



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2021

CORAM

THE HON'BLE Mr.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.30373 and 30376 of 2019
and
W.M.P.Nos.30367 & 30368 of 2019

S.P. Anthonisamy

..Petitioner in Both WPS

Vs.

1. Government of India
Ministry of Road Transports and Highways,
Transport Bhawan,
No.1, Parliament Street,
New Delhi-110001.
2. District Collector/Arbitrator,
Cuddalore,
Cuddalore District.
3. The Competent Authority & District
Revenue Officer,
(Land Acquisition), National Highways,
No.64, Seetharaman Nagar,
3rd Cross Street, Pudupalayam,
Cuddalore.
4. The General Manager (Tech and Project Director),
National Highways Authority of India,
Villupuram, Project implementation Unit, 28,
V.G.P. Nagar West, Vazhudha Reddy Post,
Villupuram-605 401.
(R4 is impleaded vide order
dated 05.03.2020 made
in W.M.P.No.6224/2020
in W.P.No.30373/2019
and
order dated 18.08.2021 made
in W.M.P.No.6226/2020
in W.P.No.30376/2019)

.. Respondent in Both WPS

Prayer in W.P.No.30373 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd



respondent in Na.Ka.L.3(Arbit)/21024/2018, dated 27.07.2019 in respect of the petitioner's property at Survey No.33/8B and 33/9A2 admeasuring totally 1,710 sq.mt. at Lalpura and to quash the same and to further direct the 2nd respondent to follow in letter and spirit, the comprehensive guidelines issued by the 1st respondent, dated 28.12.2017 in NH-11011/30/2015-LA whilst granting compensation to the petitioner.

Prayer in W.P.No.30376 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in Na.Ka.L.3(Arbit)/21024/2018, dated 27.07.2019 in respect of the petitioner's property at Survey No.39/6B and 40/1B admeasuring totally 5,315 sq.mt. at Melasokkanathan Pettai and to quash the same and to further direct the 2nd respondent to follow in letter and spirit, the comprehensive guidelines issued by the 1st respondent, dated 28.12.2017 in NH-11011/30/2015-LA whilst granting compensation to the petitioner.

For Petitioner	.. Mr. B. Ravi Raja
For R1	.. Mr. T.V. Krishnamachari
For R2 and R3	.. Mr.K.M.D.Muhilan Government Advocate

COMMON ORDER

The writ petitions have been filed in the nature of writ of certiorarified mandamus seeking to call for the records of the second respondent/District Collector and to interfere with the same.

2. It is the contention of the writ petitioner herein in both the writ petitions that he owned lands in Survey No.33/8B and 33/9A2 admeasuring totally 1,710 sq.mt. at Lalpura and in Survey No.39/6B and 40/1B admeasuring totally 5,315 sq.mt. at Melasokkanathan Pettai.

3. These lands were acquired for the purpose of National Highways. It is the contention of the petitioner herein that compensation paid was much much lesser than what amount should have been paid if the matter has been properly adjudicated by the second respondent herein. It is stated that the second respondent, as arbitrator, has got authority to re-examine the award passed, but, he only followed the award without proper application of mind and therefore, the writ petitions had been filed instead of filing Application under Section 34 of the Arbitration and Conciliation Act, before the District Court concerned.



WEB COPY

4. The learned counsel for the petitioner justified invoking Article 226 of the Constitution of India by stating that there has been non application of mind by the second respondent which necessitated him to come before this court seeking interference of the impugned order.

5. It is admitted that as against the impugned order, the petitioner has an alternative remedy under Section 34 of the Arbitration and Conciliation Act, 1996.

6. With regard to the issue of limitation period, it is three months for preferring Application under Section 34 of the Arbitration and Conciliation Act and the delay can be condoned for a further period of 30 days. The writ petitions had been filed on 18.10.2019. The impugned order has been passed on 27.7.2019.

7. Mr.Raviraja, learned counsel for the petitioner submitted that there is a provision of limitation under Section 34 of the Limitation Act but, with regard to the delay in filing Application under Section 34 of Arbitration and Conciliation Act, it may be waived in view of Section 14 of the Limitation Act and a direction may be given to the District Judge concerned to take a decision waiving the the delay.

8. I would leave it to the entire discretion of the learned District Judge to examine the reasons given and to examine whether Section 14 of the Limitation Act would be applicable or not. I am not entering into any discussion on that aspect.

9. Mr.Raviraja, learned counsel for the petitioner also pointed out a judgment of a learned Single Judge of this court in A.Venkatachalapathy v. Ministry of Road Transport and Highways reported in 2011 SCC OnLine Madras 2329, wherein the learned Single Judge had directly interfered with the order of the Collector stating that the said order has been passed in a very casual and cavalier fashion. It is the contention of the learned counsel for the petitioner that the present impugned order is also passed in such a manner.

10. However, it would only be advisable that the petitioner approaches the proper authority under Section 34 of the Act as no two orders can be placed on the same footing. Each order has to be examined on its own merits. I am conscious that I have not entered into the merits of the Award passed and I would relegate the impugned order to be examined as to whether proper compensation had been granted or not to be adjudicated before the proper forum under Section 34 of the Arbitration Act viz., before the competent court.

11. I would therefore relegate the parties back to the District Court giving liberty to seek for waiving of limitation



period in view of Section 14 of the Limitation Act which Application will have to be decided on its merits by the learned District Judge concerned. With the said observation, the writ petitions are disposed of. No costs. The connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

ssk

To

1. Government of India
Ministry of Road Transports and Highways,
Transport Bhawan,
No.1, Parliament Street,
New Delhi-110001.
2. District Collector/Arbitrator,
Cuddalore,
Cuddalore District.
3. The Competent Authority & District
Revenue Officer,
(Land Acquisition), National Highways,
No.64, Seetharaman Nagar,
3rd Cross Street, Pudupalayam,
Cuddalore.
4. The General Manager (Tech and Project Director),
National Highways Authority of India,
Villupuram, Project implementation Unit, 28,
V.G.P. Nagar West, Vazhudha Reddy Post,
Villupuram-605 401.

+2ccs to Mr. B. Ravi Raja, Advocate, SR.No.41301
+1cc to Government Pleader, SR.No.40259

W.P.Nos.30373 and 30376/2019 and
W.M.P.Nos.30367 & 30368/2019

VSN-II (CO)
CT (07/09/2021)