

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

O.P.No.299 of 2013

M/s.Ennor Industries Private Limited
Registered office at No.37,
Greames Road,
Chennai – 600 006.

... Petitioner

Vs.

1.The Joint Secretary
Ministry of Road Transport and Highways
Transport Bhavan
No.1, Parliament Street,
New Delhi – 110 001.

2.Union of India
Ministry of Road Transport and Highways
Transport Bhavan
No.1, Parliament Street,
New Delhi – 110 001.

... Respondents

Prayer:

Petition filed under section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint a sole arbitrator to resolve the issue of compensation herein.

For Petitioner : Mr.S.R.Raghunathan
For Respondents : Mr.Richardson for R1
for M/s.P.Wilson Associates
Mr.K.S.Jaya Ganesan for R2
CGSC

ORDER

Petitioner has filed this petition under section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of sole arbitrator to resolve the issue of compensation payable to the petitioner for the lands which has been taken over for the formation of National Highways.

2.The petitioner Company is said to be the owner of an extent of 3 Acres and 63 Cents in Survey No.9B having purchased the same vide Sale Deed dated 27.01.1981 from one Devaraja Naicker. In 2011, the National Highways appears to have entered the property for the purpose of widening of the road. The compensation was fixed and an order to the said effect was passed by the Land Acquisition Officer in Award No.287/2010. The total extent of the land taken was 3633Sq.Mtrs. Petitioner was not satisfied with the compensation awarded. Hence, he made representation dated 10.04.2012 to the District Collector requesting for appointment of Arbitrator and pay enhanced compensation. Though the representation was acknowledged by the District Collector, he did not consider the matter nor issued notice for hearing the petitioner for grant of enhanced compensation. The petitioner was informed that in terms of Section

3-G(5) of the National Highways Act, 1956, the provisions of the Arbitration and Conciliation Act were applicable and therefore, they approached this Court and filed this petition under section 11(6) of the Arbitration and Conciliation Act, 1996.

3.This Court while considering the matter on an earlier occasion was of the opinion that the National Highways was required to be heard in the matter, though they are not been impleaded as respondent and accordingly, the name of the learned counsel appearing for the National Highways was directed to be printed vide order dated 02.03.2015. In the light of the said order, Mr.Richardson represents National Highways and he has made his submissions.

4.I have heard the learned counsel appearing for the petitioner and learned Central Government Standing Counsel appearing for the second respondent and the learned counsel appearing for the first respondent and the National Highways.

5.The learned counsel appearing for the petitioner fairly submits that in terms of the provisions of the Act, namely, Section 3-G(5), the Central Government has to appoint an Arbitrator and the District Collector is the Arbitrator so nominated by the Central Government

and therefore, the petitioner should be given liberty to approach the District Collector claiming enhanced compensation.

6. When such a prayer is made, objection is raised by the National Highways stating that the plea of limitation should be left open to be raised by the National Highways before the Arbitrator.

7. Under normal circumstances such a request made by the National Highways would have been accepted, but, in peculiar circumstances of this case, this Court is of the view that the petitioner should be permitted to approach the District Collector and the time spent by the petitioner before this Court in prosecuting this Original Petition should stand excluded. This Court is convinced to make this observation in the light of the fact that the petitioner, after the award was passed, has made two requests, on 10.04.2012 to the District Collector and 27.06.2012 to the Central Government to appoint arbitrator. Since, the petitioner did not receive any reply to the said requests, has approached this Court and filed this Original Petition, in which notice was ordered to the respondents on 19.04.2013.

8. Therefore, the petitioner has been prosecuting the matter before the wrong forum and this Court is of the view that liberty should

be granted to pursue his claim before the District Collector who is the Arbitrator nominated by the Central Government to resolve such claims.

9. Accordingly this Original Petition is disposed of giving liberty to the petitioner to approach the District Collector, Thiruvallur, within a period of 30 days from the date of receipt of a copy of this order and file appropriate application claiming enhanced compensation which shall be considered by the District Collector in accordance with the National Highways Act and the rules framed therein. On such application is made, the District Collector shall not reject the application on the ground of limitation but consider the same on merits and in accordance with law.

10. Since the National Highways and the District Collector are not parties in this petition, Registry is directed to mark copy of this order to the National Highways and the District Collector.

17.04.2015

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Index : Yes / No
Internet : Yes / No

T.S.SIVAGNANAM,J.
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To

- 1.The Joint Secretary
Ministry of Road Transport and Highways
Transport Bhavan
No.1, Parliament Street,
New Delhi – 110 001.
- 2.Union of India
Ministry of Road Transport and Highways
Transport Bhavan
No.1, Parliament Street,
New Delhi – 110 001.
- 3.National Highways Authority of India
rep. by its Project Director, Chennai
No.1/54-28,
Butt Road (Near Kathipara Junction)
St.Thomas Mount,
Chennai 600 016.
- 4.The District Collector,
Thiruvallur.

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