

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Fifth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice K.RAVICHANDRABAABU
and
The Hon`ble Mr Justice SENTHILKUMAR RAMAMOORTHY

CMA(MD) Nos.464 and 465 of 2019
and
CMP(MD) .NOs.5530 and 5536 of 2019

THE PROJECT DIRECTOR,
(NATIONAL HIGHWAYS -7),
NATIONAL HIGHWAYS AUTHORITY OF INDIA,
MADURAI.

... APPELLANT/2ND RESPONDENT
IN BOTH PETITIONS

Vs

1 K.PALANISAMY,

...1ST RESPONDENT/PETITIONER
IN CMA(MD) .NO.464 of 2019

1. V.NEHRU

... 1ST RESPONDENT/PETITIONER
IN CMA(MD) .NO.465 of 2019

2 THE DISTRICT REVENUE OFFICER,
LAND ACQUISITION OFFICER /
(NATIONAL HIGHWAYS -7),
MADURAI.

...2ND RESPONDENT/1ST RESPONDENT
IN BOTH PETITIONS

Prayer in CMA(MD) . 464/ 2019 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to set aside the order made in Arbitration O.P.No.49 of 2014 dated 02.01.2019 on the file of the Principal District Judge, Madurai and thus render justice.

Prayer in CMA(MD) . 465/ 2019 :

Pleased to set aside the order made in Arbitration O.P.No.45 of 2014 dated 02.01.2019 on the file of the Principal District Judge, Madurai.

Prayer in CMP(MD) . 5530/ 2019 :

Pleased to stay the operation of the order passed in Arbitration O.P.No.49 of 2014 dated 02.01.2019 on the file of the Principal District Judge, Madurai pending disposal of the above appeal and thus render justice.

Prayer in CMP(MD) . 5536/ 2019 :

Pleased to Stay the operation of the order passed in Arbitration O.P.No.45 of 2014 dated 02.01.2019 on the file of the Principal District Judge, Madurai pending disposal of the above appeal and thus render justice.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.C.ARUL VADIVEL ALIAS SEKAR, Advocate for the Appellant in both petitions, the court made the following order:-

(Order of the Court was made by K.RAVICHANDRABAABU,J)

Issue notice to the respondents returnable in four weeks.

2.These Civil Miscellaneous Appeals are filed challenging the order passed by the Principal District Court,Madurai in Arbitration O.P.Nos.49 and 45 of 2014, dated 02.01.2019 in enhancing the compensation awarded by the Arbitrator in respect of the acquisition proceedings under the National Highways Act.

3.The main contention raised in these appeals is that the Court below is not empowered to enhance the compensation while exercising the power conferred under Section 34 of the Arbitration and Conciliation Act, 1996 or to modify the award as well. Therefore, it is contended that the order of the learned Principal District Judge, Madurai, in enhancing the compensation, is beyond the scope and ambit of Section 34 of the Arbitration and Conciliation Act, 1996.

4.The learned counsel for the appellant submitted that the same issue raised in other connected appeals have been entertained by this Court by granting an order of interim stay only in respect of the enhanced award amount. He has produced one copy of the interim order made in M.P(MD)No.1 of 2015 in C.M.A(MD)No.386 of 2015, dated 4.4.2016.

5.Considering the above-stated facts and circumstances and going by the provisions made under Section 34 of the Arbitration and Conciliation Act, 1996, We are of the view that the appellant has made out a prima facie case for grant of interim stay only in respect of the enhanced amount.

6.Accordingly, there will be an order of interim stay of the order passed by the Court below only in respect of the enhanced amount. In other words, there is no stay as against the amount of award passed by the Arbitrator. At this juncture, the learned counsel for the appellant submitted that the amount awarded by the Arbitrator has already been paid and the claimants have also

received the same. The said statement is also recorded.

7. Post these matters along with connected C.M.A(MD) Nos. 492 to 494 and 466 of 2019.

sd/-
05/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PRINCIPAL DISTRICT JUDGE, MADURAI.

+2. C.C. to M/S.C.ARUL VADIVEL ALIAS SEKAR Advocate SR.No.11163,
11164

ORDER
IN

CMA(MD) Nos.464 and 465 of 2019
and
CMP(MD) .NOs.5530 and 5536 of 2019
Date :05/07/2019

vsn
AE/VR/SAR-II (15.07.2019) 3P 4C

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