



WEB COPY



W.P.Nos.32512, 32691 & 32702 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.32512, 32691 & 32702 of 2022

Vijayakumar	... Petitioner in WP.No.32512/2022
V.G.Subramani	... Petitioner in WP.No.32691/2022
J.Lakshmaiah	... Petitioner in WP.No.32702/2022

Vs

1.The Arbitrator & District Collector,
Thiruvallur District.

2.The Project Director,
National Highways Authority of India,
Project Implementation Unit – Chennai,
“Sri Tower”, 3rd Floor Dp-34 (SP),
Chennai – 600 032.

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

... Respondents

Prayer in WP.No.32512/2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in Rc.No.24513-



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1/2016/F2/Arbitration dated 31.08.2020 for the petitioner's lands measuring to an extent 613 sq.mtr. situated in S.No.132/7A2, Panapakkam Village, Tiruttani Taluk, Thiruvallur District.

Prayer in WP.No.32691/2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in Rc.No.24510/2016/F2/Arbitration dated 31.08.2020 for the petitioner's lands measuring to an extent 729 sq.mtr. situated in S.Nos.132/7B2, 132/8B, Panapakkam Village, Tiruttani Taluk, Thiruvallur District.

Prayer in WP.No.32702/2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent to pay the petitioner the enhanced compensation as per the proceedings of the 1st respondent made in Rc.No.21104/2017/F2/Arbitration dated 31.08.2020 for the petitioner's lands measuring to an extent 966 sq.mtr. situated in S.No.178/4B, Nedumbaram Village, Tiruttani Taluk, Thiruvallur District.

In all WPs

For Petitioners : Mr.M.P.Saravanan

For Respondents : Mr.V.Veluchamy

Additional Government Pleader for R1

: Mr.Su.Srinivasan

Standing Counsel for R2 & R3



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COMMON ORDER

In all these cases, the respective petitioners were able to get a favourable order from the District Collector/Arbitrator under Section 3(G)5 of the National Highways Act.

2. Even though such an award was passed by the District Collector longtime back, according to the petitioners, no appeal has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (in short 'the Act') before the Appellate Authority/District Collector. Therefore, in order to enforce the said award i.e. the execution of the same, seeking for writ of mandamus by giving a direction to the 3rd respondent to disburse the amount as per the enhanced award passed by the District Collector/Arbitrator, the present writ petitions have been filed.

3. However, Mr.Su.Srinivasan, learned Standing Counsel appearing for respondents 2 and 3 on instruction would submit that, in all these cases appeals have been preferred under Section 34 of the Act and those appeals are pending before the concerned appellate forum.

4. Assuming that the appeals are so far not taken up for hearing, that



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would not make these petitioners entile to seek for any mandamus by invoking the extraordinary jurisdiction under Article 226 of the Constitution.

The only remedy open to the petitioners to seek for execution of the award passed by the District Collector/Arbitrator is to file necessary petition i.e. Execution Petition before the concerned Court under Section 36 of the Act, where if such an application is filed for execution, the same can be decided and execution can be made by the concerned Court by invoking the provisions of the Civil Procedure Code.

5. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

6. As has been rightly pointed out by the learned Standing Counsel appearing for the respondents 2 and 3, the Courts have already taken a view that, as against the order/award passed by the District Collector/Arbitrator under Section 3G(5) of the National Highways Act, if appeal is not filed or even appeal is filed after expiry of the appeal time to be filed under Section 34 of the Act, execution petition can be moved by the person, who received



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an award in his favour only under Section 36 of the Act and for the said purpose Article 226 cannot be invoked, therefore the writ petitions may not be entertained at this juncture.

7. Since that view has already been taken in some of the decisions which have been quoted by the learned Standing Counsel for the respondents, this Court is of the considered view that, the relief sought for by the petitioners in these writ petitions cannot be granted, hence all these writ petitions are rejected with the liberty to the petitioners to file necessary petition under Section 36 of the Act within a period of two weeks from the date of receipt of a copy of this order.

8. If such petitions are filed under Section 36 of the Act as indicated above within a time frame, it is open to the concerned Court to take up the same and expedite the hearing for the execution. Unless any such order is passed by the appellate forum in the appeal filed under Section 34 of the Act as expeditiously as possible even though the petitioners having secured an order from the Arbitrator/District Collector in their favour are not able to get their fruits. It is also for the concerned Court to consider the appeal already



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filed, by the 2nd respondent as claimed by the learned Standing Counsel and
decide the same on merits and in accordance with law at the earliest.

9. With these observations, these Writ Petitions are disposed of. No
costs.

05.12.2022

Index : Yes / No

Speaking Order : Yes / No

Sgl



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R. SURESH KUMAR, J.

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