason to set aside the impugned order. The learned Additional District Judge has analyzed the relevant factors appropriately and has rightly set aside the arbitral award. However, in view of the law laid down by the Hon'ble Supreme Court in **National Highway Authority of India v. P. Nagaraju and another** [2022 (15) SCC 1], it is well within the authority of the court exercising the jurisdiction under Section 34 of the Arbitration and Conciliation Act to remit the matter to the arbitrator to reconsider the same in accordance with law, if the award is set aside. In the case on hand, the learned Additional District Judge has set aside the award. However, no further direction was issued. I find it appropriate in the above circumstances,



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following the principles laid down in **National Highways Authority of India v. P. Nagaraju and Another** ((2022) 15 SCC 1), to modify the impugned order to the extent of remitting the matter to the arbitrator to reconsider the case in accordance with law.

In the result, I hold that the learned Additional District Judge was correct in setting aside the award. However, the impugned order shall stand modified to a limited extent. The matter is remitted to the arbitrator for fresh consideration strictly in accordance with law. The Arbitrator shall pass fresh award within a period of six months from today. The appeal is disposed of as above.

Sd/-

**S.MANU
JUDGE**

skj