



W.P.No.248 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.248 of 2019

P.Saroja

..... Petitioner

-Versus-

1.The District Collector cum Arbitrator,
Namakkal District.

2.The Competent Authority,
(NHAI)/District Revenue Officer,
NH-7 & 47, Namakkal District.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in relation to the impugned proceedings in Na.Ka.7201/2010/Arbitration dated 28.06.2018, quash the same and further direct the 1st respondent to hear the claim petition preferred by the petitioner.

For Petitioner : Mr.S.Senthil

*For Respondent (s) : Mr.A.Selvendran,
Special Government Pleader*



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ORDER

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This writ petition has been filed challenging the proceedings in Na.Ka.No.7201/2010/Arbitration dated 28.06.2018 whereby the 1st respondent has rejected the application of the petitioner, who was the owner of the land which was acquired by the State for determining the compensation in respect of the land acquired by the State under the National Highways Act, 1956 on the ground that the application is barred by limitation under Article 137 of the Limitation Act, 1963.

2. It is the case of the petitioner that since she was not satisfied with the amount fixed as compensation by the competent authority for the land acquired from her, she made an application to the District Collector for initiation of arbitral proceedings under Section 3-G (5) of the National Highways Act, 1956 for determination of value of the land acquired from her. However, the said application was non-suited on the ground that it was barred by limitation under Article 137 of the Limitation Act.

3. Heard both sides.

4. It is well settled that under Section 3-G (5) of the National Highways Act, if the amount determined by the competent authority towards compensation for the land acquired is not agreeable to either of the party, the



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the amount, shall on the application of either party, be determined by the Arbitrator to be appointed by the District Collector concerned. Admittedly, in the instant case, the 1st respondent District Collector, Namakkal is the Arbitrator under the Act. This fact is not disputed by the learned Special Government Pleader.

5. When the provision itself does not contemplate any period of limitation, question of application of period of limitation provided under Article 137 of the Limitation Act, 1963 does not at all arise. A Division Bench of this Court in the case of The Project Director, Project Implementaion Unit National Highways Authority of India v. K.Periyasamy and others [Judgement dated 25.04.2018 made in W.A.Nos.308 to 312 of 2016 has categorically held that provisions of Limitation Act, 1963, more particularly, Article 137 would not apply to an application for reference to arbitrator under Section 3G(5) of the National Highways Act.

6. In such view of the matter, the order impugned in this writ petition in and by which the 1st respondent rejected the application of the petitioner for reference to the arbitrator citing limitation cannot be sustained in the eye of law and the same is liable to be set aside. The matter is remitted to the 1st respondent with a direction to consider the application of the petitioner on



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merits after giving an opportunity to the parties and decide the same in accordance with law.

7. This writ petition is disposed of accordingly with the above directions.

Further, the 1st respondent as Arbitrator is directed to conduct the arbitral proceedings in the manner known to law and conclude the same within a period of four weeks from the date of receipt of a copy of this order. No costs.

01..04..2024

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

- 1.The District Collector cum Arbitrator,
Namakkal District.
- 2.The Competent Authority,
(NHAI)/District Revenue Officer,
NH-7 & 47, Namakkal District.



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N.SATHISH KUMAR.J.,

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