

IN THE COURT OF THE ARBITRATOR
GOA-KARNATAKA BOARDER - KUNDAPUR SECTION OF NH-66 (FORMERLY NH-17) AND
DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul, I.A.S.
Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/LAQ/NH/CR-2/2016-17



Between

Manjunath Masti Naik
R/o Hosanane Gummanhakkalu,
Mavalli Village, Bhatkal Taluka

V/s

1. Special Land Acquisition Officer and Competent Authority
National Highway Authority of India 66(17)
Shri. Hariprasad Building, Royalkeri, Ambedkar Road Honnavar
2. Project Director, National Highway Authority of India,
Project Implementation Unit, Door No. 3-29,
Bethel, Tharethota Near Pumpwell, Mangalore-575005
(Represented through Advocate Sri. R. S. Prabhu, &
A.M. Shirwadkar and M. V Kini & Co)

.... Respondents

Preamble:

Application filed u/s 3G (5) of The National Highways Act 1956 (48 of 1956) against the award dated 21-01-2015 passed by the Competent Authority and Special Land Acquisition Officer National Highways Authority of India, Honnavar in respect of 201 Sq. Mtrs land in Sy no. 670/1 of Mavalli village in Bhatkal Taluka. Notices were issued to both parties.

The brief facts of the case are as follows:

The Central Government has appointed the Deputy Commissioner Uttara Kannada, Karwar as Arbitrator u/s 3G(5) of National Highways Act 1956 (48 of 1956) as per the order no. NHAI/11013/LA/KNT/Appointment of Arbitrator dated 22-7-2011 for Uttara Kannada district.

That the Project Director NHAI, Dharwad has submitted proposal for issue of 3A notification for acquisition of land for the purpose of laning of National Highway-66 (formerly NH-17) and the same was approved by the Central Government by issuing 3A (I) notification no. 2463(E) dated 13-10-2012. The said notification was published in 2 daily news papers that is Vijaya Karnataka & Deccan Herald on 4-1-2013. The Central Government declared its intention to acquire 201 sq mtr of land in Sy no670/1 of Mavalli village in Bhatkal taluka belonging to the applicant. The notices were issued to the interested persons/land owners and enquiry was conducted on 24-08-2013 & 11-09-2013. Final notification u/s 3D (1) & (2) of The National Highways Act 1956 was issued in its Special Gazette notification no. S.O.3078E dated 9-10-2013 and the same was published in 2 daily news papers that is Vijaya Karnataka & Deccan Herald dated 20-12-2013. The award was passed on 21-01-2015 and the same was notified to the applicant on 08-07-2015 and total compensation of Rs. 2,19,254/ after deducting TDS was disbursed to the applicant on 08-07-2015 and thereafter possession was taken.

Being highly aggrieved by the order of the R1, the applicant filed application under section 3G(5) of National Highways Act 1956 (48 of 1956) for the Arbitration, stating that

the award amount paid by R1 is too low and requested for enhancement of the compensation for the acquired land. The applicant contended that the acquired land was consisting of yielding coconut trees, areca trees, cashew trees and other trees. The applicant further contended that the actual market value of the acquired land was more than Rs. 15,00,000/ per gunta-. According to him the compensation was awarded without considering all these relevant facts and hence the applicant has sought for enhanced compensation.

The Advocate for the Respondent filed statement of objection as hereunder:

1. The allegation that the compensation awarded by CALA is too low is not correct. On the other hand while fixing the compensation CALA in his award has clearly stated that the guidance value provided by Sub-Registrar Bhatkal and approved by CVC Bangalore at Rs. 700/- per Sq.mtrs was taken into account while fixing the market value. He has also taken into account that there is no agricultural activity being carried out along side of National Highway and also that many commercial establishments have come up nearby. So also while awarding compensation to horticulture/forest trees the CALA has relied on the valuation made by approved valuers of horticulture department Government of Karnataka. There are no provisions in the National Highways Act for payment of interest, solatium and other benefits to the applicant. The provisions of land Acquisition Act are not applicable for the acquisition made under the National Highways Act. Therefore the CALA is justified in awarding compensation of Rs. 2,19,254/- after deducting TDS and hence prayed for the dismissal of the application.

Heard Arguments on both side.

On perusal of the lower court records in detail it is noticed that the acquisition of land was very essential for building (widening/4/6 laning etc) maintenance and management of National Highway-66 (formerly NH-17) in Utara Kannada District.

Land Acquisition Process dates:

3A (1) Notification no. 2463 (E) Date	13-10-2012
3D (1) & (2) Notification No. S.O. 3078 E Date	09-10-2013
3G Award Date	21-01-2015
3G Award notice Date	06-03-2015
Voucher Date	08-07-2015

The details of the compensation awarded by R1 are as hereunder:

Village	Sy.No.	Extent in Sq.mtrs	Sl. No.	Compensation Amount (Rs.)	Income Tax Deducted @ 10% (Rs.)	Net Payable (Rs.)
Mavalli	670/1	201			<u>140700*10</u> 100	
	Land Value			140700		
	Structure Value			Nil		
	Business Loss			Nil		
	Sub-total			140700		
	Horticulture value			59274		
	Forest Value			33350		
	Grand Total			233324	14070	219254

As per Section 3G (a) of the National Highways Act 1956 the market value of the acquired land should be fixed on the basis of the market value of the land as on the date of publication of notification u/s 3A of the Act. The date of section 3A notification is 13-10-2012. On perusal of the records it is seen that the CALA in his award has clearly stated that the guidance value provided by Sub-Registrar Bhatkal and approved by CVC Bangalore at Rs. 700/- per Sq.mtrs was taken into account while fixing the market value. He has also taken into account that there is no agricultural activity being carried out along side of National Highway and also that many commercial establishments have come up nearby. So also while awarding compensation to horticulture/forest trees the CALA has relied on the valuation made by approved valuers of horticulture department Government of Karnataka. The documents produced by the applicant do not outweigh the evidentiary value to the attached to the procedure adopted by CALA. Therefore the CALA has not committed any error while fixing market value of the land. Further the claim for market valuation of land at Rs. 15,00,000/- cannot be accepted since it is not accompanied by any supporting documentation. The claim on trees has already been addressed since Rs. 59,274/- (horticulture) Rs. 33,350/- (forest) has been paid as per award.

Hence after a careful scrutiny of the entire material on records, I am of the opinion that applicants are not entitled for enhance compensation. Hence, I proceed with the following order.

No.RB/LAQ/NH-66/ARB/CR-2/2016-17

Date: 19-07-2018.

Order

The application for enhancement is rejected.



[Signature]
**Arbitrator (NH 66 earlier NH-17)
Deputy Commissioner,
Uttara Kannada, Karwar**

Copy to:-

1. Advocate Sri R. S. Prabhu, & A.M. Shirwadkar and M. V Kini & Co. advocates Bangalore for information.
2. Special Land Acquisition Officer and Competent Authority National Highway Authority of India 66(17) Shri. Hariprasad Building, Royalkeri, Ambedkar Road Honnavar-581334 for information with lower court records page no. 1 to 184.
3. Project Director, National Highway Authority of India, Project Implementation Unit, Door No. 3-29, Bethel, Tharethota Near Pumpwell, Mangalore-575005 for information.

