



O.S.A.No.66 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

O.S.A.No.66 of 2023
and C.M.P.No.7114 of 2023

National Highways Authority of India
represented by its Deputy General
Manager (T) & Project Director,
“Sri Tower”, 3rd Floor, DP-34 (SP)
Industrial Estate,
Guindy, Chennai – 600 032.

.. Appellant

Vs.

1.The Arbitrator & District Collector,
Collectorate, Chennai.

2.The Special District Revenue Officer (LA),
National Highways, Kancheepuram and
Tiruvallur District,
Kancheepuram. At present
The Competent Authority and Special
District Revenue Officer (LA),
National Highways, Tiruvallur,
No.34, Lal Bhaghadur Shastri Street,
Periyakuppam, Tiruvallur – 602 001.

3.Amudha

.. Respondents



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Original Side Appeal filed under Order XXXVI Rule 1 of the

Original Side Rules r/w Clause 15 of the Letters Patent against the order dated 03.03.2023 passed in A.No.1232 of 2023 in Arb.O.P.No.SR9146 of 2022 on the file of this Court.

For Appellant : Mr.S.Srinivasan

For RR 1 and 2 : Mr.Stalin Abimanyu
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by R.MAHADEVAN, J.]

Mr.Stalin Abimanyu, learned Additional Government Pleader takes notice for the respondents 1 and 2.

2.Challenging the order dated 03.03.2023 passed by the learned Judge in A.No.1232 of 2023 in Arb.O.P.No.SR9146 of 2022, the appellant has preferred the present appeal.

3.According to the appellant, the land belonging to the third respondent was acquired for widening the National Highways vide



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notification dated 18.10.2006 and the second respondent determine the market value at Rs.2442/- per sq.meter as compensation, by award dated 28.03.2007. Being dissatisfied with the same, the third respondent filed arbitration petition, belatedly, i.e., after the period of 13 years. Notwithstanding the same, the first respondent, by award dated 20.10.2021, allowed the arbitration petition and enhanced the compensation to Rs.8,070/- per sq.meter. Aggrieved against the same, the appellant preferred the original petition within the period of limitation as prescribed under section 34(3) of the Arbitration and Conciliation Act, 1996. However, the Registry returned the papers for complying with certain defects on 10.02.2022. After complying with the defects, the petition papers were re-presented on 04.03.2022. Raising jurisdiction issue, the Registry returned the said papers once again on 14.03.2022. Due to various administrative reasons, the papers were re-presented only on 14.12.2022, with a delay of 230 days, which according to the appellant is 190 days, in view of the order of the Hon'ble Supreme Court *suo moto* extending the limitation due to covid 19 pandemic. The learned Master, by order dated 24.01.2023, dismissed the petition to condone the delay in re-presenting the papers.



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Challenging the same, the appellant preferred application in A.No.1232 of 2023, which was allowed by the learned Judge, however, imposing costs of Rs.25,000/-, by order dated 03.03.2023, which is impugned in this original side appeal.

4.Heard Mr.S.Srinivasan, learned counsel for the appellant, who submitted that the appellant being the Central Government statutory corporation, may not be fastened with the liability of paying costs, considering the reasons for the delay in re-presenting the petition papers and that, they have fair chance of success in this appeal. Therefore, the learned counsel sought to condone the delay in re-presenting the petition without imposing any costs on the appellant and thereby allow this appeal.

5.It is seen that the delay has occurred only in respect of re-presenting the original petition filed against the award passed by the first respondent Arbitrator and not in filing the same. Admittedly, this Court has dealt with umpteen number of cases, extending some leniency for condoning the delay. Applying the same analogy and also considering the explanation offered by



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the appellant for the delay in re-presenting the petition papers, this court is inclined to modify the order of the learned Judge, by deleting the costs of Rs.25,000/- imposed on the appellant, while condoning the delay in re-presenting the petition.

6.Accordingly, the order dated 03.03.2023 passed by the learned Judge in A.No.1232 of 2023 is modified and this original side appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
29.03.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation; Yes / No
nsd

To

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2.The Special District Revenue Officer (LA),
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