

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.Nos. 37434 to 37438 of 2016

A.Karuppusamy ... Petitioner in
W.P.37434 of 2016

D.Venkatachalam ...Petitioner in
W.P.37435 of 2016

R.Radhamani ... Petitioner in
W.P. 37436 of 2016

C.Vairamani ... Petitioner in
W.P. 37437 of 2016

P.Natarajan ... Petitioner in
W.P. 37438 of 2016

Vs

1.The District Collector/Arbitrator,
Erode District,
Erode.

2. The Project Director,
Project Implementation Unit,
National Highways Authority of India,
Salem.

(R2 Amended as per order dt.26/10/2016 in all WP.Nos.37434 to
37438/2016)

3. The Revenue Divisional Officer,
Erode District, Erode.

4. The Special Tahsildar,
Perundurai,
Erode District.

.. Respondents

COMMON PRAYER IN ALL WPS : Petitions filed under Article 226 of
the Constitution of India, praying to issue a Writ of
Certiorarified Mandamus, to call for the records relating to the
impugned order passed by the first respondent herein dated
11.08.2016,23/08/16,11/08/16,11/08/16 and 23/08/16 respectively

The.Ne.47/Arbitration/2015 to quash the same and consequently directing the first respondent to entertain the petitioners application dated 09.08.2016, 19/08/16, 9/8/16, 19/08/16 respectively filed under Sec.3-G(5) of National Highways Act, 1956 for highest compensation.

For Petitioners : M/s.C.Veeraraghavan
(in all Wps)

For Respondents : Mr.M.M.Elumalai,
Government Pleader
for R1, R3 & R4(in all Wps)

: Mrs. K.Suhasini
For M/s.P.Wilson Associates
Government Pleader for R-2
(in all Wps)

O R D E R

Heard M/s.C.Veeraraghavan, learned counsel for the petitioner, Mr.M.M.Elumalai, learned Government Pleader for Respondents 1, 3 and 4 and Mrs.K.Suhasini for M/s.P.Wilson Associates, learned Government Pleader for the 2nd respondent.

2. The petitioners herein have challenged the order passed by the first respondent rejecting the petitioners' appeal filed under Sec.3-G(5) of National Highways Act on the ground that the application is barred by limitation.

3. The case of the petitioners is that the petitioners lands were sought to be acquired under the National Highways Act for the purpose of widening the bypass Road in respect of the stretch of land from K.M.56.00 to 100.00 KM (Salem-Coimbatore Section by the National Highways department (NH.47)). Earlier, an award has been passed in the year 2008, but the copy of the award was not communicated to the Petitioners. In the said circumstances, they are not in a position to file applications for arbitration seeking enhancement of compensation.

4. After coming to know about the award in the year 2016, all the petitioners have filed the application under Sec.3-G(5) of the National Highways Act for enhancement of compensation. The petitioners applications were rejected by the first respondent by the impugned order on the ground that as per Sec.43 of the Arbitration and Conciliation Act, 1963, the applications for arbitration should be filed within a period of three years. Since all the applications were filed beyond the period of limitation, the applications are not maintainable. Now, the petitioners have filed the present Writ Petitions challenging the above said order of the first respondent.

5. The learned counsel appearing for the petitioners submitted that the issues involved in the Writ Petitions is no more 'resintegra' in view of the judgement dated 25.04.2018, passed by the Division Bench of this Court in the matter of, Project Director, Project Implementation Unit, National Highways Authority of India, Coimbatore Vs. K.Periyasamy and 3 others reported in 2018 (4) CTC 263 holding that the provisions of the Limitation Act more particularly Art.137 would not apply to an Application for reference to Arbitration under Sec.3-G(5) of the National Highway Act, 1956.

6. The learned Counsel appearing for the respondents also fairly admitted that the issues were already covered by the Judgement of the Division Bench of this Court.

7. In view of the above facts and circumstances, the impugned order passed by the 1st respondent is liable to be set aside, accordingly, it is set aside, consequently, the 1st respondent is hereby directed to consider the petitioner's application filed under Sec.3-G(5) of National Highways Act, 1956 and pass suitable orders on merits in accordance with law within a period of eight weeks from the date of the copy of this order after giving sufficient opportunity of hearing to the petitioners.

8. With the above direction, the writ petitions are allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpp

To

- 1.The District Collector/Arbitrator,
Erode District,
Erode.
2. The Project Director,
Project Implementation Unit,
National Highways Authority of India,
Salem.

3. The Revenue Divisional Officer,
Erode District,
Erode.

4. The Special Tahsildar,
Perundurai,
Erode District.

+5cc to Mr.C.Veeraraghavan, Advocate, S.R.No.53866 to 53870

+1cc to Mr.P.Wilson Associates, Advocate, S.R.No.54134

+1cc to the Government Pleader, S.R.No.54752

W.P.37434 to 37438 of 2016

GJ(CO)
GSP(04/09/2018)



WEB COPY