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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.292, 294, 300, 302, 303, 308 AND 310 OF 2022
AND
W.M.P.NOS.316, 321, 327, 331, 332 AND 336 OF 2022

1. VASANTHI
2. RENUGA DEVI
3. BASKAR
4. SUGUNA ...PETITIONERS IN WP.292/2022

1.VASANTHI
W/O.LATE.RAMACHANDRAN NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

2.RENUGA DEVI
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

3.BASKAR
S/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

4.SUGUNA
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077
...PETITIONERS in WP No.294 of 2022

1.VASANTHI
W/O.LATE.RAMACHANDRAN NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

2.RENUGA DEVI
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

3.BASKAR
S/O.(LATE) RAMACHANDRAN NO.127/37

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POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

4.SUGUNA
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

... PETITIONERS in WP No.300 of 2022

1.VASANTHI
W/O.LATE.RAMACHANDRAN NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

2.RENUGA DEVI
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

3.BASKAR
S/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

4.SUGUNA
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

5.VIJAY ANAND
S/O.LATE.RAMAMURTHY NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

6.UDHAYAKUMAR
S/O.LATE. MUNUSAMY NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

... PETITIONERS in WP No.302 of 2022

1.VASANTHI
W/O.LATE.RAMACHANDRAN NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

2.RENUGA DEVI
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

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3.BASKAR
S/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

4.SUGUNA
D/O.(LATE) RAMACHANDRAN NO.127/37
POONAMALLEE HIGH ROAD AYAPAKKAM
VELLAPANCHAVADI CHENNAI-600 077

5.VIJAY ANAND
S/O.LATE.RAMAMURTHY NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077

6.UDHAYAKUMAR
S/O.LATE. MUNUSAMY NO.127/37 POONAMALLEE
HIGH ROAD AYAPAKKAM VELLAPANCHAVADI
CHENNAI-600 077 ... PETITIONERS in WP No.303 of 2022

1.S.P.E.CHANDRAN
S/O.ELLUMALAI NO.16 METTU STREET
PILLAIYARKUPPAM THIRUPATCHUR VILLAGE
THIRUVALLUR TALUK AND DISTRICT-631 203
... PETITIONER in WP No.308 of 2022

1.A.GOPALAN
S/O.ARTHANARI NO.194 O BLOCK GANAPATHY
COLONY ANNA NAGAR EAST CHENNAI-600 102

2.G.Devaki
W/O A.GOPALAN
164, 'O' BLOCK, GANAPATHY COLONY
ANNA NAGAR EAST, CHENNAI-102

2.G.RAJESH
S/O A.GOPALAN
164, 'O' BLOCK, GANAPATHY COLONY
ANNA NAGAR EAST, CHENNAI-102
... PETITIONERS in WP No.310 of 2022

VS

1. THE ARBITRATOR & DISTRICT COLLECTOR,
THIRUVALLUR DISTRICT.

2. THE SPECIAL DISTRICT REVENUE OFFICER (LA),
NH 205, NO.3&4, LAL BAGADHUR SASTHIRI STREET,
PERIYAKUPPAM RAILWAY STREET,
NEAR THULASI THEATRE, THIRUVALLUR - 602 001.

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3. THE PROJECT DIRECTOR,
NATIONAL HIGHWAYS AUTHORITY OF INDIA,
PROJECT IMPLEMENTATION UNIT-CHENNAI,
"SRI TOWER", 3RD FLOOR, DP-34 (SP),
INDUSTRIAL ESTATE, GUINDY,
CHENNAI-32. ... RESPONDENTS IN ALL WP'S

WP No.292 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to pay the petitioner the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5635-45/2019/F2/Arbitration dated 22.01.2020 for petitioner's lands measuring an extent of 259 sq.mtr situated in S.No.59/4G1B (Old S.No.59/4G), Noombal Village, Poonamallee Taluk and Thiruvallur District within a time frame as fixed by this Court.

WP No.294 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in RC.No.5635-46/2019/F2 / Arbitration dated 22.1.2020 for petitioners lands measuring an extent of 28 sq.mtr situated in S.No.59/6A2 (Old S.No.59/6A) Noombal village , Poonamallee Taluk and Thiruvallur District within a time frame fixed by this Court.

WP No.300 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in RC.No.5635-53/2019/F2 / Arbitration dated 22.1.2020 for petitioners lands measuring an extent of 83 sq.mtr situated in S.No.70/2A2 (Old S.No.70/2) Noombal village , Poonamallee Taluk and Thiruvallur District within a time frame fixed by this Court.

WP No.302 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in RC.No.5635-56/2019/F2 / Arbitration dated 22.1.2020 for petitioners lands measuring an extent of 44 sq.mtr situated in S.No.70/2A2 (Old S.No.70/2) Noombal village , Poonamallee Taluk and Thiruvallur District within a time frame fixed by this Court.

WP No.303 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to pay the petitioner the enhanced

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compensation as per the proceedings of the 1st respondent made in RC.No.5635-63/2019/F2 / Arbitration dated 22.1.2020 for petitioners lands measuring an extent of 38 sq.mtr situated in S.No.85/12 (Old S.No.85/12) Noombal village , Poonamallee Taluk and Thiruvallur District within a time frame fixed by this Court.

WP No.308 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in RC.No.5633-4/2019/F2 / Arbitration dated 22.10.2019 for petitioners lands measuring an extent of 214 sq.mtr situated in S.No.328/1A2, Thirupatchur village, Thiruvallur District within a time frame fixed by this Court.

WP No.310 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 3nd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in RC.No.26321-18/2019/F2 / Arbitration dated 28.02.2020 for petitioners lands measuring an extent of 2400 sq.mtr situated in S.No.649/1B2 and 651/2C2 (Old S.Nos. 649/1B and 651/2C) Ramanjeri village, Thiruvallur Taluk and District within a time frame fixed by this Court.

For Petitioners in all W.Ps. : M/s.M.F.Shabana

For R-1 & R-2 in W.P.Nos. 292, 294, 300, 302, 303 & 308 of 2022 and For R1 & R3 in W.P.No.310 of 2022 : Mr.C.Kathirvan
Special Government Pleader

For R-3 in 292, 294, 300, 302, 303 & 308 of 2022 and For R-2 in W.P.No.310 of 2022 : Mr.Su.Srinivasan
Standing Counsel

COMMON ORDER

W.P.No.292 of 2022 is filed to issue a Writ of Mandamus to direct the second respondent to pay the petitioners the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5635-45/2019/F2/Arbitration dated 22.01.2020 for petitioners' lands measuring an extent of 259 sq.mtr comprised in S.No.59/4G1B (Old S.No.59/4G), situated at Noombal Village, Poonamallee Taluk and Thiruvallur District within a time frame as fixed by this Court.

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2. W.P.No.294 of 2022 is filed to issue a Writ of Mandamus to direct the second respondent to pay the petitioners the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5635-46/2019/F2/Arbitration, dated 22.01.2020 for petitioners' lands measuring an extent of 28 sq.mtr comprised in S.No.59/6A2 (Old S.No.59/6A), situated at Noombal Village, Poonamallee Taluk and Thiruvallur District within a time frame as fixed by this Court.

3. W.P.No.300 of 2022 is filed to issue a Writ of Mandamus to direct the second respondent to pay the petitioners the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5635-53/2019/F2/Arbitration, dated 22.01.2020 for petitioners' lands measuring an extent of 83 sq.mtr comprised in S.No.70/2A2 (Old S.No.70/2), situated at Noombal Village, Poonamallee Taluk and Thiruvallur District within a time frame as fixed by this Court.

4. W.P.No.302 of 2022 is filed to issue a Writ of Mandamus to direct the second respondent to pay the petitioners the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5635-56/2019/F2/Arbitration, dated 22.01.2020 for petitioners' lands measuring an extent of 44 sq.mtr comprised in S.No.70/2A2 (Old S.No.70/2), situated at Noombal Village, Poonamallee Taluk and Thiruvallur District within a time frame as fixed by this Court.

5. W.P.No.303 of 2022 is filed to issue a Writ of Mandamus to direct the second respondent to pay the petitioners the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5635-63/2019/F2/Arbitration, dated 22.01.2020 for petitioners' lands measuring an extent of 38 sq.mtr comprised in S.No.85/12 (Old S.No.85/12), situated at Noombal Village, Poonamallee Taluk and Thiruvallur District within a time frame as fixed by this Court.

6. W.P.No.308 of 2022 is filed to issue a Writ of Mandamus to direct the second respondent to pay the petitioner the enhanced compensation as per the proceedings of the first respondent made in Rc.No.5633-4/2019/F2/Arbitration, dated 22.10.2019 for petitioner's lands measuring an extent of 214 sq.mtr comprised in S.No.328/1A2, situated at Thirupatchur Village, Thiruvallur District within a time frame as fixed by this Court.

7. W.P.No.310 of 2022 is filed to issue a Writ of Mandamus to direct the third respondent to pay the petitioners the enhanced compensation as per the proceedings of the first respondent made in Rc.No.26321-18/2019/F2/Arbitration, dated

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28.02.2020 for petitioners' lands measuring an extent of 2400 sq.mtr comprised in S.Nos.649/1B2 & 651/2C2 (Old S.Nos.649/1B & 651/2C), situated at Ramanjeri Village, Thiruvallur Taluk and District within a time frame as fixed by this Court.

8. In identical circumstances, this Court has passed the following order in W.P.No.14766 etc., batch, dated 16.11.2021:-

> "2. The Competent Authority-cum-Special District Revenue Officer, National Highways i.e., the second respondent herein passed an award and determined the value of Rs.355/- per sq.ft i.e., Rs.3,819.55/- per sq.mt and 10% appreciation amount under Section 3G(2) of the National Highways Act, 1956 and also awarded compensation for structural value. On several grounds, all the petitioners have filed Arbitration Petition before the Arbitrator/District Collector, Tiruvallur, to enhance the award amount passed by the second respondent. The Arbitrator/District Collector, Tiruvallur passed an Arbitration award, thereby enhanced the compensation from Rs.355/- to Rs.800/- per sq.ft i.e., Rs.3,819.55 per sq.mt to Rs.8,608/- per sq.mt with an interest at the rate of 9% per annum to be paid for excess amount determined in this order from the date of taking possession viz. under Section 3D(1) of the National Highways Act 1956, till the date of actual deposit. On various dates, the award has been passed and enhanced the compensation. Though all the petitioners approached the respondents for disbursement of compensation but of no avail. Therefore, all the petitioners sent their representation as per the Arbitration Award passed by the Arbitrator/District Collector but of no avail. Hence, they approached this Court for mandamus directing the respondents to grant enhanced compensation amount in respect of their respective property which was acquired for laying by-pass road for National Highways 205.
>
> 3. Mr.N.Chandrasekaran, learned counsel appearing for all the petitioners and Mr.P Subba Reddy, learned counsel appearing for the petitioner in W.P.No.14860 of 2021 submitted that the respondents failed to pay the enhanced compensation amount even after nearly one year from the Arbitration Award passed by the Arbitrator/District Collector, Tiruvallur. In fact, they filed petition to set aside the Arbitration Award as contemplated under Section 34 of the Arbitration and Conciliation Act, 1996 belatedly after expiry of limitation. Therefore, it was returned for certain compliance. Again it was re-presented on 14.09.2021.

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The period of limitation for filing the petition to set aside the Arbitration Award is only ninety days from the date of award as per proviso to Section 34(3) and it can be filed with condone delay petition, that too, within a further period of thirty days but not thereafter. Admittedly, in all the cases, the first respondent filed petition to set aside the Arbitration Award after the period of more than six months. Therefore, the petition to set aside the Arbitration Award is not at all maintainable and barred by limitation.

4. They further submitted that even assuming that the petition filed in time as per the order passed by the Hon'ble Supreme Court of India, due to Covid-19 Pandamic circumstances, the period of limitation can be extended till March 2021. The first respondent shall issue a prior notice while filing petition to set aside the Arbitration Award and the said petition shall be accompanied by the application endorsing compliance with the said requirement as per Section 34(5) of the Arbitration and Conciliation Act, 1996. The said petition shall be disposed of within a period of one year from the date on which the notice referred in sub-section 5 of the 34 of the Arbitration and Conciliation Act, 1996. Now, nearly one year already completed from the date of Arbitration Award and as such, the writ petition is very much maintainable to execute the Arbitration Award passed by the Arbitrator/District Collector, Tiruvallur.

5. They also submitted that the Arbitration Award cannot be challenged on the merits of the Award. The Court cannot correct errors of the Arbitrator. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. Therefore, the scheme of the provision aims at keeping the supervisory role of the Court at minimum level and this can be justified as parties to the agreement make a conscious decision to exclude the Court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it. In support of his contention, he relied upon the Judgment reported in lot of Civil Appeals arising out of SLP (Civil) No.13020 of 2020 by an order dated 20.07.2021.

6. Mr.Su.Srinivasan, learned Central Government Standing Counsel appearing for the first respondent vehemently contented that the writ petitions are not at all maintainable either in law or facts, when there is specific alternative remedy available under the

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Arbitration and Conciliation Act, 1996. As per Section 36 of the Arbitration and Conciliation Act to execute the Arbitration Award in accordance with the provisions of the Civil Procedure Code in the same manner as if it were a decree of the Court. The Arbitration Award is unreasonable, arbitrary and legally unsustainable, since the Arbitrator enhanced the award from Rs.3,819.55 to Rs.8,608/- per sq.mt. Therefore, it is challenged under Section 34 of the Arbitration and Conciliation Act, 1996 before the Principal District Judge, Tiruvallur and the same was returned for certain compliance and after rectifying the defects, it was re-presented. Now it is pending for numbering. Therefore, to enforce the Arbitral award, the writ petition is not maintainable under Article 226 of the Constitution of India and the petitioners have remedy of enforcement of the award under Section 36 of the Arbitration and Conciliation Act, 1996.

7. In support of his contention, he relied upon the following Judgments :-

1. Judgement of this Court in W.A.Nos.2627 to 2637 & 2641 to 2644 of 2019 in the case of S.John Vs. Regional Officer, Chennai and others

2. 2010 (12) SCC 210 in the case of State of Himachal Pradesh and another Vs. Himachal Techno Engineers and another.

3. Judgment of this Court in W.A.No.4309 of 2019 in the case of K.Ayyavu and others Vs.The District Collector and Sole Arbitrator, Salem and others.

4. Judgment of this Court in W.P.Nos.30373 & 30376 of 2019 in the case of S.P.Anthonisamy Vs. Government of India, New Delhi and others.

5. Judgment of the Hon'ble Supreme Court of India in Civil Appeal No.5121 of 2021 in the case of The Assistant Commissioner of State Tax and others Vs. M/s.Commercial Steel Limited.

6. 2021(1) CTC 450 in the case of Bhaven Construction through authorised signatory Premjibhai K.Shah Vs. Executive engineer Sardar Sarovar Narmada Nigam Ltd & Another

7. 2019 (16) Scale 667 in the case of Genpact India Private Limited Vs. Deputy Commissioner of Income Tax and another.

8. 2018 (3) SCC 85 in the case of Authorised Officer, State of Travancore and another Vs. K.C.Mathew.

9. CDJ 2015 MHC 050 in the case of M/s.Cholamandalam Investment & Finance Company Ltd., Vs. Natarajan and another.

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8. The points arise in these writ petitions are that

(i) Whether the writ petition is maintainable to enforce the arbitral award passed by the Arbitrator ?

(ii) Whether the respondents can be directed to deposit the enhanced compensation amount as per Section 3H(5) of the National Highways Act, 1956?

9. Aggrieved by the award passed by the second respondent, the petitioners/land owners filed application before the Arbitrator/District Collector, Tiruvallur for enhancement of the award amount. The Arbitrator passed an award, thereby enhanced the compensation made by the first respondent from Rs.3,819.55/- to Rs.8,608/- per sq.mt. Aggrieved by the same, the first respondent filed petition to set aside the Arbitral Award under Section 34 of the Arbitration and Conciliation Act. Admittedly, it was filed belatedly after a period of four months and returned for want of rectifying the defects. Thereafter, it was re-presented and it is pending for numbering before the Principal District Court, Tiruvallur. Therefore, the present writ petitions have been filed to enforce the Arbitral Award passed by the Arbitrator. The Hon'ble Division Bench of this Court held that aggrieved by the Arbitration Award passed by the Arbitrator/District Collector arising out of National Highways Act, 1956 as well as the Arbitration and Conciliation Act, 1996 comes appeal remedy before the District Court and this Court has no jurisdiction to entertain the petition under Article 226 of the Constitution of India. The Hon'ble Supreme Court of India held in the Civil Appeal No.5121 of 2021 dated 03.09.2021 that instead of availing of the appeal remedy, filing the writ petition under Article 226 of the Constitution of India is not an absolute bar to its maintainability. But it can be entertained in exceptional circumstances where there is a breach of fundamental rights; a violation of the principles of natural justice ; an excess of jurisdiction; or a challenge to the vires of the statute or delegated legislation.

10. In the case on hand, the petitioners have filed these writ petitions only to enforce the Arbitral Award and not challenging the same. Whereas, the respondents rightly challenged the Arbitral Award before the Principal District Court, Tiruvallur and it is pending for numbering. Though the petition to set aside the Arbitral Award filed belatedly, the Hon'ble

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Supreme Court of India, in view of the Covid-19 Pandamic circumstances, passed an order dated 23.03.2020, thereby extended the limitation as prescribed under the general or special laws with effect from 15.03.2020 until further orders. Thereafter, the Hon'ble Supreme Court of India, vide order dated 08.03.2021, modified the order with regard to clarification of limitation. However, by an order dated 27.04.2021 in M.A.No.665 of 2021 in S.M.W (C) No. 3 of 2020 modified/clarified by holding that "restore the order dated 23.03.2020 and in continuation of the order dated 08.03.2021 direct the period of limitation as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders". The period from 14.03.2021 till further orders shall stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribed period of limitation for instituting proceedings, outer limits (within which the Court or Tribunal can condone delay) and termination of proceedings. In view of the said order, the respondents had filed Arbitration Original Petition before the Principal District Court, Tiruvallur and it is pending for numbering.

11. The learned counsel for the petitioners relied upon the Judgment of the Hon'ble Supreme Court of India passed in Batch of Civil Appeals arising out of SLP (Civil) No.13020 of 2020 dated 20.07.2021. In the said Civil Appeals, the points for consideration arose whether the power of a Court under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside an award of an Arbitrator would include the power to modify such an award. Therefore, the said judgment is not applicable to the case on hand that whether the writ petition is maintainable to enforce the Arbitral Award. However, the petitioners are at liberty to raise those grounds as held by the Hon'ble Supreme Court in the above cited judgment before the Principal District Court, Tiruvallur in the Arbitration Original Petition filed by the respondents.

12. For maintainability of the present writ petitions under Article 226 of the Constitution of India to enforce the Arbitral Award, it is relevant to extract the provision under Section 36 of the Arbitration and

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Conciliation Act 1996, hereunder ;

" 36. Enforcement : (1) Where the time for making an application to set aside the arbitral award under Section 34 has expired, or such application having been made, it has been refused, the award shall be enforced under the Code of Civil Procedure, 1908 (5 of 1908) in the same manner as if it were a decree of the Court.

(2) Where an application to set aside the arbitral award has been filed in the Court under Section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-sectiuon (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing ;

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908 (5 of 1908)"

13. Accordingly, the Arbitral Award shall be enforced in accordance with the provisions of Civil Procedure Code in the same manner as if it were the decree of the Court. Further, mere filing an application to set aside the Arbitral Award under Section 34 shall not by its render that an order unenforceable, unless the Court grants an order of stay of the operation of the said Arbitral Award. The Hon'ble Supreme Court of India in the case of Bhaven Construction through Authorised Signatory Premjibhai K.Shah Vs. Executive Engineer Sardar Sarovar Narmada Nigam Ltd. & Anr. in Civil Appeal No.14665 of 2015 dated 06.01.2021, held that the Arbitration Act is a code in itself. This phrase is not merely perfunctory, but has definite legal consequences. One such consequence is spelled out under Section 5 of the Arbitration Act, which reads as "Notwithstanding anything contained in any other law for the time being in force, in matter governed by this Part, no judicial authority shall intervene except where so provided in this Part". The non-obstante clause is provided to uphold the intention of the legislature as provided in the Preamble to adopt UNCITRAL Model Law and Rules, to

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reduce excessive judicial interference which is not contemplated under the Arbitration Act. Further held that if the Courts are allowed to interfere with the arbitral process beyond the ambit of the enactment, then the efficiency of the process will be diminished. Thus, it is clear that the writ petitions are not maintainable to enforce the Arbitral Award when there is a specific alternative remedy provided under Section 36 of the Arbitration and Conciliation Act, 1996.

14. Insofar as the deposit of enhanced award amount is concerned, it is relevant to extract the provision under Section 3H(5) and (6) of the National Highways Act, 1956, which is as follows ;

"(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine percent per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit. "

15. Accordingly, the enhanced amount with interest, if any, shall be deposited by the respondents with the competent authority. In all the writ petitions, after passing an award and determining the compensation, the respondents have paid the compensation to the respective land owners. The Arbitral Award passed by the Arbitration/District Collector, Tiruvallur, enhanced the compensation amount has not been deposited sofar and no records were produced to prove the same. As per the provision, the amount determined by the authority shall be deposited with competent authority before taking possession of the land. Accordingly, the petitioners were paid compensation as determined under Section 3G of the National Highways Act. However, aggrieved by the same, the petitioners filed application before the Arbitrator for enhancement of the award and accordingly, the compensation award has

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been enhanced by the Arbitrator.

16. In view of the above, all the writ petitions are disposed of with the following directions;

(1) The respondents are directed to deposit the enhanced compensation amount as per the Arbitral Award together with interest at the rate of 9% per annum from the date of taking possession under Section 3D of the National Highways Act, 1956, with the competent authority within a period of one week from the date of receipt of a copy of this order.

(2) If the respondents failed to obtain any interim order against the arbitral award in the Arbitration Original Petition on the file of the Principal District Court, Tiruvallur within a period of four weeks from the date of receipt of a copy of this order, the competent authority is directed to disburse the compensation amounts which were deposited by the respondents forthwith.

There shall be no order as to costs."

9. Following the above order, all the Writ Petitions are also disposed of in the same terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

kv

To

1. The Arbitrator & District Collector,
   Thiruvallur District.

2. The Special District Revenue Officer (LA),
   NH 205, No.3&4, Lal Bagadhur Sasthiri Street,
   Periyakuppam Railway Street,
   Near Thulasi Theatre, Thiruvallur - 602 001.

3. The Project Director,
   National Highways Authority of India,
   Project Implementation Unit-Chennai,
   "SRI TOWER", 3rd Floor, DP-34 (SP),
   Industrial Estate, Guindy,
   Chennai-32.

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+1cc to M/s.M.F.Shabana, Advocate, S.R.No.3940
+1cc to the Government Pleader, S.R.No.4940

KSM(CO)
SB(11/02/2022)

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