



C.M.A.No.386 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.04.2022

Pronounced on : 04.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P.B.BALAJI

C.M.A.No.386 of 2016

and

C.M.P.No.12835 of 2018

A.Ismail Sait

Vs.

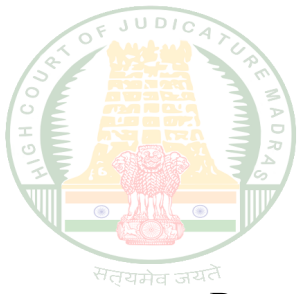
... Appellant

1.The Competent Authority
Land Acquisition and Special
District Revenue Officer
National Highways [NH-45]
Villupuram District.

2.The District Collector/The Arbitrator
Villupuram District,
Office of the District Collector,
Villupuram and District.

3.The Project Director
National Highways Authority of India,
No.10, Govindasamy Nagar,
Vazhudareddy, Villupuram & District.

... Respondents



C.M.A.No.386 of 2016

WEB COPY

Prayer : Civil Miscellaneous Appeal filed under Section 37[1][2] of Arbitration and Conciliation Act, 1996 against the Award and Decree made in Arbitration O.P.No.37 of 2009 on the file of the learned Principal District Judge, Villupuram District, dated 17.08.2015 for enhancement.

For Appellant : Mr.N.Suresh

For R1 & R2 : Mr.R.Siddharth, GA

For R3 : Mr.Su.Srinivasan

Mr.P.H.Arvinth Pandiyan
Senior Counsel as Amicus Curiae

J U D G M E N T

S.S. SUNDAR, J.

The above Civil Miscellaneous Appeal is preferred by a land owner aggrieved by the order of the Principal District Court, Villupuram, in Arbitral OP.No.37/2009 filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) as against the Award of the District Collector as an Arbitrator under Section 3-G[5] of the National Highways Act, 1956 (hereinafter referred to as “NH Act”).



C.M.A.No.386 of 2016

WEB COPY

2.The following facts are not in dispute :

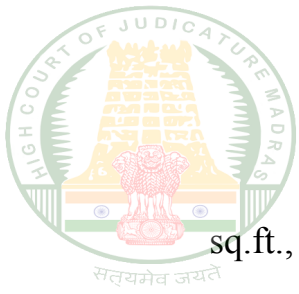
2.1.An extent of 12.64.5 Hectares of wet lands and an extent of 0.18.0 Hectares of dry lands in Vazhuthareddy Village were acquired for the formation of By Pass Road to bypass Villupuram Town in NH-45. The entire extent of lands in Vazhuthareddy Village comprised in different survey numbers were acquired under the NH Act and the Notification under section 3-A[1] of the Act was published in the Gazette on 30.10.2003. Thereafter, a Notification under Section 3-D[1] of the Act was published on 21.04.2004. A notice was published in local newspapers inviting claims from persons interested in the lands acquired to appear in person or by an agent before the Competent Authority, namely, the District Revenue Officer, Villupuram, to state the nature of interest the claimants have in the acquired lands. There is no dispute that the land owners attended the enquiry and it is recorded by the Competent Authority that the persons interested did not raise any objections as to the measurements recorded.



C.M.A.No.386 of 2016

WEB COPY

2.2.It is admitted that an extent of 38 ares in RS.No.50/2, which is classified as Nanja land in Vazhuthareddy Village, was acquired from the holding of the appellant. The Competent Authority, namely the 1st respondent in the Appeal, collected the sales statistics for the period from 01.11.2002 to 31.10.2003, i.e., one year prior to the date of publication of the Notification under Section 3-A[1] of the NH Act. Though it was noticed that 117 sale transactions had been registered during the relevant period, the Competent Authority, while fixing compensation by proceedings dated 05.10.2004, discarded 116 documents on the ground that the lands covered under the sale exemplars are either far away from the land under acquisition or on the ground that the soil and 'taram' are different. Several other sale transactions were discarded on the ground that the documents were registered for getting higher compensation. It is also to be noted that some of the sale exemplars were discarded on the ground that the sales had occurred long before the date of publication of Notification under Section 3-A[1] of the NH Act. The first respondent relied upon the Sale Deed dated 30.10.2003, vide Document No.3350/2003, where an extent of 6397.75



C.M.A.No.386 of 2016

sq.ft., of land in RS.No.248 and 248/1B was sold for a sum of Rs.1,27,000/-

WEB COPY

On the basis of the said Sale Deed, market value was fixed for all the acquired lands at Rs.19.85 per sq.ft. In other words, the compensation was determined on the basis of market value at Rs.8,64,666/- per acre or Rs.21,35,725/- per Hectare.

3.Since the quantum fixed by the Competent Authority was not acceptable to the appellant, he filed an application for enhancement of compensation before the District Collector who is the Arbitrator. It is to be noted that the appellant produced before the Arbitrator, three sales statistics to show that the market value for the acquired land would range from Rs.41.67p. per sq.ft., to Rs.117/- per sq.ft. The appellant produced a document dated 27.03.2002 to show that the value for the land in S.No.17/3A in Vazhuthareddy Village was sold at the rate of Rs.72.67/- per sq.ft. The 2nd document filed by the appellant before the Arbitrator is the Sale Deed dated 08.10.2003 in respect of a land in S.No.3/1A2 and S.No.4/2A. The market value reflected in the 2nd Sale Deed is Rs.117/- per sq.ft. The 3rd document is dated 30.10.2001, where an extent of 960 sq.ft. in



C.M.A.No.386 of 2016

WEB COPY

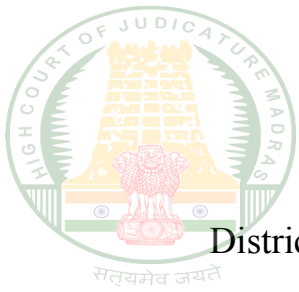
S.No.26/1 was sold at Rs.41.67p. per sq.ft. It is to be noted that the 1st and 3rd document are in respect of wet lands as classified in Revenue records, whereas, the 2nd document is in respect of a dry land. The District Collector, who is the Arbitrator in terms of Section 3-G[5] of the NH Act, vide proceedings dated 06.08.2007, rejected the application filed by the appellant for enhancement of compensation, by holding that the three sale deeds relied upon by the appellant are not comparable and that the Competent Authority had already fixed the compensation on the basis of sale deed in respect of land in a layout area.

4.As against the Award of the District Collector/Arbitrator, the appellant filed an Arbitration O.P.No.37 of 2009 before the Principal District Court, Villupuram District, under Sections 34[2] and 34[3] of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) read with Section 3-G[6] of the NH Act.



5. Before the Principal District Court, the appellant raised several

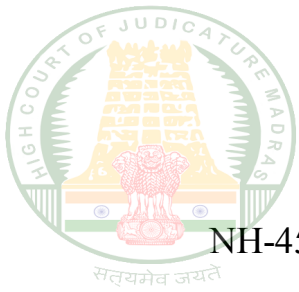
grounds by pointing out that the acquired land is situated adjacent to NH-45 and surrounded by commercial complexes, residential houses with high potential in terms of utility. The appellant further contended that the acquired land is situated very near to new bus stand and the Court Complex. Referring to the sale exemplars relied upon by the Competent Authority, the appellant contended that the acquired land is situated very close to the Junction point to NH 45 and Ellis Road and contended that the acquired lands are in RS.No.50/2, whereas, the land covered by the sale exemplars relied upon by the Competent Authority is in RS.No.248. Referring to the distance between the acquired land and the land covered by the sale exemplars, the appellant contended that the Competent Authority has fixed the compensation without an application of mind and decided the crucial issue only by relying upon the statement of the Competent Authority. It is to be noted that, though the sale exemplars relied upon by the appellant would show the market value as between Rs.41.67 p. per sq.ft., and Rs.117/- per sq.ft., the appellant claimed compensation at the rate of Rs.600/- per sq.ft., for the entire extent of 38 Ares in the Arbitration O.P. before the Principal



C.M.A.No.386 of 2016

District Court, contending that there is no reason to discard the three documents filed by appellant which are in respect of lands which are near the acquired land.

6.The claim for enhancement by the appellant was objected to by the Project Director, the 3rd respondent before the District Court, by filing a detailed counter affidavit. The objection was mainly on the ground that the sales statistics relied upon by the appellant are in respect of lands which are far away from the acquired land and that the lands covered by the sale exemplars produced by appellant are adjacent to commercial establishments. It is contended by the Project Director that the claimant's appeal for enhancement on the basis of the three sales statistics cannot be accepted for the reason that the lands covered by the three sales statistics are adjacent to residential houses and commercial buildings and that the claim of the appellant based on the guideline value pertaining to land in commercial area, cannot be accepted. It is also stated that the claimant cannot seek enhancement by comparing the sale deeds in respect of lands which are either adjacent to Ellis Chatram Road or adjacent to the constructions in



NH-45.

WEB COPY



C.M.A.No.386 of 2016

7.The learned Principal District Judge, framed an issue whether the Award passed by the 2nd respondent suffers from illegalities or misconception of facts thereby qualifying it to be set aside by the order of Court.

8.The learned Principal District Judge referred to the pleadings and several precedents relating to determination of value of land based on sales statistics and other methods suggested by Hon'ble Supreme Court in several cases and held that the appellant did not produce any evidence or proof to substantiate his claim that the market value for the land should be determined either at Rs.600/- per sq.ft. or Rs.257/- per sq.ft. It is pertinent to mention that, neither the appellant nor the Project Officer produced any topo-sketch or Village Map before the District Court to consider the veracity of the statements of the Project Officer as well as the appellant, to find out whether the acquired land and the lands covered by the sales statistics can be compared. However, accepting the contention of the appellant by relying



C.M.A.No.386 of 2016

upon a few precedents of this Court, the learned Principal District Judge marginally increased the market value by adding 5% to the market value fixed by the competent authority and awarded 10% towards solatium. The learned Principal District Judge awarded interest at the rate of 9% per annum for the first year from the date of acquisition and thereafter, 15% per annum on the enhanced amount.

9. Aggrieved by the order of the learned Principal District Judge, Villupuram, the above Appeal is preferred by the appellant for further enhancement on the basis of the three sale statistics and for awarding solatium at the rate of 30% and additional interest at the rate of 12% per annum from the date of Notification till passing of Award in terms of Section 23(1-A) of Land Acquisition Act.

10. Learned counsel for the appellant submitted that the Principal District Court failed to consider the documents produced by the appellant in support of his claim and the Court ought to have fixed the market value of the land either at Rs.117/- per sq.ft., on the basis of sale exemplar or as per



C.M.A.No.386 of 2016

the Guideline Value Extract of the Registration Department at Rs.527/- per

sq.ft. Learned counsel submitted that the District Collector or the learned Principal District Judge failed to consider the fact that the acquired land is situated adjacent to NH-45 and surrounded by commercial complexes and houses. Since the District Collector and the learned Principal District Judge have not properly considered the potential and utility of the land, nor the guiding principles, the appellant contends that this Court should intervene and fix just compensation on the basis of documents. He also pointed out that the appellant's land is near the bus stand, Court Complex and developed lands. Learned counsel produced before this Court, the Village Map of Vazhuthareddy Village and referred to the fact that the lands acquired from the appellant is just adjoining the Ellis Chatram Main Road.

11.Learned counsel for the appellant also pointed out that the land mentioned in the document dated 08.10.2003 is lying within a distance of around 200 m from the appellant's land and the said property in S.No.4/2A has been sold at Rs.117/- per sq.ft. He also contended that the sale exemplar taken by the competent authority, is in respect of a land lying about 3 km



C.M.A.No.386 of 2016

WEB COPY

away from the appellant's land and therefore, the compensation fixed on the basis of the sale exemplar relied upon by the competent authority, ought to have been rejected. Learned counsel also pointed out from the plan another land which is lying very close to appellant's land on the other side of the main road, to show that the property in S.No.6/1 has been sold on 09.10.2003 at Rs.93/- per sq.ft.

12.Learned counsel appearing for the appellant also submitted that this Court has earlier directed survey and a Report has been filed on 11.02.2020 after conducting the survey. Though the learned counsel complained that a copy of the Report is not furnished to him, he submitted that the Report would reveal that sale exemplar relied upon by the competent authority to fix the market value is 1 ½ km away from the acquired land, whereas, the sale exemplars produced by the appellant are in respect of lands situated within 200 m from the acquired land. He then submitted that this Court had earlier expressed in unequivocal terms that there cannot be two different principles for determining compensation when lands are acquired for public purpose and Section 3-G of the National Highways Act



C.M.A.No.386 of 2016

was declared unconstitutional by a learned Single Judge of this Court.

WEB COPY

Learned counsel, therefore, requested this Court to modify the Award of Arbitrator and award the statutory benefits like solatium at 30%, additional interest in terms of Section 23[1-A] of 1894 Act and post interest at 9% and 15% respectively in terms of the provisions of Land Acquisition Central Act, 1894.

13.Learned counsel appearing for the appellant relied upon the judgment of Hon'ble Supreme Court in the case of *Union of India and Another Vs. Tarsem Singh and Others* reported in **2019 [9] SCC 304** and contended that the appellant is entitled to solatium at 30% and additional interest, as contemplated under Section 23[1-A] of the Land Acquisition Act, 1894 (hereinafter referred to as “1894 Act”) and further interest at 9% p.a. for the first year from the date of taking possession and thereafter, at 15% p.a. till the compensation is disbursed to the appellant. He also relied upon a few judgments of the Division Bench of this Court holding that the District Court, hearing the application under Section 34 of 1996 Act, challenging the

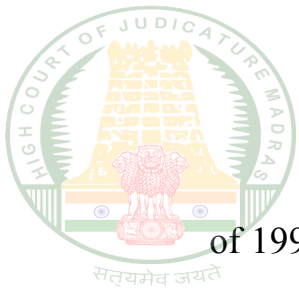


C.M.A.No.386 of 2016

Award of the Arbitrator, can modify the Award by determining the market value on the basis of provisions and on the settled principles of law reiterated by Hon'ble Supreme Court and by this Court, while fixing compensation under Land Acquisition Act.

14. Though the respondents have not filed any appeal as against the order passed by the learned Principal District Judge in the Arbitral O.P. filed by the appellant under Section 34 of 1996 Act, the respondents strenuously contended that the award of District Collector cannot be challenged otherwise than the grounds available under Section 34 of 1996 Act.

15. Mr. Su. Srinivasan, learned counsel appearing for the 3rd respondent, submitted that the provisions of the 1996 Act cannot be enlarged or modified by interpretations contrary to the judgments of Hon'ble Supreme Court. Learned counsel submitted that the District Court or this Court, in exercise of its power either under Section 34 or under Section 37



C.M.A.No.386 of 2016

of 1996 Act, cannot modify the Award of the District Collector. Hence, the

learned counsel submitted that the appeal itself is not maintainable.

16.The learned counsel appearing for the 3rd respondent relied upon a few precedents on the scope of Section 34 and Section 37 of 1996 Act and submitted that the appeal is not maintainable for enhancement of compensation which is in the nature of modification of award. Learned counsel was very firm in his contentions that none of the grounds enumerated under Section 34 of 1996 Act can be applied to the present case challenging the Award of the District Collector. He also relied upon a judgment of a Division Bench of this Court dated 27.06.2019 made in O.S.A.No.44 of 2018 in the case of ***ABS Marine Services Private Limited Vs. National Institute of Ocean Technology, Pallikkaranai, Chennai-100***, for the proposition that, while deciding the application for setting aside the Arbitral Award, the Court cannot go beyond the specific grounds enumerated under Section 34[2] of 1996 Act and the Court is not competent to substitute its own judgment while awarding compensation. Learned



C.M.A.No.386 of 2016

counsel for the 3rd respondent relied upon a few judgments of Hon'ble Supreme Court, where the Hon'ble Supreme Court has expressed a view that the Court, while deciding the application under Section 34 of 1996 Act, has no jurisdiction to modify the Award.

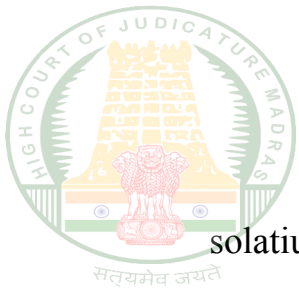
17.Learned counsel for the 3rd respondent then pointed out that the competent authority has fixed the market value on the basis of a sale exemplar which is more appropriate and therefore, this Court cannot interfere with the Award of District Court, merely because a different view is possible on the basis of documents that are produced before the District Court by the appellant. Learned counsel for the 3rd respondent made his submissions in tune with what the competent authority or the Project Director/3rd respondent has argued before the District Court on the question of quantum, and prayed for dismissal of this Appeal.

18.It is pertinent to mention that the Central Act was in force for a



WEB COPY

longer time and the term 'public purpose' under the said Act is so wide to cover every acquisition with the contribution of public fund. The Land Acquisition Act provides for compensation to be awarded for land acquired in terms of Section 23 of the said Act. It is to be seen that the Court, while determining the amount of compensation, should take into consideration the market value of the land on the date of Notification under Section 4[1] of the Land Acquisition Act. Originally, before 1984 amendment, the land owners are entitled to solatium at 15%. However, after amendment in the year 1984, the land owners are entitled to solatium at 30% and additional interest in terms of Section 23[1-A] at 12% on the market value for the period from the date of publication of Notification under Section 4[1] till the date of award of Collector or on the date of taking possession of the land, whichever is earlier. However, there were State enactments to acquire the land for certain specific public purposes. For example, the State of Tamil Nadu enacted Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 and Tamil Nadu Acquisition of Land for Industrial Purposes, 1997, prescribing different mode for fixing or determining compensation payable for lands acquired. The provisions under the State Act regarding the rate of



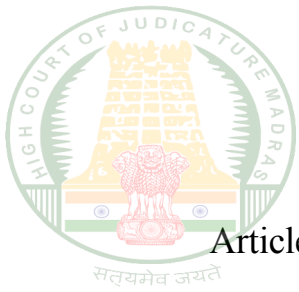
C.M.A.No.386 of 2016

WEB COPY

solatium or interest are not uniform. Similar to State enactments, the Central Government found a way to pay lesser compensation and lesser rate of interest and solatium under different enactments.

19.The National Highways Act came into force with effect from 15.04.1957 and the power to acquire land was introduced by way of an amendment in 1997. Sections 3-A to 3-J were introduced. Under Section 3-J of the Act, it is made clear that the Land Acquisition Act, 1894, shall not apply to acquisition under National Highways Act. It is pertinent to mention that Sections 3-A to 3-J are not in *pari materia* with the provisions under the Land Acquisition Act, 1894, relating to determination of compensation. Several High Courts have therefore, either struck down or held Section 3-J of National Highways Act, as violative of Article 14 of the Constitution of India.

20.As pointed out by the learned counsel appearing for the appellant, the Hon'ble Supreme Court in *Tarsem Singh's case (cited supra)* reported in 2019 [9] SCC 304, has held that Section 3-J is violative of



WEB COPY

Article 14 of Constitution of India and declared the same as unconstitutional. The Hon'ble Supreme Court, in paragraph No.52 of the said judgment has held as follows:-

"52. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of justice we decline to interfere with such orders, given our discretionary jurisdiction under Article 136 of the Constitution of India. We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Sections 23(1-A) and (2) and interest payable in terms of



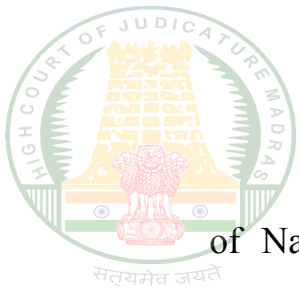
WEB COPY



C.M.A.No.386 of 2016

Section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3-J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, appeal arising out of SLP (C) No. 9599 of 2019 is dismissed."

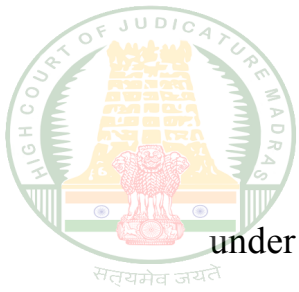
21. In the same judgment, the Hon'ble Supreme Court, taking note of the subsequent enactment, namely, Act 30 of 2013, has referred to the Notification issued by the Central Government and observed that benefit under Act 30 of 2013 is available to land owners by virtue of the notification under Section 105(3) of Act 30 of 2013. Under Section 3G of the National Highways Act, where any land is acquired under the said Act, the compensation shall be determined by the order of a competent authority. This Act does not give any guidelines as in the case of Central Act even though the competent authority is required to take into consideration the market value. Though several Courts have expressed that the provisions of the Act providing for compensation without solatium and additional interest in terms of Land Acquisition is unconstitutional, as violative of Article 14, the provisions of Land Acquisition Act can now be read into the provisions



C.M.A.No.386 of 2016

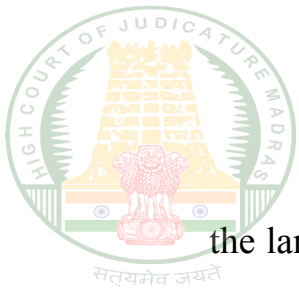
of National Highways Act as regards solatium, interest and additional compensation by virtue of judgment of Hon'ble Supreme Court in *Tarsem's case [cited supra]* reported in **2019 [9] SCC 304**.

22. After the advent of Act 30 of 2013, the compensation payable to the land owners whose lands are acquired under Act 30 of 2013, is entirely different. The object of Act 30 of 2013 is to make adequate provisions for the affected persons [the land losers] for their rehabilitation and resettlement, apart from ensuring that the cumulative outcome of compulsory acquisition should be that the affected persons become partners in the development. In other words, the Act contemplates compensation something above the market value. As per Section 105 of Act 30 of 2013, it was declared that provisions of Act 30 of 2013 shall not apply to the enactments relating to land acquisition specified in the IV Schedule. The National Highways Act is one of the 13 enactments that are found in IV Schedule. However, in sub-section 3 of Section 105, there was a statutory mandate for the Government to bring necessary amendments in the enactments that are shown in IV Schedule so that the compensation payable



C.M.A.No.386 of 2016

under other enactments is not less than the compensation payable under Act 30 of 2013. It is now by virtue of sub-section 3 of Section 105, a Notification dated 28.08.2015 has been made under Section 113 of Act 30 of 2013 and the said Notification came into force with effect from 01.09.2015. As per this Notification, the provisions of Right to Fair Compensation and Transparency in Land Acquisition [Rehabilitation and Resettlement] Act, 2013 relating to determination of compensation in accordance with I Schedule, rehabilitation and resettlement in accordance with II Schedule and infrastructure amenities in accordance with III Schedule shall apply to all cases of land acquisition under the enactments specified in the IV Schedule to Act 30 of 2013. I Schedule to Act 30 of 2013 refers to the components of compensation package for the lands acquired. As seen from the I Schedule, the minimum compensation package to the land owners indicates that the land owners are entitled to market value for land upto four times the market value. The multiplying factor depends upon the location of the land between 1 and 2 to be fixed based on the distance of project from urban area as may be notified by the appropriate Government. After determining the market value and multiplied by a factor,



WEB.COM

the land owners are entitled to the same amount determined as market value multiplied by the factor as solatium. Therefore, Act 30 of 2013 guarantees compensation at 200% of market value and it can go upto 400% depending upon the distance of project from urban area.

23. Sections 26 to 30 of Act 30 of 2013 specify the criteria in assessing and determining the market value of the acquired land. The procedure contemplated under Sections 26 and 27 shows how the Collector has to take the average sale price and other factors to arrive at the market value. Section 28 contemplates parameters to be considered by the Collector in determination of award. Under Section 29, the Collector is bound to determine not only the market value under Section 26 and the award amount in accordance with the I and II Schedule, but also the damage or loss sustained by the land owner by virtue of the acquisition. Further, the benefits in terms of rehabilitation and resettlement award are also specified under Section 30[1]. The II Schedule specifies the elements of rehabilitation and resettlement entitlements for all the affected families by virtue of acquisition.



WEB COPY

24.Now, in view of the subsequent changes after the passing of Award in this case, this Court finds that this Court has to deal with several aspects, keeping in mind the entitlement of land owners to get solatium and interest in terms of Land Acquisition Act, 1894. Since the issues that are raised by the learned counsel for the appellant and the learned counsel for the respondents are on the basis of certain fundamental principles of law and the decision of this Court will have wider ramifications while deciding just compensation within a reasonable time for the lands acquired from public for widening the road, this Court appointed Mr.P.H.Arvinth Pandiyan, learned Senior Counsel as Amicus Curiae to assist this Court.

25.On the basis of the arguments advanced before this Court by the learned counsels on either side and Mr.PH.Arvinth Pandiyan, learned Amicus Curiae, this Court deems it fit to decide this *lis* keeping in mind the development of law and peculiarity of this case. It is to be noted that the Award of competent authority is confirmed by the District Collector. However, the Principal District Court, by impugned proceedings, modified



C.M.A.No.386 of 2016

the Award by enhancing the market value by 5% and by awarding interest at 9% for the first year and at 15% thereafter and by granting additional compensation in terms of Section 23[1]A of Land Acquisition Act, 1894. It is relevant to point out that the NHAI did not challenge the order in Arb.O.P.No.37 of 2009, modifying the Award of Collector.

26.In this Appeal filed by the land owner seeking further enhancement and payment of solatium at 30%, the learned counsel appearing for 3rd respondent submitted that the District Court, in a petition filed under Section 34 of 1996 Act, has no jurisdiction to modify the Award of District Collector.

27.The Hon'ble Supreme Court in the case of ***Project Director, National Highways Vs. M.Hakeem and Another*** reported in **2021 [9] SCC 1** and in few other judgments, has held that Court has no power under Section 34 of Arbitration and Conciliation Act, 1996, to modify the Award, even if it is a case where the petition is filed challenging the Award of District Collector in terms of Section 3G[5] of National Highways Act. The



C.M.A.No.386 of 2016

WEB COPY

position is well settled with reference to general arbitration and Courts have expressed its view uniformly [except a few judgments] that the Courts, while exercising power under Section 34 of 1996 Act, have no power to modify the Award of the Arbitrator, even though the Court can set aside the Award and remit the matter back to the Arbitrator to decide afresh. When Ryotwari lands are sought to be acquired for any purpose under any enactment from citizens, the Statute will be unconstitutional unless the land owner is paid compensation at market value by virtue of second proviso to Article 31A of Constitution of India. It is also to be noted that there cannot be any discrimination for non agricultural lands unless such legislation is protected under Article 31-A of the Constitution. After the advent of Act 30 of 2013, the fair and transparent procedure prescribed for determination of compensation reduces any guess work. Since the land owners affected by acquisition are partners in development, the Act guarantees payment of compensation at two to four times the market value. Significantly, the Act mandates the State and Central Government to make necessary amendments in all other enactments to acquire land to ensure that compensation payable to the land owner is not lesser than the compensation payable under Act 30



C.M.A.No.386 of 2016

of 2013.

WEB COPY

28. Therefore, this Court is inclined to explore the issue raised by the learned counsel for the 3rd respondent with special reference to National Highways Act, taking into consideration the Notification of Central Government as per the mandate of sub-section [3] of Section 105 of Right to Fair Compensation and Transparency in Land Acquisition [Rehabilitation and Resettlement] Act, 2013 (Act 30 of 2013).

29. Since the acquisition in this case is by issuing Notification in October 2003 and the Award was passed on 07.08.2007, learned counsel for the appellant restricted his argument without referring to 2015 Notification which incorporates the provisions of Act 30 of 2013 for determining the compensation payable under National Highways Act. Learned counsel for the appellant would contend that Court is empowered to modify the Award and enhance the compensation while challenging the Award of District Collector under Section 3G[5] of National Highways Act in a petition filed under Section 34 of Arbitration and Conciliation Act, 1996, placing reliance

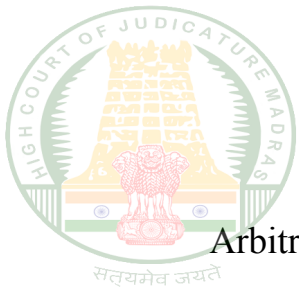


C.M.A.No.386 of 2016

on a few judgments of this Court in similar situations where Section 34 of Arbitration and Conciliation Act, 1996 is examined when applied to NH Act.

30.Learned counsel for the appellant then relied upon a few judgments of Division Benches of this Court to support his arguments. In the case of *Project Director, National Highways Authority of India, Madurai Vs. M.Vijayalakshmi and Another* reported in *CDJ 2020 MHC 1350*, a Division Bench of this Court has confirmed the order of District Court in the Original Petition filed under Section 34 of the Arbitration and Conciliation Act. After referring to few more judgments of this Court, the learned counsel submitted that the District Court has rightly exercised its power under Section 34 not only to enhance the Award on the basis of documents, but also to award solatium at 10% and interest as contemplated under the Land Acquisition Act.

31.However, the very same question fell for consideration in *M.Hakeem's case [cited supra]* reported in *2021 [9] SCC 1*, i.e., whether the power to set aside the Award of Arbitrator under Section 34 of



C.M.A.No.386 of 2016

WEB COPY

Arbitration and Conciliation Act would include the power to modify such an Award. Though the Hon'ble Supreme Court, in the said judgment, referred to several judgments on the interpretation of statutes and several judgments on the scope of Section 34 of Arbitration and Conciliation Act, decided the issue more in terms of the statutory scheme and on the interpretation of Section 34 of the Act and held in unequivocal terms that, in a petition filed under Section 34 of Arbitration and Conciliation Act, the Court cannot modify the Award under the pretext that a Judge must put himself in the shoes of Parliament in interpreting a statutory provision and it is only the Parliament which can amend the provision in the light of the experience of Courts in the working of Arbitration Act, 1996 and to bring it in line with other legislations. In the said judgment, the Hon'ble Supreme Court in paragraph No.47 has observed as follows:-

"47. "Purposive construction" of statutes, relevant in the present context, is referred to in a recent concurring judgment by Nariman, J. in Eera v. State (NCT of Delhi) [Eera v. State (NCT of Delhi), (2017) 15 SCC 133 : (2018) 1 SCC (Cri) 588] , as the theory of "creative interpretation". However, even



WEB COPY



C.M.A.No.386 of 2016

*“creative interpretation” has its limits, which have been laid down in the aforesaid judgment as follows :
(SCC p. 214, para 139)*

“139. A reading of the Act as a whole in the light of the Statement of Objects and Reasons thus makes it clear that the intention of the legislator was to focus on children, as commonly understood i.e. persons who are physically under the age of 18 years. The golden rule in determining whether the judiciary has crossed the Lakshman Rekha in the guise of interpreting a statute is really whether a Judge has only ironed out the creases that he found in a statute in the light of its object, or whether he has altered the material of which the Act is woven. In short, the difference is the well-known philosophical difference between “is” and “ought”. Does the Judge put himself in the place of the legislator and ask himself whether the legislator intended a certain result, or does he state that this must have been the intent of the legislator and infuse what he thinks should have been done had he been the legislator. If the latter, it is clear that the Judge then would add something more than what there is in the



WEB COPY

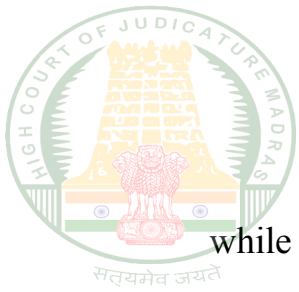


C.M.A.No.386 of 2016

statute by way of a supposed intention of the legislator and would go beyond creative interpretation of legislation to legislating itself. It is at this point that the Judge crosses the Lakshman Rekha and becomes a legislator, stating what the law ought to be instead of what the law is.”

32.The above judgment of Hon'ble Supreme Court in *M.Hakeem's case (supra)* is followed later by Hon'ble Supreme Court and this Court, quite contrary to the earlier views expressed in a few judgments of different co-equal Benches of this Court. This Court need not elaborate at this stage the judgments, taking the contrary view that Award of an Arbitrator can be modified by the Court in an application filed under Section 34 of the Arbitration and Conciliation Act.

33.Earlier, the Hon'ble Supreme Court, in *Ssanyong Engineering and Construction Company Limited V. National Highways Authority of India [NHAI]* reported in **2019 [15] SCC 131**, has considered the scope of Section 34 of Arbitration and Conciliation Act and what is public policy

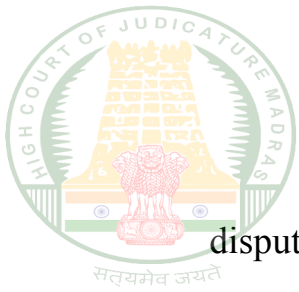


C.M.A.No.386 of 2016

while considering the case under Section 34 of 1996 Act. The Hon'ble Supreme Court, even though held that the Court has no power to modify the Award, still upheld the minority Award while setting aside the majority Award. The facts of the said case are as follows :

33.1.The appellant before Hon'ble Supreme Court participated in a tender and his bid was accepted for laying road for NHAI, at a cost of Rs.219,01,16,805/- subject to payment of price adjustment to be calculated as per formula every month, depending upon increase or decrease in the cost of work during the month due to change in rates of a few components like cement, steel, bitumens, petroleum oil, etc. During the subsistence of contract, the respondent issued a policy circular with different method and asked the appellant to give its consent to receive monthly payments as per circular. Without prejudice to the rights of appellant to challenge the circular, the appellant gave his undertaking.

33.2.Appellant approached the Delhi High Court under Section 9 for interim protection and the Delhi High Court, vide order dated 31.05.2013, restrained the respondent from implementing the circular. Then



C.M.A.No.386 of 2016

dispute was referred to Disputes Adjudicating Board as per contract. Board gave a dissenting note in favour of appellant and the matter was referred to Arbitral Tribunal consisting of three members. However, the appellant's claim was rejected by two members and one member dissenting.

33.3.Award was unsuccessfully challenged by appellant under Section 34 before Delhi High Court, and in Appeal under Section 37 of Arbitration Act. Hon'ble Supreme Court set aside the Award by majority and upheld the minority Award in Para 49, which reads as follows :

“49.The judgments of the Single Judge and of the Division Bench of the Delhi High Court are set aside. Consequently, the majority award is also set aside. Under the Scheme of Section 34 of the 1996 Act, the disputes that were decided by the majority award would have to be referred afresh to another arbitration. This would cause considerable delay and be contrary to one of the important objectives of the 1996 Act, namely, speedy resolution of disputes by the arbitral process under the Act. Therefore, in order to do complete justice between the parties, invoking our power under Article 142 of the Constitution of India, and given the fact that there is a minority award which awards the appellant its claim



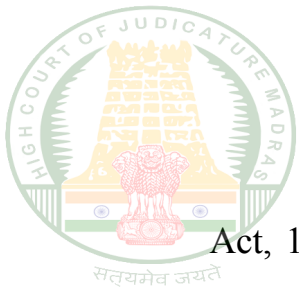
based upon the formula mentioned in the agreement between the parties, we uphold the minority award, and state that it is this award, together with interest, that will now be executed between the parties. The minority award, in paragraphs 11 and 12, states as follows:

“11. I therefore award the claim of the Claimant in full.

12. Costs – no amount is awarded to the parties. Each party shall bear its own cost.”

Given the reliefs claimed by the appellant in their statement of claim before the learned arbitrators, what is awarded to the appellant is the principal sum of INR 2,01,42,827/- towards price adjustment payable under sub-clause 70.3 of the contract, for the work done under the contract from September 2010 to May 2014, as well as interest at the rate of 10%, compounded monthly from the due date of payment to the date of the award, i.e., 02.05.2016, plus future interest at the rate of 12% per annum (simple) till the date of payment.”

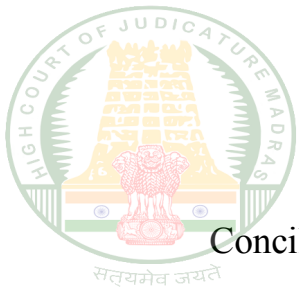
34.Mr.P.H.Arvinth Pandiyan, learned Senior Counsel as Amicus Curiae, addressed the issue by referring to Section 34 and other provisions of Arbitration and Conciliation Act, 1996, as it was originally enacted and the interplay of National Highways Act and the Arbitration and Conciliation



C.M.A.No.386 of 2016

WEB COPY

Act, 1996. He pointed out that Sections 3-A to 3-J of National Highways Act were introduced under National Highways Laws [Amendment] Act, 1997. Provisions of Section 34 of Arbitration and Conciliation Act were slightly different when Arbitration and Conciliation Act was incorporated into National Highways Act by virtue of sub-sections of Section 3G of National Highways Act. Section 34 is amended in 2015. Since the Hon'ble Supreme Court in many judgments had expounded the distinction between legislation by incorporation and legislation by reference, learned Senior counsel submitted that, in the present case, the provisions of Arbitration and Conciliation Act, 1996, before 2015 amendment has been incorporated into National Highways Act. He submitted that the provisions of Arbitration and Conciliation Act before 2015 amendment, which was in Statute at the time of incorporation in the National Highways Act, would only apply and the subsequent amendments to the Arbitration and Conciliation Act will have no consequences on the National Highways Act. He reiterated that the unamended Arbitration and Conciliation Act which received the presidential assent on 16.08.1996 once incorporated in the National Highways Act, the subsequent amendments that were introduced to Arbitration and



C.M.A.No.386 of 2016

Conciliation Act, in 2015 will have no consequence to affect the provisions of National Highways Act.

35.Relying upon the judgments of Hon'ble Supreme Court in ***State of Madhya Pradesh v. M.V.Narasimhan reported in 1975 2 SCC 377*** and ***U.P.Avas Ekam Vikas Parishad v. Jainul Islam and another reported in 1998 2 SCC 467***, where distinction is made between a legislation by incorporation and legislation by reference, learned Senior Counsel submitted that, in the case of mere reference, a modification repeal or re-enactment of the Statute that is referred to will also affect the Statute in which it is referred and that where provisions of a different Statute is incorporated in the legislation, any amendment or even repeal of such legislation which is incorporated will have no repercussion on the Statute in which it is incorporated. The position is reiterated by Hon'ble Supreme Court in ***State of Uttarkhand v. Mohan Singh reported in 2012 (13) SCC 281***, following the earlier judgment in ***Mahindra and Mahindra Ltd. v. Union of India reported in 1979 (2) SCC 529***, wherein, it is held as follows:

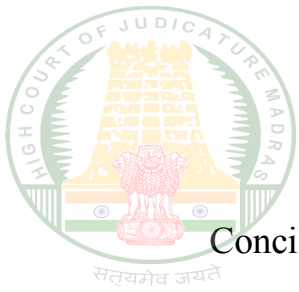


WEB COPY

“19.The law is, therefore, clear that a distinction has to be drawn between a mere reference or citation of one statute into another and incorporation. In the case of mere reference of citation, a modification, repeal or re- enactment of the statute that is referred will also have effect for the statute in which it is referred; but in the latter case any change in the incorporated statute by way of amendment or repeal has no repercussion on the incorporating statute.”

36.Going through the judgments above referred to, we have no difficulty in accepting the submission of learned Senior Counsel addressing this Court as Amicus Curiae that the provisions of Arbitration and Conciliation Act which were existing at the time of incorporation in the NH Act would only apply and the amendment to Arbitration and Conciliation Act would have no repercussion on the NH Act, particularly when change or amendments were not expressly made applicable to the NH Act.

37.Keeping in mind the significance and legal implication of incorporation of Arbitration and Conciliation Act into National Highways Act, learned Amicus Curiae submitted that Section 34 of Arbitration and



C.M.A.No.386 of 2016

WEB COPY

Conciliation Act before and after amendment is different and the judgment of Hon'ble Supreme Court in the case of ***M.Hakeem [cited supra]*** reported in ***2021 [9] SCC 1*** or other cases are rendered on the interpretation of Section 34 of Arbitration and Conciliation Act after amendment in 1996.

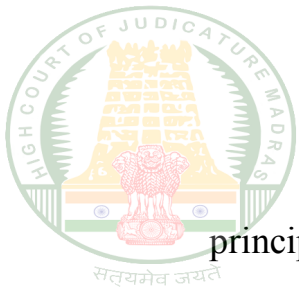
38. After making this distinction, learned Senior counsel tried to explain the power of Courts to modify the Award. He referred to a few judgments which are prior to amendment, particularly, the judgment of a three member Bench of Hon'ble Supreme Court in ***Oil and Natural Gas Corporation Limited v. Western GECO International Limited*** reported in ***(2014) 9 SCC 263***, to impress this Court that larger Bench of Hon'ble Supreme Court has recognized the power of Court to modify the Award on the interpretation of Section 34 as it exists prior to amendment and that therefore, there is scope of judicial intervention in terms of Section 34 as it exists before amendment. Referring to the judgment of Hon'ble Supreme Court in ***Ssangyong Engineering and Construction Company Limited case [cited supra]*** reported in ***2019 [15] SCC 131***, he submitted that Hon'ble Supreme Court could find way to accept the minority award which



C.M.A.No.386 of 2016

is possible only by recognizing the power to review and modify the Award of Arbitrators.

39.Learned Amicus Curiae referred to a few more judgments of Hon'ble Supreme Court which would lend support to his arguments on the interpretation of Section 34 of the Act. He then referred to Article 31-A of the Constitution of India. He interpreted proviso to Article 31-A as a constitutional protection given to persons holding agricultural lands to get market value in case cultivable lands are acquired from their legitimate holding. Referring to the fact that Sections 26 to 30 of Act 30 of 2013 would now be read into the provisions of National Highways Act, learned Senior counsel submitted that the scope of Section 34 should now be interpreted so as to subserve the very object of Act 30 of 2013 and Article 14 of Constitution which is possible only if Court is vested with power to modify the Award at least in cases where the provisions of Arbitration and Conciliation Act, 1996 are incorporated in NH Act, where the District Collector as Arbitrator is expected to pass an award taking into consideration Sub-Section 7 of Section 3-G of NH Act and the legal



C.M.A.No.386 of 2016

principles settled by precedents for fixing compensation for lands acquired under Land Acquisition Act.

40.This Court has already seen the Notification of Central Government extending the relevant provisions of Act 30 of 2013 into National Highways Act to determine compensation with effect from 01.09.2015. Under Article 13, every citizen of this Country enjoys all the fundamental rights conferred by Part III of the Constitution and any law which is inconsistent to the exercise of such fundamental rights, will be void. However, it is recognized that, when provisions of a statute become unconstitutional on account of inconsistency with the fundamental right, such provisions to the extent of inconsistency can be treated by Courts as void to save the legislation from unconstitutionality. The proviso to Article 31-A enables the Government to make the law for acquisition by the State of any estate and ensures the constitutional obligation for payment of compensation at a rate which shall not be less than the market value of the land.



41. Since the judgment of the Hon'ble Supreme Court in the case of

WEB COPY **M.Hakeem's case (supra)** was on the interpretation of Section 34 of the 1996 Act after the amendment in Section 34, this Court has to consider the scope of Section 34 before and after amendment in 2015. Section 34 of the Arbitration and Conciliation Act before amendment reads as follows :

“34. Application for setting aside arbitral award : -

(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

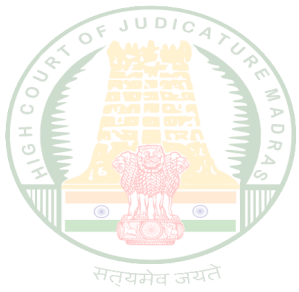
(2) An arbitral award may be set aside by the Court only if--

(a) the party making the application furnishes proof that -

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or



WEB COPY



C.M.A.No.386 of 2016

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that--

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

Explanation – Without prejudice to the generality of sub-clause (ii), it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of



WEB COPY



C.M.A.No.386 of 2016

India, if the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81;

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.”



Section 34 of the Arbitration and Conciliation Act after amendment reads as

WEB.COM follows :

“34.Application for setting aside arbitral award :-

(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if--

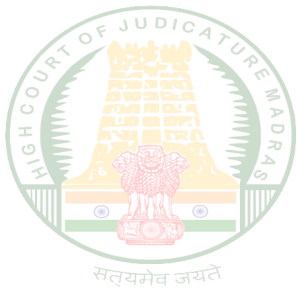
(a) the party making the application [establishes on the basis of the record of the arbitral tribunal that]--

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains



WEB COPY



C.M.A.No.386 of 2016

decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that--

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

[Explanation 1.--For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,--

(i) the making of the award was induced or affected by



WEB COPY



C.M.A.No.386 of 2016

fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.--For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.

2[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from



WEB COPY



C.M.A.No.386 of 2016

the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be



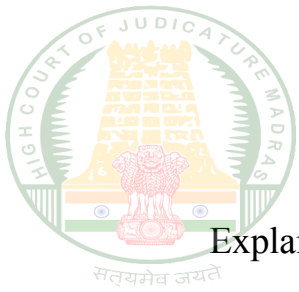
WEB COPY



C.M.A.No.386 of 2016

disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.]”

42.Learned Amicus Curiae submitted that the intention behind employing the words “*without prejudice to the generality of sub-clause (ii)*” should be to give a wider meaning to Section 34(2)(b)(ii) before amendment. Since Section 34(2)(b)(ii) after amendment provides a very exhaustive meaning to the words “*conflict with public policy of India*” in Explanation (1) and 2015 amendment vide Explanation (2) specifically prohibits a review on the merits of the dispute, this Court finds that the scope of Section 34 has now been restricted by 2015 amendment. Though Sub-Section 2A has been introduced now in 2015 to set aside the award on the ground of patent illegality appearing on the face of the award, proviso to Sub-Section 2A further clarifies that an award shall not be set aside merely on the ground of an erroneous application of law or by re-appreciation of evidence. The exclusion of review on merits of the dispute by way of



Explanation (2) and other statutory limitations by proviso to Sub-Section 2A were not there when we read Section 34(2)(b)(ii) of Arbitration and Conciliation Act before amendment. The judgment of the Hon'ble Supreme Court in *M.Hakeem's case (supra)* was taking note of the exclusion of review on merits of the dispute and other limitations by virtue of 2015 amendment to Section 34(2)(b)(ii) of Arbitration and Conciliation Act. This distinguishing feature by incorporating the provisions of Section 34 of Arbitration and Conciliation Act as it existed prior to 2015 amendment was not considered in *M.Hakeem's case (supra)*.

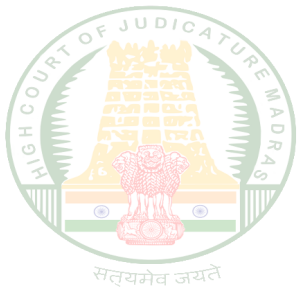
43. In the judgment of three member Bench of Hon'ble Supreme Court in *Oil and Natural Gas Corporation Limited v. Western GECO International Limited* reported in (2014) 9 SCC 263, it is held that an Award of Arbitrator can be set aside or modified. It is to be noted that the Hon'ble Supreme Court had elaborately considered what would constitute '*fundamental policy of Indian law*' after elaborating public policy of India and held that the adjudication made by the Arbitral Tribunal enjoying considerable latitude and play at the joints in making awards will be open to



challenge and may be cast away or modified depending upon whether the offending part is or is not severable from the rest. It would be worthy to extract relevant portion of the judgment to understand the judgment :

“34.It is true that none of the grounds enumerated under Section 34(2)(a) were set up before the High Court to assail the arbitral award. What was all the same urged before the High Court and so also before us was that the award made by the arbitrators was in conflict with the “public policy of India” a ground recognised under Section 34(2)(b)(ii) (supra). The expression “Public Policy of India” fell for interpretation before this Court in ONGC Ltd. v. Saw Pipes Ltd. (2003) 5 SCC 705 and was, after a comprehensive review of the case law on the subject, explained in para 31 of the decision in the following words:

“31.Therefore, in our view, the phrase “public policy of India” used in Section 34 in context is required to be given a wider meaning. It can be stated that the concept of public policy connotes some matter which concerns public good and the public interest. What is for public good or in public interest or what would be injurious or harmful to the public good or



WEB COPY



C.M.A.No.386 of 2016

public interest has varied from time to time. However, the award which is, on the face of it, patently in violation of statutory provisions cannot be said to be in public interest. Such award/judgment/decision is likely to adversely affect the administration of justice. Hence, in our view in addition to narrower meaning given to the term “public policy” in Renusagar case¹⁰ it is required to be held that the award could be set aside if it is patently illegal. The result would be — award could be set aside if it is contrary to:

- (a) fundamental policy of Indian law; or*
- (b) the interest of India; or*
- (c) justice or morality, or*
- (d) in addition, if it is patently illegal.*

Illegality must go to the root of the matter and if the illegality is of trivial nature it cannot be held that award is against the public policy. Award could also be set aside if it is so unfair and unreasonable that it shocks the conscience of the court. Such award is opposed to public policy and is required to be adjudged void.”

35.What then would constitute the ‘Fundamental policy of Indian Law’ is the question. The decision in Saw



WEB COPY



C.M.A.No.386 of 2016

Pipes Ltd. (supra) does not elaborate that aspect. Even so, the expression must, in our opinion, include all such fundamental principles as providing a basis for administration of justice and enforcement of law in this country. Without meaning to exhaustively enumerate the purport of the expression “Fundamental Policy of Indian Law”, we may refer to three distinct and fundamental juristic principles that must necessarily be understood as a part and parcel of the Fundamental Policy of Indian law. The first and foremost is the principle that in every determination whether by a Court or other authority that affects the rights of a citizen or leads to any civil consequences, the Court or authority concerned is bound to adopt what is in legal parlance called a ‘judicial approach’ in the matter. The duty to adopt a judicial approach arises from the very nature of the power exercised by the Court or the authority does not have to be separately or additionally enjoined upon the fora concerned. What must be remembered is that the importance of Judicial approach in judicial and quasi judicial determination lies in the fact so long as the Court, Tribunal or the authority exercising powers that affect the rights or obligations of the parties before them shows fidelity to judicial approach, they cannot act in an arbitrary, capricious or whimsical manner. Judicial approach



WEB COPY

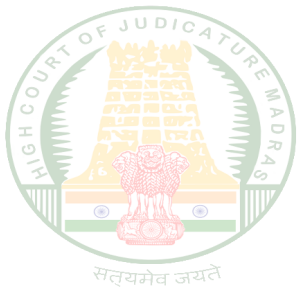


C.M.A.No.386 of 2016

ensures that the authority acts bonafide and deals with the subject in a fair, reasonable and objective manner and that its decision is not actuated by any extraneous consideration. Judicial approach in that sense acts as a check against flaws and faults that can render the decision of a Court, Tribunal or Authority vulnerable to challenge.

36.In Ridge v. Baldwin [1963 2 All ER 66], the House of Lords was considering the question whether a Watch Committee in exercising its authority under Section 191 of the Municipal Corporations Act, 1882 was required to act judicially. The majority decision was that it had to act judicially and since the order of dismissal was passed without furnishing to the appellant a specific charge, it was a nullity. Dealing with the appellant's contention that the Watch Committee had to act judicially, Lord Reid relied upon the following observations made by Atkin L.J. in R.Electricity Commissioners, ex p London Electricity Joint Committee Co. (1920) Ltd. (1924) 1 KB 171.

“... Wherever any body of persons having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of their legal authority, they are subject to the



WEB COPY



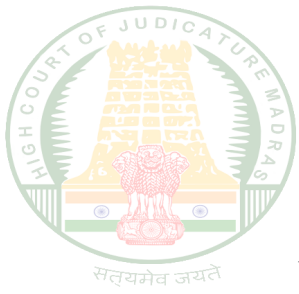
C.M.A.No.386 of 2016

controlling jurisdiction of the King's Bench Division exercised in these writs."

37.The view taken by Lord Reid was relied upon by a Constitution Bench of this Court in A.C. Companies Ltd vs. P.N. Sharma and Anr. (AIR 1965 SC 1595) where Gajendragadkar, C.J. speaking for the Court observed :

"14.In other words, according to Lord Reid's judgment, the necessity to follow judicial procedure and observe the principles of natural justice, flows from the nature of the decision which the watch committee had been authorised to reach under S.191(4). It would thus be seen that the area where the principles of natural justice have to be followed and judicial approach has to be adopted, has become wider and consequently, the horizon of writ jurisdiction has been extended in a corresponding measure. In dealing with questions as to whether any impugned orders could be revised under A. 226 of our Constitution, the test prescribed by Lord Reid in this judgment may afford considerable assistance."

38.Equally important and indeed fundamental to the



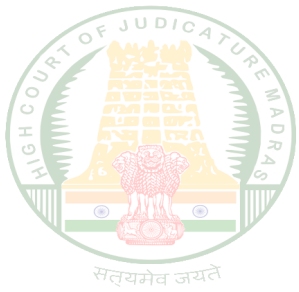
WEB COPY



C.M.A.No.386 of 2016

policy of Indian law is the principle that a Court and so also a quasi-judicial authority must, while determining the rights and obligations of parties before it, do so in accordance with the principles of natural justice. Besides the celebrated 'audi alteram partem' rule one of the facets of the principles of natural justice is that the Court/authority deciding the matter must apply its mind to the attendant facts and circumstances while taking a view one way or the other. Non-application of mind is a defect that is fatal to any adjudication. Application of mind is best demonstrated by disclosure of the mind and disclosure of mind is best done by recording reasons in support of the decision which the Court or authority is taking. The requirement that an adjudicatory authority must apply its mind is, in that view, so deeply embedded in our jurisprudence that it can be described as a fundamental policy of Indian Law.

39.No less important is the principle now recognised as a salutary juristic fundamental in administrative law that a decision which is perverse or so irrational that no reasonable person would have arrived at the same will not be sustained in a Court of law. Perversity or irrationality of decisions is tested on the touchstone of Wednesbury's principle of



WEB COPY



C.M.A.No.386 of 2016

reasonableness. Decisions that fall short of the standards of reasonableness are open to challenge in a Court of law often in writ jurisdiction of the Superior courts but no less in statutory processes where ever the same are available.

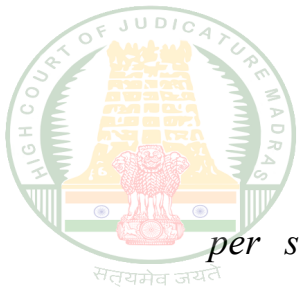
40.It is neither necessary nor proper for us to attempt an exhaustive enumeration of what would constitute the fundamental policy of Indian law nor is it possible to place the expression in the straitjacket of a definition. What is important in the context of the case at hand is that if on facts proved before them the arbitrators fail to draw an inference which ought to have been drawn or if they have drawn an inference which is on the face of it, untenable resulting in miscarriage of justice, the adjudication even when made by an arbitral tribunal that enjoys considerable latitude and play at the joints in making awards will be open to challenge and may be cast away or modified depending upon whether the offending part is or is not severable from the rest.”

44.From the above judgment, this Court finds that the scope for modification of award had been recognized where the offending part is not severable from the rest. It is also significant to note that, in the above



WEB COM

judgment, obviously Explanation (2) prohibiting review on merits of the dispute introduced later, is not referred to. This Court still has some reluctance to hold that the Hon'ble Supreme Court, in *M.Hakeem's case (supra)*, has ruled out the power to modify the award only on the basis of Explanation (2) found in Section 34(2)(b)(ii). However, there is a legislative background for introducing 2015 amendment on 31.12.2015 with retrospective effect from 23.10.2015. After the judgment of Hon'ble Supreme Court in *ONGC Ltd. v. Saw Pipes Ltd.* reported in *(2003) 5 SCC 705*, where definition of “public policy” was expanded to include “patent illegality”, it appears that some eminent jurists expressed their concern and apprehended that the judgment in *Saw Pipes Ltd. (supra)* might permit judicial review of arbitral awards for error of law apparent on the face of the record. Hence, Law Commission, in its 246th report, recommended to amend Section 34(2)(b)(ii) by introducing Explanation 1 and Sub-Section 2A with proviso to Section 34 of the Act. The Law Commission, thereafter, noticed the judgment of Hon'ble Supreme Court in *Oil and Natural Gas Corporation Limited v. Western GECO International Limited* reported in *(2014) 9 SCC 263* permitting review of an award on merits if the decision is



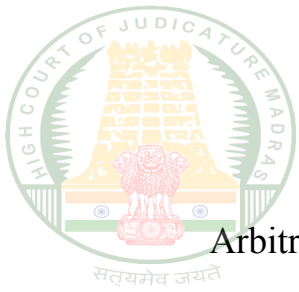
C.M.A.No.386 of 2016

per se untenable resulting in miscarriage of justice. Since the Law

WEB COPY

Commission opined that such a power of reviewing an award on merits is contrary to the object of 1996 Act to minimize the judicial intervention, the Law Commission, in its 'Supplementary' to 246th Report on amendment to Arbitration and Conciliation Act, 1996, recommended further clarification by amendment which led to the inclusion of Explanation 2 in 2015. Thus, it is evident now that the judgment of Hon'ble Supreme Court in ***Oil and Natural Gas Corporation Limited v. Western GECO International Limited*** reported in (2014) 9 SCC 263 is a binding precedent on the interpretation of Section 34 of Arbitration and Conciliation Act, 1996, before 2015 amendment and this judgment alone will prevail when we consider the scope of modification of award while challenging the award of District Collector under Section 3-G(5) of NH Act, 1956.

45. Section 34, before or after amendment, refers to an application for setting aside the arbitral award. Except the provision under Section 34, no other provision has been prescribed under the Statute to challenge the award. We have already seen that, setting aside the award by majority of



Arbitrators and accepting the minority award has been recognized in many cases, including the case in ***Ssanyong Engineering and Construction Company Limited v. National Highways Authority of India [NHAI]*** reported in ***2019 [15] SCC 131***, wherein, the Hon'ble Supreme Court set aside the award of majority and upheld the minority award on the ground that the award of majority is contrary to fundamental principles of justice. The ultimate conclusion would lead to an inference that Hon'ble Supreme Court has enlarged the scope of Section 34, while accepting the broad principles restricting the scope of judicial intervention.

46.In ***Ssanyong Engineering's case (supra)***, the Hon'ble Supreme Court examined the scope of Section 34 of 1996 Act before and after amendment. The Hon'ble Supreme Court has also referred to 246th Report of Law Commission and the Supplementary Report which culminated in the amendment in 2015. This judgment would clarify the position that the principles laid down in ***Western GECO International Limited's case (supra)*** has now been done away by 2015 amendment. It is useful to refer to the following paragraphs :



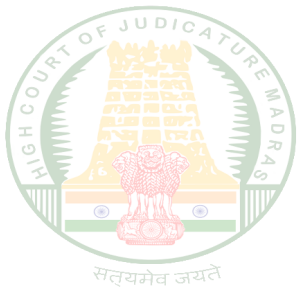
WEB COPY



C.M.A.No.386 of 2016

“34.What is clear, therefore, is that the expression “public policy of India”, whether contained in Section 34 or in Section 48, would now mean the “fundamental policy of Indian law” as explained in paragraphs 18 and 27 of Associate Builders (supra), i.e., the fundamental policy of Indian law would be relegated to the “Renusagar” understanding of this expression. This would necessarily mean that the Western Geco (supra) expansion has been done away with. In short, Western Geco (supra), as explained in paragraphs 28 and 29 of Associate Builders (supra), would no longer obtain, as under the guise of interfering with an award on the ground that the arbitrator has not adopted a judicial approach, the Court’s intervention would be on the merits of the award, which cannot be permitted post amendment. However, insofar as principles of natural justice are concerned, as contained in Sections 18 and 34(2)(a)(iii) of the 1996 Act, these continue to be grounds of challenge of an award, as is contained in paragraph 30 of Associate Builders (supra).

35.It is important to notice that the ground for interference insofar as it concerns “interest of India” has since been deleted, and therefore, no longer obtains. Equally,



WEB COPY

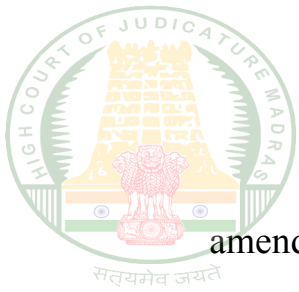


C.M.A.No.386 of 2016

the ground for interference on the basis that the award is in conflict with justice or morality is now to be understood as a conflict with the “most basic notions of morality or justice”. This again would be in line with paragraphs 36 to 39 of Associate Builders (supra), as it is only such arbitral awards that shock the conscience of the court that can be set aside on this ground.

36. Thus, it is clear that public policy of India is now constricted to mean firstly, that a domestic award is contrary to the fundamental policy of Indian law, as understood in paragraphs 18 and 27 of Associate Builders (supra), or secondly, that such award is against basic notions of justice or morality as understood in paragraphs 36 to 39 of Associate Builders (supra). Explanation 2 to Section 34(2)(b)(ii) and Explanation 2 to Section 48(2)(b)(ii) was added by the Amendment Act only so that Western Geco (supra), as understood in Associate Builders (supra), and paragraphs 28 and 29 in particular, is now done away with.”

47. Learned Amicus Curiae relied upon the judgment of the Hon'ble Supreme Court in ***Ssanyong Engineering's case (supra)*** to distinguish the scope of judicial intervention in terms of pre and post

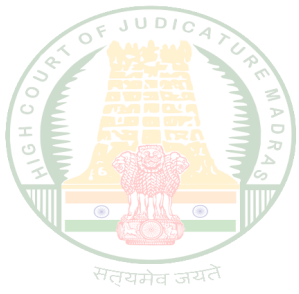


WEB COPY

amendment to Section 34 and submitted that the power of Court to intervene on the merits of the award is permitted before amendment and what follows is that the judgment of Hon'ble Supreme Court in ***M.Hakeem's case (supra)*** would have been different in case Section 34 before 2015 amendment is read into NH Act.

48.Learned Amicus Curiae, in the course of his arguments, relied upon a judgment of the Hon'ble Supreme Court in the case of ***National Highways Authority of India v. Sri P.Nagaraju @ Cheluvaiah and another*** reported in ***(2022) Livelaw (SC) 584***, wherein, the Hon'ble Supreme Court has approved a different approach when award of Collector under Section 3-G(5) is under challenge :

“24.Leaving aside the facts in the instant case for a while, if in a matter as against the determination of the market value by the SLAO, the land loser had referred to the exemplar sale deeds and seeks higher compensation than prescribed in the guidance value, and in that circumstance, if no reasons are assigned by the learned Arbitrator for such determination and either approves the SLAO award or awards a lesser amount than the actual entitlement, in such



WEB COPY



C.M.A.No.386 of 2016

circumstance the arbitration process which is thrust on the land loser should not be an impediment and limited interference should not be a reason to deny the just and fair compensation. In such cases while examining the award in the limited scope under Section 34 of Act, 1996, the Court is required to take note as to whether the evidence available on record has been adverted to and has been taken note by the Arbitrator in determining the just compensation failing which it will fall foul of Section 31(3) and amount to patent illegality. Therefore, while examining the award within the parameters permissible under Section 34 of Act, 1996 and while examining the determination of compensation as provided under Sections 26 and 28 of the RFCTLARR Act, 2013, the concept of just compensation for the acquired land should be kept in view while taking note of the award considering the sufficiency of the reasons given in the award for the ultimate conclusion. In such event an error if found, though it would not be possible for the Court entertaining the petition under Section 34 or for the appellate court under Section 37 of Act 1996 to modify the award and alter the compensation as it was open to the court in the reference proceedings under Section 18 of the old Land Acquisition Act or an appeal under Section 54 of that act, it should certainly



WEB COPY



C.M.A.No.386 of 2016

be open to the court exercising power under Section 34 of Act, 1996 to set aside the award by indicating reasons and remitting the matter to the Arbitrator to reconsider the same in accordance with law. The said exercise can be undertaken to the limited extent without entering into merits where it is seen that the Arbitrator has on the face of the award not appropriately considered the material on record or has not recorded reasons for placing reliance on materials available on record in the background of requirement under RFCTLARR Act, 2013.”

It is to be noted that the judgment extracted above is taking note of the view taken by the Hon'ble Supreme Court in ***M.Hakeem's case (supra)***. Even in the judgment in ***Sri P.Nagaraju @ Cheluvaiah's case (supra)***, the Hon'ble Supreme Court held that the Court has atleast the power to modify the award of District Collector under Section 3-G(5) of NH Act to the limited extent, without entering into merits when it is possible to hold that the Arbitrator has, on the face of the award, did not consider the materials on record or has not recorded reasons for placing reliance on materials taking note of provisions of Act 30 of 2013.



C.M.A.No.386 of 2016

49.The main object of Arbitration and Conciliation Act is to

promote institutional arbitration and international commercial arbitration in India and thereby, promote foreign investments. Since investors prefer arbitration over litigation in local Courts, a pro-arbitration environment was sought to be achieved in minimizing judicial intervention and the supervisory roles of Courts in arbitration. In essence, in order to promote investments through arbitrations and to make India a hub of institutional Arbitration, the Arbitration and Conciliation Act, 1996, was enacted. It was in this context that the Act provided for speedy disposal of cases relating to arbitration with minimal judicial intervention. In the matter of awarding compensation for the lands acquired for public purpose, the land owners are entitled to compensation at market value. Any legislation to acquire land for a public purpose will be unconstitutional unless it provides a legitimate mechanism to pay just compensation. While fixing compensation, the competent authority or the Arbitrator under Section 3(7) of NH Act performs a quasi-judicial function. Judicial review, if curtailed or restricted to grounds available to set aside award under Section 34 of the 1996 Act, that will render Sections 3-A to 3-J unconstitutional, unless scope of Section 34 of 1996 Act is read down

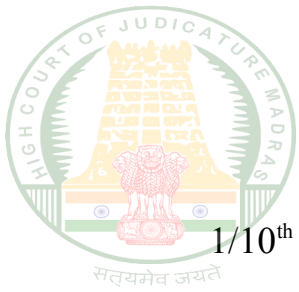


C.M.A.No.386 of 2016

to permit judicial review with a sense of justice and constitutional morality.

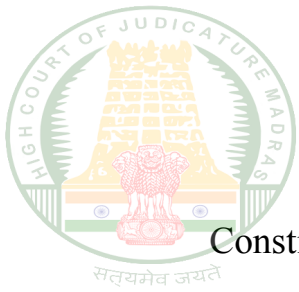
WEB COPY

50.The object of the National Highways Laws (Amendment) Act, 1997, is totally unconnected to the objects of the Arbitration and Conciliation Act. The amendment introduced to NH Act is to expedite the process of land acquisition and to avoid inordinate delay. This Court is of the view that the intention of the amending legislation was to give more meaning to Article 300-A of the Constitution of India and to do away with the procedure as contemplated under Land Acquisition Act, where a person aggrieved by the Award has to seek reference under Section 18 and thereafter, is required to establish his case before the Reference Court and if the person is aggrieved by the decision of Reference Court has to again wait in the queue before this Court by way of an Appeal. Invariably, due to administrative delay at every stage by the Statutory authorities and other reasons, the land owners may not get the just compensation within a reasonable time after the acquisition is completed. This Court has noticed in several cases that, with the compensation amount determined by this Court in the First Appeal, the land owner may not be in a position to buy even



WEB COPY

1/10th of the extent of the land in the same area from where his land was acquired. By incorporating the provisions of Arbitration and Conciliation Act into NH Act and appointing the District Collector as Arbitrator, the position of land owner has become still worse for innumerable reasons. Even in *M.Hakeem's case (supra)*, the Hon'ble Supreme Court examined the grievance of land owners about the Government servant of the Central Government being appointed as Arbitrator and the possibility of the District Collector just doing the role of Rubber Stamping of compensation awarded by the competent authority on a completely perverse basis. The Hon'ble Supreme Court has expressed that the Constitutional validity of National Highways Laws (Amendment) Act, 1997, ought to have been challenged. However, in view of the grave injustice done to the land owners by the award of District Collector which was completely perverse, the Hon'ble Supreme Court, taking note of the grave injustice already done to the land owners, refused to set aside the award and to remand the matter to the very Government servant who took into account earlier, the land values which are relevant for the purpose of stamp duty only. However, the power that can be exercised by the Hon'ble Supreme Court under Article 142 of the

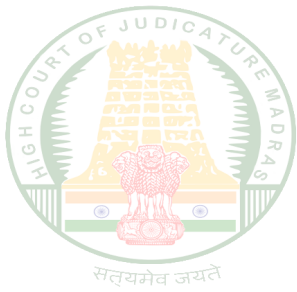


Constitution of India is not available to us and hence, we have to decide the case on hand within the scope of this appeal in the light of the precedents cited before us on first principles which are inevitable in the context with reference to subsequent developments.

51. In view of the growing population, the demand for lands is increasing, resulting in formidable increase in price rise over the years. We have already seen the notification that has been issued by the Central Government in terms of Sub-Section (3) of Section 105 of Act 30 of 2013. By virtue of the notification, the market value of land has to be determined by the competent authority in terms of Section 26 of the Act, which reads as follows :

“26. (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

- (a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or*
- (b) the average sale price for similar type of land*



WEB COPY



C.M.A.No.386 of 2016

situated in the nearest village or nearest vicinity area;

or

(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under



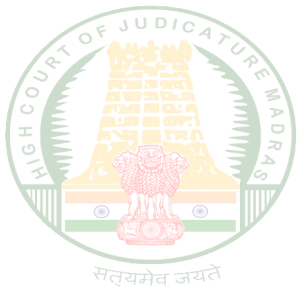
this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

- (a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or*
- (b) the registered sale deeds or agreements to sell as*



WEB COPY



C.M.A.No.386 of 2016

mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent, of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

Provided also that the Collector shall, before initiation of any



WEB COPY



C.M.A.No.386 of 2016

land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area:

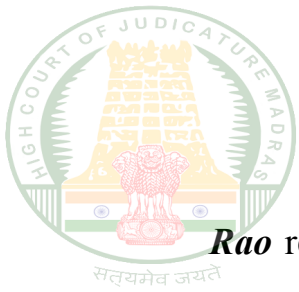
Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice.”

Sufficient guidelines are given under Section 26 thereby reducing guess work. Without a judicially trained mind, it is impossible for the competent authority or District Collector to fix compensation fairly. While examining the order of District Collector in exercising power under Section 3-G, we seldom find judicial approach. In such circumstances, if judicial review is confined to Section 34 of 1996 Act, it will be a great injustice to the land owners if the Court cannot interfere even when the award is wrong for erroneous application of law and there is no scope for review on the merits of the order or re-appreciation of evidence by Court. When a land owner is entitled to compensation at market value, providing adjudicatory mechanism to fix compensation without judicial review is unconstitutional, opposed to



public policy and constitutional morality. The constitutionality of acquisition can be saved only by reading down the provisions in accordance with settled principles. Under Arbitration and Conciliation Act, 1996, there is no scope of arbitration unless there is an arbitration agreement, where the parties have a right to choose their Arbitrators. There is an inbuilt mechanism to protect the interest of parties under 1996 Act, which is absent in NH Act, 1956. These aspects have not been considered by the Hon'ble Supreme Court in *M.Hakeem's case (supra)*.

52.In *Union of India and Another v. Tarsem Singh and others* reported in **2019 [9] SCC 304**, the Hon'ble Supreme Court examined the justifiability of exclusion of certain provisions of Land Acquisition Act, 1894, resulting in non-grant of solatium and interest in respect of lands acquired under NH Act. The Hon'ble Supreme Court considered the object of 1997 amendment, by which Sections 3-A to 3-G were introduced to NH Act. Relying upon the earlier judgments of Hon'ble Supreme Court in *P.Vajravelu Mudaliar v. Special Deputy Collector for Land Acquisition* reported in **AIR 1965 SC 1017** and *Nagpur Improvement Trust v. Vithal*



WEB CON

Rao reported in (1973) 1 SCC 500, the Hon'ble Supreme Court held that a classification made between different sets of landowners whose lands happen to be acquired for the purpose of National Highways and landowners whose lands are acquired for other public purposes has no rational relation to the object sought to be achieved by the Amendment Act i.e. speedy acquisition of lands for the purpose of National Highways. The Hon'ble Supreme Court, after an elaborate discussion :

“52. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of justice we decline to interfere with such orders, given our discretionary jurisdiction under Article 136 of the



WEB COPY

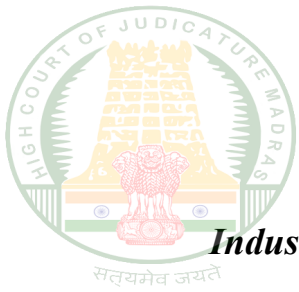


C.M.A.No.386 of 2016

Constitution of India. We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Section 23(1A) and (2) and interest payable in terms of section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, appeal arising out of SLP (C) No. 9599/2019 is dismissed.”

In this case, the learned District Judge, though granted solatium at 10% and interest at 9% for the first year after taking possession and 15% thereafter, did not give additional compensation nor solatium at 30% of market value in terms of **Tarsem Singh's case (supra)**. The learned counsel for 3rd respondent relied upon a few judgments where he persuaded the Hon'ble Judges to set aside the order of District Court in Arbitration OPs granting statutory benefits following the dictum in **M.Hakeem's case (supra)** that award of District Collector under Section 3-G(5) cannot be modified. The grave injustice caused to the land owners shirks the conscience of this Court.

53.In **Chairman, Indore Vikas Pradhikaran v. M/s.Pure**



C.M.A.No.386 of 2016

Industrial Cock and Chemicals Limited and others reported in ***AIR 2007***

WEB COPY

SCC 2458, the Hon'ble Supreme Court considered Article 17 of Universal Declaration of Human Rights, 1948, dated 10.12.1948, adopted in the United Nations General Assembly Resolution, wherein, right to property has been recognized as human right and as per the resolution of United Nations, no one shall be arbitrarily deprived of his property. Even though right to property is no more a fundamental right, Article 300-A was introduced in our Constitution. Whenever a land of individual is acquired for public purpose by the State in exercise of its power of *Eminent Domain*, the Statute under which the acquisition is done should be fair and reasonable providing compensation. After the advent of Act 30 of 2013, the compensation cannot be less than the amount payable under Act 30 of 2013 apart from other benefits under the same legislation. In the absence of procedural safeguards and the possible official bias by the authorities to pass perverse orders as Government servants, there must be minimum protection available to the land owners to get just compensation by providing a mechanism by which compensation is fairly determined and paid within a reasonable time. As pointed out earlier, when the price of land is going high, the Statutory



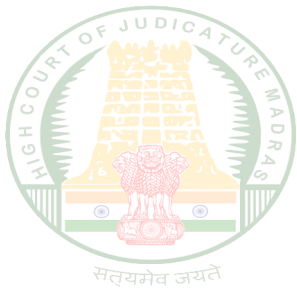
interest may not be sufficient to compensate the land owners, if there is delay in disbursement of compensation. Therefore, judicial review should be retained necessary to suppress the mischief and advance the remedy intended while incorporating 1996 Act into NH Act, 1956.

54. One of the submissions of the learned Amicus Curiae is by pointing out that the incorporation of Arbitration and Conciliation Act is subject to the provisions of NH Act, 1956, while determining the amount as compensation for the land acquired. Section 3-G reads as follows :

“3G. Determination of amount payable as compensation.—

(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.



WEB COPY



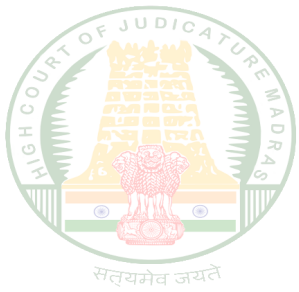
C.M.A.No.386 of 2016

(3) *Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.*

(4) *Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.*

(5) *If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.*

(6) *Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26*



WEB COPY

of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

- (a) the market value of the land on the date of publication of the notification under section 3A;*
- (b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;*
- (c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;*
- (d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”*

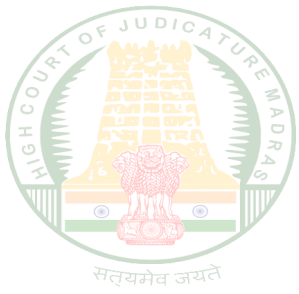
Therefore, the term “*Subject to the provisions of this Act*” can be referred to Sub-Sections (1) to (7) of Section 3-G of the NH Act. If the Arbitration and Conciliation Act, 1996 shall be made applicable to arbitration under NH Act, the Arbitration and Conciliation Act should be applied to the extent



C.M.A.No.386 of 2016

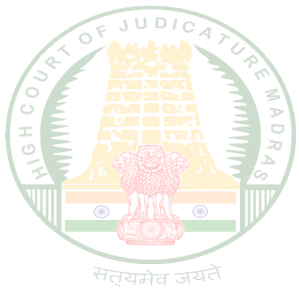
possible to serve the purpose of the amendment in 1997 incorporating the provisions of Arbitration and Conciliation Act, 1996. Therefore, there is scope for interpreting the provisions of Arbitration and Conciliation Act, particularly, Section 34 to suit the very object for which Section 34 of Arbitration and Conciliation Act was made applicable to arbitrations under NH Act. Therefore, the language employed in Section 34 of the Act before amendment has to be interpreted in the light of well settled principles on the interpretation of Statute. When the Hon'ble Supreme Court in ***M.Hakeem's case (supra)*** has accepted the unconstitutionality of vesting the power of determination of compensation with the District Collector, an employee of Government, this Court is of the view that an interpretation which is possible and to save the provisions of NH Act from being challenged, should be preferred.

55.It is to be noted that, even in the case of ***Oil and Natural Gas Corporation Limited v. Western GECO International Limited*** reported in ***(2014) 9 SCC 263***, the Hon'ble Supreme Court has held as follows :



WEB COPY

“35.What then would constitute the ‘Fundamental policy of Indian Law’ is the question. The decision in Saw Pipes Ltd. (supra) does not elaborate that aspect. Even so, the expression must, in our opinion, include all such fundamental principles as providing a basis for administration of justice and enforcement of law in this country. Without meaning to exhaustively enumerate the purport of the expression “Fundamental Policy of Indian Law”, we may refer to three distinct and fundamental juristic principles that must necessarily be understood as a part and parcel of the Fundamental Policy of Indian law. The first and foremost is the principle that in every determination whether by a Court or other authority that affects the rights of a citizen or leads to any civil consequences, the Court or authority concerned is bound to adopt what is in legal parlance called a ‘judicial approach’ in the matter. The duty to adopt a judicial approach arises from the very nature of the power exercised by the Court or the authority does not have to be separately or additionally enjoined upon the fora concerned. What must be remembered is that the importance of Judicial approach in judicial and quasi judicial determination lies in the fact so long as the Court, Tribunal or the authority exercising powers that affect the rights or obligations of the parties before them



WEB COPY



C.M.A.No.386 of 2016

shows fidelity to judicial approach, they cannot act in an arbitrary, capricious or whimsical manner. Judicial approach ensures that the authority acts bonafide and deals with the subject in a fair, reasonable and objective manner and that its decision is not actuated by any extraneous consideration. Judicial approach in that sense acts as a check against flaws and faults that can render the decision of a Court, Tribunal or Authority vulnerable to challenge.”

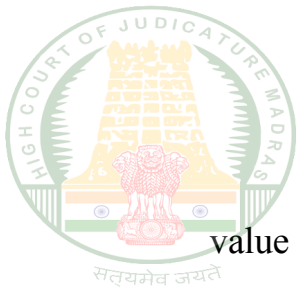
56.The Hon'ble Supreme Court has laid down certain principles as to the requirement of trained judicial mind while exercising quasi-judicial functions under any Statute. In the present case, the competent authority, like in every case, discarded several documents for no valid reason or by considering the location of each land by preparing a plan or topo-sketch to fix the location of lands and important roads and other features around the lands which are acquired by the respondents, since no guidelines is prescribed under Section 3-G for fixing the amount to be paid as compensation. We cannot expect the competent authority or the District Collector, who is not expected to have the judicial mind to understand the principles that are required to be adopted and the factors that are relevant to



C.M.A.No.386 of 2016

fix compensation, to pass an award to meet any standard. The award is passed by the competent authority on the basis of guideline value or by relying upon a document of his choice. This Court has noticed patent illegality and perversity in several awards that are being passed by the competent authority and confirmed by the District Collector. In view of the notification now issued by the Central Government adopting the provisions of Act 30 of 2013 to fix compensation and other benefits to the land owners, this Court finds that there is a need to read down the provisions of Section 34 of the Arbitration and Conciliation Act when it is read into NH Act to ensure fair compensation. Hence, we prefer to follow the judgment in ***Oil and Natural Gas Corporation Limited v. Western GECO International Limited*** reported in (2014) 9 SCC 263, where judicial approach is canvassed as fundamental policy of Indian Law.

57. There are settled legal principles while fixing compensation based on comparable sale deeds. There should be some addition to the



WEB COPY

value shown in the documents towards appreciation if market value is fixed based on sale exemplars which are prior in point of time. Hon'ble Supreme Court has consistently taken the view that 12% per year can be added to the value shown in the document if the document relied upon as sale exemplar is two or three years prior to the date of publication of notification under Section 3-A. There may be a case where compensation has to be fixed for orchard or coconut farm where comparable data sale deeds may not be available. In those cases, compensation can be fixed by capitalisation method. Hon'ble Supreme Court while dealing with fixing market value for lands acquired under Land Acquisition Act, 1894 (Central Act) has held in several cases that sale exemplars showing highest value should be preferred unless there are other circumstances to discard the sale exemplars. How do anyone expect the competent authority to fix compensation based on judicial precedents ? Unless the Court has power to modify the award, even while setting aside the award, the Court may not give directions on the basis of settled principles as to how the Arbitrator should re-determine the compensation.

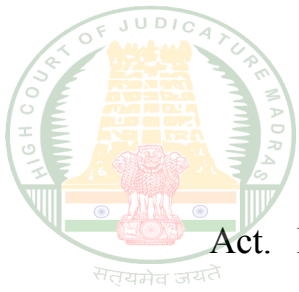


58.Sub-Section (7) of Section 3-G of the NH Act reads as follows:

“3-G ... (7) *The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—*

- (a) the market value of the land on the date of publication of the notification under section 3A;*
- (b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;*
- (c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;*
- (d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”*

Therefore, the land owner is entitled to market value of the land on the date of notification under Section 3-A(1) and other damages and expenses contemplated under Sub-Section 7(b), (c) and (d) of Section 3-G of the NH

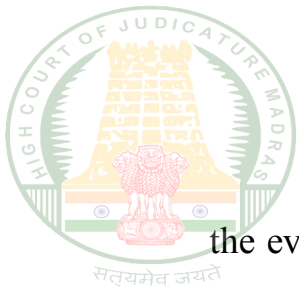


C.M.A.No.386 of 2016

WEB COPY

Act. Even before compensation is paid, the land vest with the Government upon declaration in terms of Section 3-D of the Act. After declaration under Section 3-D, the Central Government can authorise any person to enter and carry out the building, maintenance, management or operation of the National Highway, as the case may be, for which the acquisition is made. There is no time limit prescribed for determination or disbursement of compensation. Therefore, left to their discretion, the executive authorities, who are the officers of Government, may tend to prejudice the rights of parties at every stage of proceedings. With the possible mischief, the scope of judicial review cannot be restricted, but has to be retained to secure equality and justice social and economic.

59. In the matter of fixing compensation for the lands acquired, the award of the Land Acquisition Officer or the judgment of Reference Court can be challenged on several grounds. Often questions on the admissibility of the documents or appreciation of evidence arise for consideration in appeals. Hon'ble Supreme Court, in several judgments, has held that the Court cannot sit in appeal on an award by re-assessing or re-appreciating



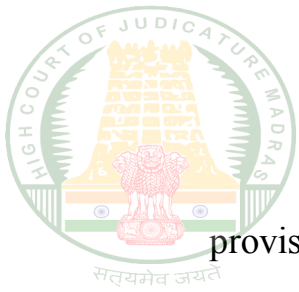
C.M.A.No.386 of 2016

WEB CON

the evidence to find out whether different decisions could be arrived against

the findings of Arbitral Tribunal in the absence of grounds under Section 34

of the Arbitration and Conciliation Act 1996. Even in cases where award of the District Collector is set aside and remitted, there is no guarantee for getting compensation with an application of judicial mind. As a result, the land owner may spend enormous time in Courts with no hope. Unless the provisions of Arbitration and Conciliation Act, which has now been incorporated into NH Act, are interpreted to remedy the situation following the judgment of Hon'ble Supreme Court in ***Oil and Natural Gas Corporation Limited v. Western GECO International Limited*** reported in ***(2014) 9 SCC 263*** which we consider to be fair, at least, while interpreting Section 34 as applicable to NH Act. Otherwise, there will be grave injustice to a section of people whose lands are acquired under the NH Act. When Hon'ble Supreme Court in ***Tarsem Singh's case (supra)*** has declared that provisions of Land Acquisition Act relating to solatium, interest contained in Section 23(1)(a) and interest in terms of proviso to Section 28 will apply to acquisition made under NH Act and that Section 3-J is violative of Article 14 of Constitution, this Court is of the view that, in the same spirit, the

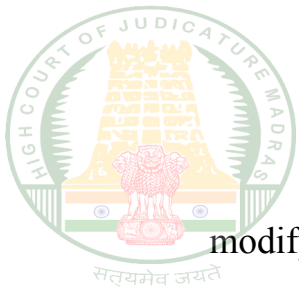


C.M.A.No.386 of 2016

WEB COPY

provisions of Arbitration and Conciliation Act, which have now been incorporated in the NH Act, have to be interpreted for the purpose of determining the compensation, bearing it in mind to save the act otherwise being unconstitutional and violative of Article 14 of Constitution.

60. When the Hon'ble Supreme Court in several judgments, including the judgment in *M.Hakeem's case (supra)*, have uniformly observed in every case that they do not intend to interfere with the judgment of High Court even where award of Collector had been modified by Court for doing complete justice, the inference that can be drawn is that power to modify the award is necessary to render justice for which we, the Constitutional Courts, are meant for. Learned Amicus Curiae in this case has relied upon a few judgments of Hon'ble Supreme Court where Courts have interfered with the award on merits by modifying the award, even though there is no discussion or issue being raised therein whether the Courts have power to modify the award. May be all those judgments relied upon by the Amicus Curiae need not be cited as a precedent, as distinguished in *M.Hakeem's case (supra)*, but the power of Court to

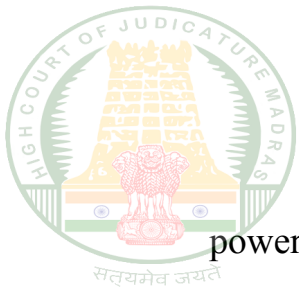


C.M.A.No.386 of 2016

WEB CON

modify award should be made available when it is applicable to challenge the award under NH Act in larger interest of public to render justice and to ensure the constitutional guarantee to which every citizen is entitled to.

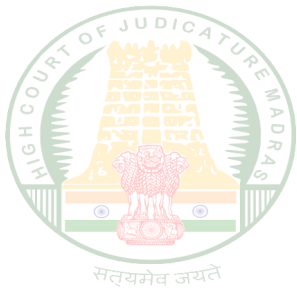
61. The learned counsel appearing for the 3rd respondent produced before this Court the judgment of a learned Single Judge of this Court in the case of *The Project Director, NHAI v. R.Jayakumar and another* [C.M.A.No.3724 of 2019, dated 21.10.2021]. It is a case where the NHAI filed the appeal as against the order of Principal District Judge, Salem, in A.O.P.No.146 of 2013 under Section 34 of the Arbitration and Conciliation Act, 1996. The learned Principal District Judge, Salem, though confirmed the award passed by the Arbitrator (District Collector) on the quantum of compensation, directed the NHAI to pay 12% interest on the market value from the date of notification to the date of award and also directed to pay 30% of the award amount towards solatium. It is to be noted that the order of Principal District Judge is in accordance with the judgment of the Hon'ble Supreme Court in *Tarsem Singh's case (supra)*. M/s.NHAI challenged the order of the Principal District Court mainly on the ground that Court has no



WEB COPY

power to modify the award in a petition under Section 34 of 1996 Act and

that therefore, awarding interest which is in the nature of modification of award is impermissible. The learned Single Judge, relied upon the judgment of Hon'ble Supreme Court in *M.Hakeem's case (supra)*. Placing reliance on Para Nos.39 to 58 of the judgment in *M.Hakeem's case (supra)*, the learned Single Judge held that the District Judge ought not to have modified the arbitral award passed by the District Collector and set aside, the impugned order passed by the Principal District Judge in A.O.P.No.146 of 2013. Even though interest in terms of Section 23(1)(a) and solatium at 30% are now payable as per the judgment of the Hon'ble Supreme Court in *Tarsem Singh's case (supra)*, the learned Single Judge set aside the order of Principal District Court. The judgment of learned Single Judge shows how the land owner is denied the relief which he is entitled as per the judgment of Hon'ble Supreme Court. Since the interpretation of Statute should be purposive and taking into account the possible mischief or prejudice that is likely to be caused to the land owners, this Court is of the view that Section 34, when it is applied to NH Act, the power of Court to modify the award should be read into in public interest.

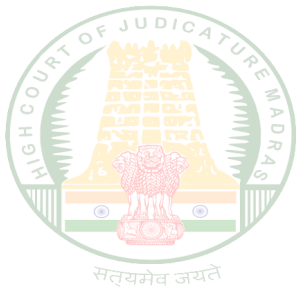


C.M.A.No.386 of 2016

WEB COPY

62.Having regard to the long discussion of several judgments examined by this Court, this Court is inclined to follow the judgment of the three member Bench of the Hon'ble Supreme Court in ***Oil and Natural Gas Corporation Limited v. Western GECO International Limited*** reported in ***(2014) 9 SCC 263***, upholding the power of Court to modify the award, particularly when the unamended provision under Section 34 of Arbitration and Conciliation Act is incorporated into NH Act subject to provisions of NH Act.

63.Mr.Su.Srinivasan, learned counsel appearing for the 3rd respondent relied upon a few judgments on the scope of Section 34 of the Arbitration and Conciliation Act, in support of his argument that there is no scope for modification of the award in a petition filed under Section 34 of the Act, which are discussed below :



C.M.A.No.386 of 2016

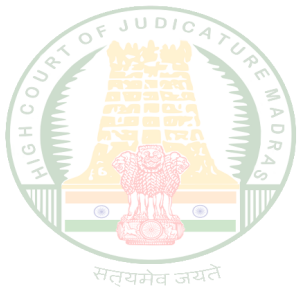
64.In **McDERMOTT International Inc. v. Burn Standard Co.**

Ltd and others reported in (2006) 11 SCC 181, the Hon'ble Supreme Court

has held as follows :

“52.The 1996 Act makes provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness. Intervention of the court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc. The court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So, 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.”

However, it is relevant to point out that the Hon'ble Supreme Court, in the said judgment, has modified the award of Arbitrator by reducing the interest drastically to 7.5% in Para Nos.159 and 161 of the said judgment, which reads as follows :



WEB COPY

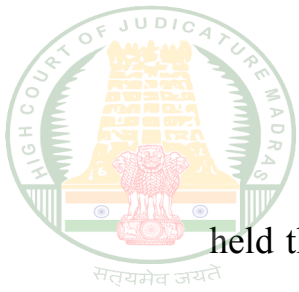
“159.In this case, given the long lapse of time, it will be in furtherance of justice to reduce the rate of interest to 7 ½%.

...

161.I.A. Nos. 2 and 3 are allowed in part and to the extent mentioned hereinbefore. The award of the learned Arbitrator is modified to the aforementioned extent. In the facts and circumstances of this case, there shall be no order as to costs.”

65.Learned counsel appearing for the 3rd respondent relied upon a judgment of Hon'ble Supreme Court in ***Associate Builders v. Delhi Development Authority*** reported in ***(2015) 3 SCC 49***, wherein, the Hon'ble Supreme Court relied upon a few judgments and held that the Arbitrator is the authority on facts if it is found that the approach of the Arbitrator is not arbitrary or capricious.

66.In ***Dyna Technologies Private Limited v. Crompton Greaves Limited*** reported in ***(2019) 20 SCC 1***, the Hon'ble Supreme Court, though

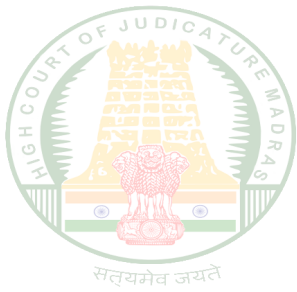


held that Section 34 of the Arbitration and Conciliation Act does not speak

about the power to modify the award, has held as follows :

“42.From the facts, we can only state that from a perusal of the award, in the facts and circumstances of the case, it has been rendered without reasons. However, the muddled and confused form of the award has invited the High Court to state that the arbitrator has merely restated the contentions of both parties. From a perusal of the award, the inadequate reasoning and basing the award on the approval of the respondent herein cannot be stated to be appropriate considering the complexity of the issue involved herein, and accordingly the award is unintelligible and cannot be sustained.

43.In any case, the litigation has been protracted for more than 25 years, without any end for the parties. In totality of the matter, we consider it appropriate to direct the respondents to pay a sum of Rs. 30,00,000/- (Rupees Thirty Lakhs only) to the appellant in full and final settlement against claim No. 2 within a period of 8 weeks, failing which the appellant will be entitled to interest at 12% per annum until payment, for providing quietus to the litigation.”

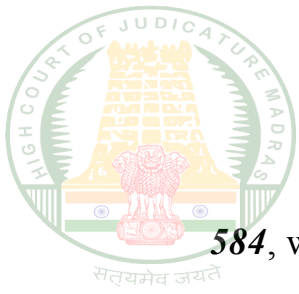


C.M.A.No.386 of 2016

WEB COPY The Hon'ble Supreme Court, in the said judgment, has observed that the power vested under Section 34(4) of the Arbitration and Conciliation Act to cure the defects can be utilised in cases where the arbitral award does not provide any reasoning.

67.In *P.R.Shah, Shares and Stock Brokers Private Limited v. B.H.H. Securities Private Limited and others* reported in (2012) 1 SCC 594, the Hon'ble Supreme Court held that the Court cannot sit in appeal over an arbitral award by re-assessing or re-appreciating the evidence to find out whether different decisions could be arrived at, in the absence of grounds under Section 34.

68.All the judgments relied upon by the learned counsel appearing for the 3rd respondent are only on the principles enunciated in *M.Hakeem's case (supra)*, except the observations of Hon'ble Supreme Court in Para No.24 of the judgment in *National Highways Authority of India v. Sri P.Nagaraju @ Cheluvaiah and another* reported in (2022) Livelaw (SC)



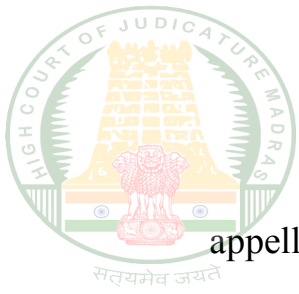
C.M.A.No.386 of 2016

584, where a different view is expressed.

WEB COPY

69.As briefed earlier, the present appeal is by the land owner who has now filed the above appeal challenging the order passed by the Principal District Court, Villupuram, in Arbitral O.P.No.37 of 2009 filed under Section 34 of the Arbitration and Conciliation Act, as against the award of the District Collector. The appellant produced before the Arbitrator as well before the District Court three documents to show that the market value for the acquired land would range from Rs.41.67 to Rs.117 per sq.ft. The 2nd document filed by the appellant is the sale deed dated 08.10.2003 in respect of a land in S.No.3/1A2 and S.No.4/2A. The market value reflected in the sale deed dated 08.10.2003 is Rs.117/- per sq.ft. The land acquired from the appellant is situated in S.No.50/2 in Valuthareddy Village.

70.This Court, during the pendency of this appeal, by order dated 20.01.2020, directed the District Surveyor, Villupuram, to visit the properties that are acquired from the appellant as well the other properties which are conveyed under the three sales statistics relied upon by the

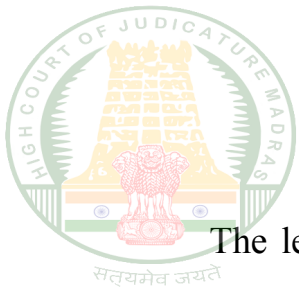


C.M.A.No.386 of 2016

appellant. After conducting a survey, a report was filed before this Court.

WEB COPY

As per the plan signed by the Tahsildar along with Deputy Tahsildar (Survey) and the Assistant Director of Survey and Land Records, Villupuram, it is indicated that the appellant's land in S.No.50/2A is adjacent to the National Highways. The property in S.No.6 of the same village is situated within 520 m from the appellant's land. Whereas, the land which is covered by the sales exemplar relied upon by the 1st respondent/competent authority is far away and the distance marked by the Revenue officials is 1500 m. S.Nos.3 and 4 are located within 790 m. Since the appellant's land is very close to the National Highways, the document filed by the appellant in respect of sale deed in respect of S.Nos.3 and 4, reflecting the highest value, will be more appropriate. The Principal District Judge, though accepted the sale exemplars produced by the appellant to fix compensation and held that the compensation fixed based on the sale exemplars relied upon by the respondent is not fair, allowed marginal enhancement only by 5%. The learned Principal District Judge has recorded the statement of appellant to the effect that the land acquired from the appellant is adjacent to the National Highways and surrounded by many commercial complexes.

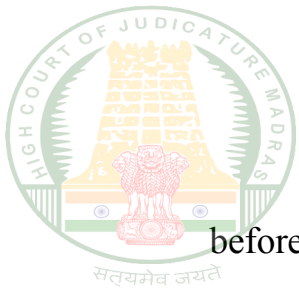


C.M.A.No.386 of 2016

WEB COM

The learned Principal District Judge has not recorded any finding to reject the documents filed by the appellant. However, the Principal District Judge observed on perusal of case records that the documents produced by the appellant would not prove the actual market value for the acquired lands. Without reference to any document, the Court observed that the land covered by the sale deeds are far away from the lands covered by the land acquisition and the appellant has made a fancy claim. The observation of the learned Principal District Judge was on the basis of the claim by the appellant to fix compensation at Rs.600/- per sq.ft. or Rs.257/- per sq.ft., which is few times more than the value shown in the documents filed by the appellant, without any document to support such claim.

71. Even though this Court could have remitted the matter, taking note of the possible further delay and the fact that the acquisition proceeding in this case was started in 2003 and the lands were taken possession immediately and the roads were laid even before 2007, this Court is of the view that serious prejudice would be caused to the appellant if there is further delay. Since this Court has the benefit of Survey plan submitted



C.M.A.No.386 of 2016

WEB COPY

before this Court pursuant to the directions of this Court earlier, this Court finds it appropriate to deal with the matter on merits.

72.As per the plan submitted by the Revenue officials, this Court finds that the sale exemplars relied upon by the competent authority to fix compensation is far away from the appellant's land, whereas all the lands covered under the three sale deeds relied upon by the appellant are very near the land acquired from the appellant. Since the appellant's land is also located within 200 m from the existing Highways, this Court accepts the sale deed dated 08.10.2003 in respect of S.No.4 in Valuthareddy Village. It is to be noted that the learned counsel appearing for the 3rd respondent, in the course of arguments, has not raised any objection as to the genuineness of transaction under the sale deed dated 08.10.2003 or the location of the property as seen from the Surveyor's plan. As per sale deed dated 08.10.2003, totally an extent of 2800 sq.ft. comprised in two Survey Numbers in S.Nos.3/1A2 and S.No.4/2A have been sold for a sum of R.3,27,600/-. As per the document, the sale consideration is at the rate of Rs.117/- per sq.ft. S.Nos.3 and 4 as per the plan submitted by the Revenue



C.M.A.No.386 of 2016

WEB COPY

officials before this Court pursuant to the directions of this Court, are located within 800 m and the said document can be considered to be a document which is in respect of the land nearby the land acquired, than the document that was relied upon by the respondent while passing the award. Since both the sale exemplars are in respect of house site, assuming that there could be deduction of 40% towards development, the land value cannot be less than Rs.70/- per sq.ft.

73.As a result, **this Civil Miscellaneous Appeal is allowed** and the award and decree of the Principal District Court, Villupuram, in Arb.O.P.No.37 of 2009, dated 17.08.2015, are set aside. The appellant is entitled to compensation at the rate of Rs.70/- per sq.ft. The appellant is also entitled to solatium at the rate of 30%, apart from additional interest at 12% p.a. in terms of Section 23(1-A) of Land Acquisition Act, 1894, from the date of notification under Section 3-A(1) till the date of award or handing over possession, whichever is earlier. The appellant is also entitled to interest at the rate of 9% p.a. for the first year from the date of award and at 15% p.a. thereafter. The enhanced compensation by adding the



C.M.A.No.386 of 2016

WEB COPY

additional market value, solatium and interest, as directed above, is ordered to be paid to the appellant, after adjusting the amount, if any, already by the 1st respondent. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed. The amount payable as per this judgment shall be paid to the appellant within eight weeks from the date of receipt of a copy of this judgment.

74.Before laying down our pen, this Court is inclined to record the valuable contribution by Mr.P.H.Arvinth Pandian, learned Senior Counsel, who has appeared in this case as Amicus Curiae, assisted by his juniors Mr.Vikram Veerasamy and Mr.Karthikeyan Anbazhagan. But for the inspiring lead by Mr.P.H.Arvinth Pandian, learned Senior Counsel, and his juniors who assisted him, this judgment would have been to the dismay of land owners whose lands are acquired under NH Act.

(S.S.S.R., J.) (P.B.B., J.)
04.06.2024

AP/mkn

Internet : Yes



C.M.A.No.386 of 2016

Index : Yes / No

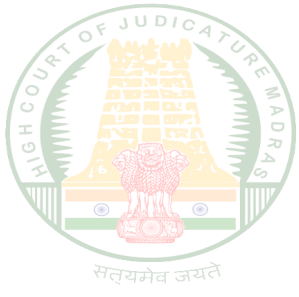
Neutral Citation : Yes / No

WEB COPY

To

- 1.The Competent Authority
Land Acquisition and Special
District Revenue Officer
National Highways [NH-45]
Villupuram District.
- 2.The District Collector/The Arbitrator
Villupuram District, office of the
District Collector.
- 3.The Project Director
National Highways Authority of India
No.10, Govindasamy Nagar,
Vazhudareddy, Villupuram & District.

S.S. SUNDAR, J.



WEB COPY



C.M.A.No.386 of 2016

and
P.B. BALAJI, J.

AP/mkn

Judgment in
C.M.A.No.386 of 2016

04.06.2024