

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.09..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.3553 of 2018

1.K.S.Murali

2.K.S.Mohan

... Petitioners

-Versus-

1.The District Collector cum Arbitrator,
Thiruvallur District,
National Highways 205,
Thiruvallur, Tamil Nadu 602001.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the respondent in Rc.No.733/15/Arb. dated 09.05.2017 and to quash the same and for a consequential direction to the respondent to conduct a fresh enquiry by following the due procedure of law within a time frame to be fixed by this court.

For Petitioners : Mr.V.Vijaya Shankar
For Respondent : Mr.S.R.Rajagopal,
Additional Advocate General
Assisted by Mr.C.Thirumaran,
Spl.Government Pleader

ORDER

This writ petition has been filed challenging the award passed by the 2nd respondent, the District Collector and Arbitrator under Section 3-G(5) of the National Highways Act, 1956 and for a consequential direction for fresh enquiry.

2. The learned counsel for the petitioners would submit that the respondent/Arbitrator without considering the materials available on record in support of the claim for enhanced compensation, has mechanically fixed the compensation based on an earlier arbitral award said to have been passed by him in an identical matter. That apart, according to the learned counsel, the petitioners were not given solatium and other benefits for which he is legally entitled to as provisions in The Right to Fair Compensation and Transparency in Land Acquisition and

Rehabilitation and Resettlement, 2013 [Central Act 30 of 2013].

3. Per contra, the learned counsel for the respondent contended that the order passed by the respondent under the Section 3-G(5) of The National Highways Act is an award within the purview of The Arbitration and Conciliation Act, 1996 and such as per the provision in Section 3-G(6) of The National Highways Act, as against the order impugned in this writ petition, the petitioners have got an alternative remedy under Section 34 of the Arbitration and Conciliation Act, 1996. When that be so, the petitioners cannot straightaway invoke the writ jurisdiction of this court and therefore, the petitioners may be directed to challenge the award before the concerned Principal District Court as per Section 34 of The Arbitration and Conciliation Act, 1996.

4. I have considered the rival submissions carefully.

5. It is the settled law that the award passed by the respondent-Arbitrator is an award within the purview of The Arbitration and Conciliation Act, 1996 and when there is a remedy available to the petitioners to challenge the order under Section 34 of the Arbitration and Conciliation Act, without availing such remedy, the petitioners cannot challenge the same before this court.

6. In view of the above, the writ petition is dismissed, however, with liberty to the petitioners to challenge the order/award passed by the respondent in the manner known to law before the appropriate forum and the petitioners are permitted to raise all points which are available to them. Insofar as the delay occurred in filing petition under Section 34 of the Arbitration and Conciliation Act is concerned, the petitioners are at liberty to file appropriate petition seeking to condone the delay before the court concerned stating the reasons for delay including the time consumed in the instant writ proceedings and the learned Judge shall consider the application on merits and pass appropriate orders in accordance with law. The Registry is directed to return the original Award, if any, filed along with the writ petition to the petitioners. No costs.

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The District Collector cum Arbitrator,
Thiruvallur District,
National Highways 205,
Thiruvallur,Tamil Nadu 602001.

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.64488
+1cc to the Government Pleader, S.R.No.64594

W.P.No.3553 of 2018

rrs 03/10/2018



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