

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.02.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.897 of 2013

Chenniya Chetty

... Petitioner

Vs

1. The District Collector cum Arbitrator,
(LA-NH7),
Collectorate, Dharmapuri District.

2.The Special Tahsildar,
(LA), Unit 1/11,
National Highways-7,
Dharmapuri-5.

3. The District Revenue Officer,
Land Acquisition Officer,
NH-7,
Dharmapuri District - 636705.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in S.R.No.43/2007 UI dated 17.08.2012 passed by the 1st respondent and quash the same consequently direct the 1st respondent to conduct the arbitral proceeding according to the provisions of Arbitration and Conciliation Act 1996 and pass a fresh order according to Section 3 G (7) of the National Highways Act 1956.

For Petitioner : Mr. M.Elango

For Respondents: Mr.V.Anandhamoorthy AGP

R1 to R3

O R D E R

Proceedings were initiated for acquiring the lands of the petitioner under the National Highways Authority Act 1956. The District Revenue Officer who is the Competent Authority under the National Highways Authority Act 1956, fixed the compensation of Rs.80,000/-. Aggrieved by the amount fixed by the

District Revenue Officer, the writ petitioner sought to challenge the amount so determined by filing a petition for enhancement under Section 3(G)(5) of The National Highways Act, 1956. The District Collector was appointed as the Arbitrator. The Arbitrator/District Collector passed an award on 17.08.2012. The Arbitrator/District Collector has confirmed the award of the Competent Authority. Aggrieved by the award, the instant writ petition has been filed on several grounds. Notice was issued.

2. Heard the counsel for the parties.

3. Section 3(G)(6) of the National Highways Act 1956, reads as under:-

"(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), shall apply to every arbitration under this Act."

4. A perusal of Section 3(G)(6) would show that the provisions of the Arbitration and Conciliation Act 1996, shall apply to every proceedings under Section 3(G)(5) of the The National Highways Authority Act 1956. The award which was passed by the District Collector is one under the National Highways Act 1956. The award can be challenged by moving appropriate application under Section 34 of Arbitration and Conciliation Act 1996, before the Court of Competent jurisdiction.

5. In the presence of alternative efficacious remedy, this writ petition is not maintainable. However, about 5 years has been lapsed in this Court. The learned counsel for the writ petitioner submits that he received the copy of that award on 20.10.2012 and the writ petition was filed on 08.01.2013. If 20.10.2012 is taken as starting point of limitation, the petitioner would still have some time to approach the Competent Court by filing an application under Section 34 with an application of condone delay, if Section 14 of the Limitation Act 1980 is invoked while condoning the application for condonation of delay.

6. The Court of Competent jurisdiction entering an application under Section 34 of the Arbitration and Conciliation Act 1996, can take in to the account the time taken during the pendency of the writ petition as sufficient ground for condone delay under Section 14 of the Limitation Act.

7. Keeping in view of that award is dated 17.08.2012, the Court of Competent jurisdiction entering an application under Section 34 of the Arbitration and Conciliation Act 1996 is requested to dispose of the case expeditiously, preferably not later than one year. Accordingly, the writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Pkn
To

1. The District Collector cum Arbitrator,
(LA-NH7),
Collectorate, Dharmapuri District.
2. The Special Tahsildar,
(LA), Unit 1/11,
National Highways-7,
Dharmapuri-5.
3. The District Revenue Officer,
Land Acquisition Officer,
NH-7, Dharmapuri District - 636705.

+1cc to Mr.M.Elango , Advocate SR.No. 11553
+1 CC TO GOVERNMENT PLEADER SR.NO. 10804

W.P.No.897 of 2013

A.SK(14/03/2019)

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