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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1694 of 2016

and

CMP No.12855 of 2016

Thangarasu

... Appellant/Petitiner

vs.

1. The Arbitrator/District Collector,
Land Acquisition N.H.45
Villupuram
Villupuram District.

2. The Competent Authority & District
Revenue Officer,
Land Acquisition N.H.45,
Villupuram
Villupuram District

3. The Project Director,
National Highways Authority of India,
10, Govindasamy Nagar,
Vazhudareddy
Villupuram

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 37 of Arbitration and Conciliation Act, 1996, against the award dated 17.08.2015 passed in Arbitration O.P.No.17 of 2009 on the file of Principal District Court, Villupuram.

For Appellant : Ms.R.Meenal

For R.1 & R.2 : Dr.S.Suriya
Govt. Advocate

For R.3 : Mr.S.R.Sumathy



JUDGMENT

(through Video Conferencing)

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Heard Ms.R.Meenal, learned counsel for the appellant and Dr.S.Suriya, learned Government Advocate for the respondents 1 and 2 and Ms.S.R.Sumathy, learned counsel for the third respondent.

2. This appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996, challenging the order dated 17.08.2015 passed by the Principal District Judge, Villupuram in Arbitration O.P.No. 17/2009, setting aside the Arbitral award passed by the Arbitrator/first respondent in ARP-1/Ayyankoilpattu/2005, dated 25.03.2008, under which, compensation was determined for the lands acquired from the appellant under the National Highways Act, 1956.

3. The appellant, while filing the application under Section 34 of the Arbitration and Conciliation Act, 1996 in O.P.No.17 of 2009, has raised the following grounds:-

(a) The sale deeds produced by the appellant before the competent authority viz., the second respondent as well as the Arbitrator viz., the first respondent, were not duly considered by the Arbitrator under the impugned award.

However, as seen from the impugned award dated 17.08.2015, both the sale deeds relied upon by the appellant have been duly considered by the first respondent.

(b) Insofar as one another sale deed is concerned, the first respondent has not given any finding for the land pertaining to that sale deed, which was the subject matter of acquisition from the appellant.

Insofar as the second sale deed produced by the appellant is concerned, the first respondent/Arbitrator has given a finding that the said sale deed was created by the appellant/claimant only for the purpose of getting a higher compensation for the acquired land.

4. The contention of the appellant raised under Section 34 of the Arbitration and Conciliation Act, 1996 is that the lands acquired from the appellant under National Highways Act, 1956 will fetch more value if the sale deeds were duly considered by the Arbitrator. However, as seen from the Arbitral Award dated 17.08.2015, both the sale deeds relied upon by the appellant were duly considered and sufficient reasons have been given by the Arbitrator for rejecting the sale deeds.



5. This Court, while exercising power under Section 34 of the Act cannot re-appreciate the evidence available on record before the Tribunal, as it is not permissible like a regular appeal. This Court is of the considered view that the learned Principal District Judge, under the impugned order dated 17.08.2015, has rightly dismissed the application filed by the appellant in Arbitration O.P.No.17 of 2009.

6. This Court does not find any infirmity in the impugned order dated 17.08.2015 passed in A.O.P.No.17 of 2009. Therefore, this appeal is dismissed. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

7. Learned counsel for the appellant submits that the compensation amount has not been deposited before the second respondent till date. In case, the amount has not been deposited, the third respondent is directed to deposit the compensation amount within a period of four weeks from the date of receipt of a copy of this order before the second respondent.

8. On such deposit being made, the appellant/claimant is permitted to withdraw the same by filing appropriate application before the second respondent.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

sr

To

The Principal District Judge,
Villupuram

+1cc to M/s.R.Meenal, Advocate, S.R.No.545880

+1cc to the Government Pleader, S.R.No.54686

C.M.A.No.1694 of 2016

NMI (CO)
SU(12/11/2021)