

IN THE HIGH COURT OF JUDICATURE AT MADRAS

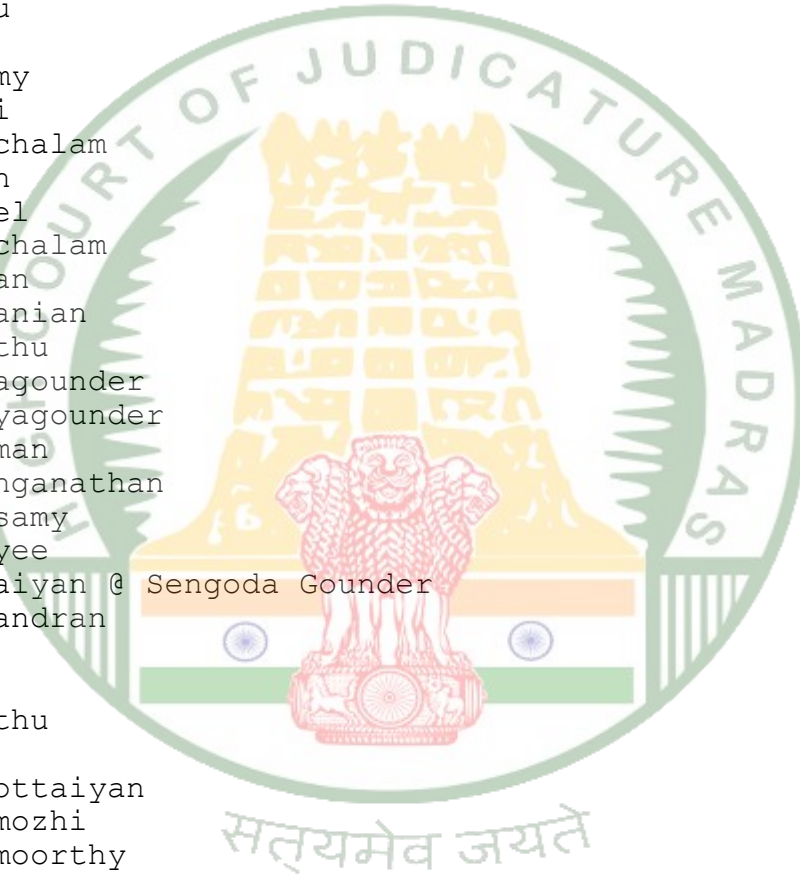
DATED: 20.12.2018

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A.No.2441 of 2018

- 1.K.Ayyavu
- 2.Rani
- 3.Ramaswamy
- 4.Ponmalai
- 5.Venkatachalam
- 6.Rasappan
- 7.Palanivel
- 8.Venkatachalam
- 9.Elangovan
- 10.Subramanian
- 11.Kalimuthu
- 12.Sengodagounder
- 13.Nallaiyagounder
- 14.Jayaraman
- 15.Sri Ranganathan
- 16.Periyasamy
- 17.Perumayee
- 18.Ponnupaiyan @ Sengoda Gounder
- 19.Ravichandran
- 20.Sekar
- 21.Kumar
- 22.Manimuthu
- 23.K.Raju
- 24.A.Sengottaiyan
- 25.S.Thenmozhi
- 26.S.Ramamoorthy
- 27.R.Selvam
- 28.Selvam
- Uthu Kadu Kongu Vellala Gounder &
Kongu Nattu Gounder Trust,
- 29.S.Santhi
- 30.Saravanan
- 31.Chitra
- 32.T.Chandira
- 33.Chandira
- 34.Kavitha
- 35.Janaki



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36. President, Society Congregation,
Sister's St. Joseph Cluny,
Fatima Convent, Line Medu,
Gugai, Salem - 636 006.

37. Thangarajan
38. D. Venkatesan
39. Jayamani Kamaraj
40. K. Raju
41. Valarmathi

42. Sri Muruganandha Sathu Sabai Madalayam,
Sri Dakshinamoorthy Thirukoil,
Iraipani Mandra Committee,
Sri Dakshinamoorthy Temple,
Seelanaickenpatty Post, Salem - 636 201.

43. K. Raju (HUF) ... Appellants/Petitioners

vs.

1. The District Collector and Sole Arbitrator,
Salem Collectorate,
Salem - 636 001.

2. Special DRO (Land Acquisition) Office,
National Highways No. 68,
Ram Nagar, Swanapuri II Gate,
Salem - 636 004.

3. Special District Revenue Office (LA),
NH. 7, 46 & 47,
Salem - Krishnangiri Districts,
Krishnagiri. ... Respondents/Respondents

Writ Appeal filed under Clause 15 of the Amended
Letters Patent of 1865 against the order dated 28.08.2018
made in W.P.No.22263 of 2018.

Prayer in W.P.No.22263 of 2018:

Petition filed under Article 226 of the Constitution
of India praying to issue a Writ of Mandamus, directing the
appointment of an Independent Arbitrator preferably a
retired Judge of this Honourable court to conduct the
Arbitration proceedings in respect of the acquisition of
the petitioners lands in National Highways 7 46 47 & 68 as
per the representation made by the Writ petitioners dated
23.7.2017 26.07.2017 18.09.2017 19.09.2017 and
20.09.2017.

For Appellants : Mr.P.B.Sampath Kumar
For Respondents : Mr.C.Thirumaran
Special Government Pleader

JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

This appeal filed by the writ petitioners is directed against the order passed in W.P.No.22263 of 2018 dated 28.08.2018.

2.Heard Mr.P.B.Sampath Kumar, learned counsel for the appellants and Mr.C.Thirumaran, learned Special Government Pleader for the respondents.

3.The appellants sought for an independent arbitrator to be appointed to adjudicate the claim for compensation and in respect of the acquisition made under the National Highways Act. The learned Single Bench rightly dismissed the writ petition and also took note of the fact that the appellants have approached the District Collector, who is the statutory arbitrator appointed under the National Highways Act.

4.Mr.P.B.Sampath Kumar, learned counsel for the appellants vehemently contended that taking into consideration the facts and circumstances of the case, an independent arbitrator may be appointed. Reliance was placed on the decision of the Hon'ble The Chief Justice in the case of M/s.Unique Builders rep. by its Managing Partner, Mr.P.Nallasamy vs. The Union of India, rep. by the General Manager, Southern Railway, Park Town, Chennai and others reported in (2016) 4 LW 705.

5.Firstly we may note that the said decision was rendered in an application filed under Section 11 of the Arbitration and Conciliation Act, 1996. The provision of Sections 14 and 15 of the said Act were also taken into consideration. On the facts and circumstances of the case, the Court found that a tragedy had occurred in an arbitration proceedings on account of inordinate and inexplicable delay coupled with even transfer of one of the officers constituting the Tribunal, can terminate the mandate of the Tribunal and the Court appointed a fresh Arbitrator in the place of the Departmental Arbitrator.

6.In our considered view, the said decision can render no support to the case of the appellants. Thus for the above reasons, we are of the view that the appellants have not made out any case to interfere with the order passed by

the learned Single Bench. Accordingly, the writ appeal fails and hence, dismissed. The appellants are directed to cooperate with the arbitral proceedings before the District Collector and subject to the full cooperation being extended by the appellants or their authorized representative, the District Collector shall conclude the proceedings not later than ninety days from the date of receipt of a copy of this judgment. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

cse
To

- 1.The District Collector and Sole Arbitrator,
Salem Collectorate,
Salem - 636 001.
- 2.Special DRO (Land Acquisition) Office,
National Highways No.68,
Ram Nagar, Swanapuri II Gate,
Salem - 636 004.
- 3.Special District Revenue Office (LA),
NH.7, 46 & 47,
Salem - Krishnangiri Districts,
Krishnagiri.

+1cc to Mr.P.B.Sampath Kumar , Advocate SR.No. 88873

+1 CC TO GOVERNMENT PLEADER SR.NO. 89160

W.A.No.2441 of 2018

A.SK(01/02/2019)

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