



W.P(MD)No.7460 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7460 of 2015

M.Kalaiselvi

... Petitioner

Vs.

1.The Secretary,
Ministry of Road Transport and Highways,
New Delhi.

2.The District Collector Cum Sole Arbitrator,
National Highways Authority of India,
Theni District.

3.The Competent Authority and
Revenue Divisional Officer,
Theni District.

4.The Planning Commissioner,
National Highways Authority,
No. 83/1, 1st Colony Extension
Bypass Road, Madurai.

5.Special Thasildar (NA),
National Highways,
No.45E and 220 Part - 2,
Uthammapalayam,
Theni District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.No.A.P.52/2015/Theni/NH-45E and 220/Alagu-II dated 13.03.2015 issued to the petitioner and quash the same and consequently direct the 2nd respondent to initiate Arbitration proceeding for enhancement of compensation on the petitioner's appeal in accordance with the procedures contemplated under the Arbitration and conciliation Act, 1996, within a time frame that may be stipulated by this Court.

For Petitioner : Mr.S.Vellaichamy

For Respondents : Mr.N.Satheesh Kumar,
Addl. Government Pleader for R2 & R3.
Mr.S.Jeyasingh,
Senior Panel Counsel for R1 & R5.
Mr.C.Arul Vadivel @ Sekar, Senior Counsel,
For M/s.C.Arul Vadivel Associates for R4.

ORDER

Heard both sides.

2.The petitioner's lands were acquired under the provisions of the National Highways Act, 1956. Compensation was determined by the



W.P(MD)No.7460 of 2015

competent authority and paid to the petitioner. The petitioner felt that it was not adequate. She therefore moved the District Collector who has been designated as the Arbitrator under the Act. The District Collector / Arbitrator confirmed the determination made by the competent authority. Challenging the order of the District Collector, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned award and grant relief as prayed for.

4.As rightly pointed out by the learned senior counsel for the fifth respondent, as per Section 3G(6) of National Highways Act, the provision of Arbitration and Conciliation Act, 1996 shall apply to every arbitration under the Act. When the District Collector acts an Arbitrator and passes an award under Section 3G(5) of the Act, it has to be challenged only under Section 34 of the Arbitration and Conciliation Act, 1996. In one case since the circumstances were exceptional, I had



W.P(MD)No.7460 of 2015

entertained a writ petition. But normally a writ petition will not lie. I, therefore, dismiss the writ petition as not maintainable. Liberty is granted to the writ petitioner to file an arbitration original petition under Section 34 of the Arbitration and Conciliation Act, 1996. The impugned award was passed on 13.03.2015. The writ petition had been filed on 28.04.2015 itself. Therefore, the period spent in prosecuting this writ petition deserves to be excluded. If the petitioner files an arbitration original petition before the jurisdictional learned District Judge within a period of four weeks from the date of receipt of a copy of this order, the same will be entertained without reference to limitation. The subject matter pertains to the year 2015. Therefore, the jurisdictional learned District Judge is directed to dispose of the same on merits and in accordance with law within a period of six months thereafter. I make it clear that I have not gone into the merits of the matter. No costs.

09.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.7460 of 2015

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W.P(MD)No.7460 of 2015

G.R.SWAMINATHAN, J.

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W.P(MD)No.7460 of 2015

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