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Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.06.2024

PRONOUNCED ON : 09.08.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

And

A.Nos. 3621, 1478, 3783 and 1382 of 2023

Arb.O.P.No. 47 of 2023:

National Highways Authority of India

Rep. By its Deputy General Managet (T) & Project Director

“Sri Tower”, 3rd Floor, DP-34 (SP) Industrial Estate

Guindy, Chennai – 600 032.

.. Petitioner

Vs.

1. M/s. P.Ramachandriah Son & Co.,
Rep. By its Partner P.Arunkumar
S/o. Late P.Manohar
No.1/871, Plot No. 28
Venkateswara Nagar Main Road
Somu Nagar, Medavakkam
Chennai – 600 100.
2. The Arbitrator & District Collector
Collectorate, Chennai.



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

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3.

The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently

The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur
No.3/4, Lal Bagadhur Sastri Street
Periyakuppam, Tiruvallur – 602 001.

.. Respondents

This Original Petition has been filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 read with Rule 2.2 of Madras High Court Arbitration Rules, 2020 praying to set aside the Award made by the Arbitrator and District Collector, Chennai in Rc.No. J17/15681/2011/Arbitration dated 21.11.2022.

For petitioner : Mr. Su.Srinivasan
Standing Counsel for NHAI
For 1st respondent : Mr.Shiva Kumar
For RR 2 & 3 : Mr. R.Siddharth
Government Advocate



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Arb.O.P.No. 19 of 2023:

M/s. P.Ramachandriah Son & Co.,
Rep. By its Partner P.Arunkumar
S/o. Late P.Manohar
No.1/871, Plot No. 28
Venkateswara Nagar Main Road
Somu Nagar, Medavakkam,
Chennai – 600 100.
Petitioner

...

Vs

1. National Highways Authority of India
Rep. By its Deputy General Managre (T) & Project Director
“Sri Tower”, 3rd Floor, DP-34 (SP) Industrial Estate
Guindy, Chennai – 600 032.
2. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently
The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur.
3. The District Collector,
Chennai District,
32, Rajaji Salai, 4th Floor,
Singaravelar Maaligai
Chennai – 600 001.

..

Respondents



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

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This Original Petition has been filed under Section 34(2) and 2(A) of the Arbitration and Conciliation Act, 1996 to set aside the Award dated 21.11.2022 passed made by the Arbitrator and District Collector.

For petitioner : M/s. Shiva Kumar and Suresh

For 1st respondent : Mr. Su.Srinivasan
Standing Counsel for NHAI

For RR 2 & 3 : Mr. R.Siddharth
Government Advocate

Arb.O.P.No. 13 of 2023:

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

Vs.

1. The Arbitrator & District Collector
Collectorate, Chennai.
2. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
NH-716B, 4 & 5



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Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

No.3/4, LalBagadhur Sastri Street
Periyakuppam (Near Thulasi Theatre)
Tiruvallur – 6 02 001.

3. P.Arunkumar
4. P.Ramachandirah Son & Co
No.1/871, Plot No. 28
Venkateswara Nagar Main Road
Somu Nagar, Medavakkam
Chennai - 600 100.
5. Rajyalakshmi
6. M.Harikumar
7. P.Rajesh Kumar .. Respondents

This Original Petition has been filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 praying to set aside the Award made by the Arbitrator and District Collector, Chennai in Rc.No. J17/15681/2011/Arbitration dated 21.11.2022.

For petitioner : Mr. Su.Srinivasan
Standing Counsel for NHAI

For RR 1 & 2 : Mr. R.Siddharth
Government Advocate

For 3rd respondent : Mr.Shiva Kumar

Arb.O.P.No. 20 of 2023:

Mr.P.Arun Kumar

... Petitioner



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Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Vs.



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

1. National Highways Authority of India
Rep. by its Project Director
SRI Tower - 3rd Floor, DP-34
(SP) Industrial Estate, Guindy,
Chennai – 600 032.
2. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently
The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur
3. The District Collector
Chennai District,
32, Rajaji Salai, 4th Floor,
Singaravelar Maaligai
Chennai – 600 001. ..

Respondents

This Original Petition has been filed under Section 34(2) and (2A) of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 21.11.2022 passed by the Arbitrator and District Collector.

For petitioner : M/s. Shiva Kumar and Suresh
For 1st respondent : Mr. Su.Srinivasan
Standing Counsel for NHAI
For RR 2 & 3 : Mr. R.Siddharth



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Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Government Advocate

Arb.O.P.No. 16 of 2023:

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

Vs.

1. The Arbitrator & District Collector
Collectorate, Chennai.
2. The Competent Authority and the Special
District Revenue Officer (LA)
National Highways, NH-716B, 4 & 5
No.3/4, LalBagadthur Sastri Street
Periyakuppam (Near Thulasi Theatre)
Tiruvallur – 602 001.
3. S.Rajkumar .. Respondents

This Original Petition has been filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 praying to set aside the Award of the Arbitrator and District Collector, Chennai in Rc.No. J9/39250/2011/Arbitration dated 21.11.2022.

For petitioner : Mr. Su.Srinivasan
Standing Counsel for NHAI
For RR 1 & 2 : Mr. R.Siddharth
Government Advocate



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Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

For 3rd respondent : Mr.Shiva Kumar

Arb.O.P.No. 28 of 2023:

Mr.R.Rajakumar

... Petitioner

Vs.

1. National Highways Authority of India
Rep. By its Project Director
SRI Tower - 3rd Floor, DP-34
(SP) Industrial Estate, Guindy,
Chennai – 600 032.
2. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways,
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently
The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur
3. The District Collector & Arbitrator
Chennai District,
32, Rajaji Salai, 4th Floor,
Singaravelar Maaligai
Chennai – 600 001.

Respondents

..

This Original Petition has been filed under Section 34(2A) of the



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 21.11.2022 passed by the Arbitrator and District Collector.

For petitioner : M/s. Shiva Kumar and Suresh

For 1st respondent : Mr. Su.Srinivasan
Standing Counsel for NHAI

For RR 2 & 3 : Mr. R.Siddharth
Government Advocate

Arb.O.P.No. 61 of 2023:

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

Vs.

1. B.Rajalakshmi
2. The Arbitrator & District Collector
Collectorate, Chennai.
3. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently
The Competent Authority and the Special



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur
No.3/4, Lal Bagadhur Sastri Street
Periyakuppam, Tiruvallur – 602 001. .. Respondents

This Original Petition has been filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 read with Rule 2.2 of Madras High Court Arbitration Rules, 2020 praying to set aside the Award made by the Arbitrator and District Collector, Chennai in Rc.No. J17/15681/2011/Arbitration dated 21.11.2022.

For petitioner : Mr. Su.Srinivasan
Standing Counsel for NHAI
For 1st respondent : Mr.Shiva Kumar
For RR 2 & 3 : Mr. R.Siddharth
Government Advocate

Arb.O.P.No. 21 of 2023:

Mrs.B.Rajyalakshmi ... Petitioner

Vs.

1. National Highways Authority of India
Rep. by its Project Director
SRI Tower, 3rd Floor, DP-34 (SP) Industrial Estate
Guindy, Chennai – 600 032.
2. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently
The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur.

3. The District Collector
Chennai District
32, Rajaji Salai, 4th Floor,
Singaravelar Maaligai
Chennai – 600 001.

..

Respondents

This Original Petition has been filed under Section 34(2) and (2A) of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 21.11.2022 passed by the Arbitrator and District Collector.

For petitioner : M/s. Shiva Kumar and Suresh

For 1st respondent : Mr. Su.Srinivasan
Standing Counsel for NHAI

For RR 2 & 3 : Mr. R.Siddharth
Government Advocate

Arb.O.P.No. 57 of 2023:

National Highways Authority of India
Rep. By its Deputy General Managre (T) & Project Director



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

“Sri Tower”, 3rd Floor, DP-34 (SP) Industrial Estate
Guindy, Chennai – 600 032.

.. Petitioner

Vs.

1. M.Harikumar
2. The Arbitrator & District Collector
Collectorate, Chennai.
3. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently

The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur
No.3/4, Lal Bagadhur Sastri Street
Periyakuppam, Tiruvallur – 602 001.

.. Respondents

This Original Petition has been filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 read with Rule 2.2 of Madras High Court Arbitration Rules, 2020 praying to set aside the Award made by the Arbitrator and District Collector, Chennai in Rc.No. J17/15681/2011/Arbitration dated 21.11.2022.

For petitioner : Mr. Su.Srinivasan



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Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Standing Counsel for NHAI

For 1st respondent : Mr.Shiva Kumar

For RR 2 & 3 : Mr. R.Siddharth

Government Advocate



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Arb.O.P.No. 18 of 2023:

Mr.M.Hari Kumar

... Petitioner

Vs.

1. National Highways Authority of India
Rep. by its Project Director
SRI Tower, 3rd Floor, DP-34 (SP) Industrial Estate
Guindy, Chennai – 600 032.

2. The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways
Kancheepuram & Tiruvallur Districts,
Collectorate Campus
Kancheepuram – 631 501.

Presently
The Competent Authority and the Special
District Revenue Officer (Land Acquisition)
National Highways, Tiruvallur.

3. The District Collector
Chennai District
32, Rajaji Salai, 4th Floor,
Singaravelar Maaligai
Chennai – 600 001.

..

Respondents

This Original Petition has been filed under Section 34(2) and (2A) of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 21.11.2022 passed by the Arbitrator and District Collector.



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For petitioner : M/s. Shiva Kumar and Suresh

For 1st respondent : Mr. Su.Srinivasan
Standing Counsel for NHAI

For RR 2 & 3 : Mr. R.Siddharth
Government Advocate

COMMON ORDER

Arb.O.P.Nos. 47 of 2023, 13 of 2023, 16 of 2023, 61 of 2023 and 57 of 2023 have been filed by the National Highways Authority of India under Section 34(2) of the Arbitration and Conciliation Act, 1996 against the award passed by the Arbitrator and District Collector, Chennai, in Rc.No. J17/15681/2011/Arbitration dated 21.11.2022.

2.Arb.O.P.Nos. 19 of 2023, 20 of 2023, 28 of 2023, 21 of 2023 and 18 of 2023 have been filed by the land owner under Section 34(2) and (2A) of the Arbitration and Conciliation Act 1996 seeking to set aside the very same arbitral award dated 21.11.2022.



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

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3. Since all the petitions questioned the award dated 21.11.2022 in Rc.No. J17/15681/2011/Arbitration passed by the District Collector, Chennai, a common order is passed.

4. A preliminary notification under Section 3 A(1) of the National Highways Act, 1956 was approved by the Ministry of Shipping and Road Transport, New Delhi and published in Gazettee of India dated 12.08.2005 and notification under Section 3-D(1) was published in the Gazette of India on 18.11.2005 seeking to acquire lands measuring 4302.9 sq.mts in Koyambedu for the purpose of construction of Great Separator at Koyambedu junction.

5. Since common grounds have been raised in the Petitions, let me take as illustrative the facts and arguments advanced in Arb.O.P.No.19 of 2023 and Arb.O.P.No.47 of 2023.

6. The lands of the petitioner in Arb.O.P.No. 19 of 2023 were also



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

part of the lands so acquired. Originally, on 08.12.2006, the Competent Authority and Special District Revenue Officer, Land Acquisition, National Highways, Kancheepuram and Tiruvallur District had passed an order determining Rs.1925/- sq.ft., for the acquired land. This order was challenged under Section 3(G)(5) seeking enhancement of compensation. An Award was passed by the Arbitrator in District Collector, Chennai, on 27.04.2018, whereby the compensation was enhanced from Rs.1925/- per sq.ft., to Rs.4103/- per sq.ft.

7.Questioning this award, the claimant and the National Highways Authority of India filed Petitions under Section 34 of the Arbitration and Conciliation Act, 1996 before this Court.

8.The said Original Petitions were heard by a learned Single Judge of this Court along with batch of similar Original Petitions and by a common order dated 04.07.2019, the award dated 27.04.2018 was set aside and the matter was remanded back to the District Collector, Chennai / Sole Arbitrator to decide the issue afresh. Consequent to such direction, an amended claim petition has been filed by the petitioners and counters were also filed. Finally,



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

the District Collector, Chennai / Sole Arbitrator, again passed a common award on 21.11.2022, reiterating the same award. This award is now under question and challenge before this Court.

9.In the grounds in Arb.O.P.No. 47 of 2023, the petitioner National Highways Authority of India had stated that the arbitrator had not given any reason for enhancing the compensation from Rs.1925/- per sq.ft., to Rs.4103/- per sq.ft. It was contended that the documents relied on by the claimant namely, the sale deed dated 28.03.2005 registered as Document No. 1181 of 2005 was with respect to purchase of commercial land by M/s. Chennai Foods. The lands measured 5508 sq.ft., and along with superstructure, the total consideration was determined at Rs.2,29,00,000/- which would indicate that the value per land per sq.ft., was Rs.4,103/-. It is also contended that the property was situated at Thirumangalam which is totally different area in comparison with the area where the lands have been acquired. That particular transaction was for commercial purposes while the land which had been acquired consisted of residential houses. It is therefore contended that the said document should not have been taken into consideration for determining the land value.



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

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10.The primary ground urged in Arb.O.P.No. 19 of 2023 was that the District Collector/Sole Arbitrator had failed to taken into consideration the other documents filed, namely, the sale deed dated 16.03.2005 registered in the Sub Registrar Office at Anna Nagar as Document No. 985 of 2005 in which the value per sq.ft., was at Rs.8,739/-. It was also contended that the petitioner was entitled to compensation of additional market value under Section 23 (1)(A), the solatium under Section 23(2) and interest at Section 28 as provided under the Land Acquisition Act, 1894 since Section 3J of the National Highways Act had been struck down by the Hon'ble Supreme Court in the Judgment reported in *AIR 2019 SC 4689 [Union of India and Another Vs. Tarsem Singh and others]*.

11.Heard argumens advanced by Mr. Su.Srinivasan, learned Standing Counsel for National Highway Authority for the petitioner in Arb.O.P.No. 47 of 2023 and Mr.Shiva Kumar, learned counsel for the petitioner in Arb.O.P.No. 19 of 2023.

12.It is the contention of Mr.Su.Srinivasan, learned Standing



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

Counsel for the National Highways Authorities of India that the learned Arbitrator had erred in not taking into consideration the objections raised for accepting Document No. 1185 of 2005, sale deed dated 28.03.2005. It is contended by the learned Standing Counsel that the document related to a commercial transaction with respect to a property which was beyond 1.6 kms raidus and therefore should have been rejected by the Arbitrator. With respect to the grant of 12% p.a., additional to the market value of the land, the learned Standing Counsel pointed out that the Judgment in **Tarsem Singh** case, **AIR 2019 SC 4689**, had been further modified by Judgment of the Hon'ble Spureme Court dated 30.07.2021 in Miscellaneous Application (D) No. 2572 of 2020 and relying under Section 23(1)(A) of the Land Acquisition Act 1984 had been denied. It had, therefore, been contended that the relief under the above provision should not have been granted.

13.Mr.Shiva Kumar, learned counsel for the petitioner in Arb.O.P.No. 19 of 2023 however contended that the sole arbitrator had correctly taken into consideration Document No. 1181, the sale deed dated 28.03.2005 and pointed out that the property in that particular sale deed was less then 1.6 kms raidus as the crow flies. It had been contended by the



Arb.O.P. Nos. 47, 19, 13, 20, 16, 28, 61, 21, 57 & 18 of 2023

learned counsel that only after due examination of the records had the document been taken into consideration even at the initial stage. The learned counsel stated that the petitioner in Arb.O.P.No. 19 of 2023 is entitled for solatium under Section 23(2) and for interest under Section 28 as provided under the Land Acquisition Act 1894. The learned counsel stated that the award requires revision since no acceptable reasons had been given for not taking into consideration the alternate sale deed dated 16.03.2005 in Document No. 985 of 2005 wherein the land value had been given as more than Rs.9000/- per sq.ft. It was contended that this Court should set aside the award.

14.I have carefully considered the arguments advanced and perused the materials available on records.

15.This Court had reduced the pleadings only in two arbitration petitions, namely, the Arb.O.P.No. 47 of 2023 and filed by the National Highways Authorities of India wherein the first respondent was P.Ramachandriah Son and Co., and Arb.O.P.No. 19 of 2023 wherein P.Ramachandriah Son and Co., was the petitioner.



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16.The main grounds raised by the National Highways Authority of India is that the sole arbitrator was not correct in taking into consideration Document No. 1181 of 2005, sale deed dated 28.03.2005, on the ground that the property involved was more than 1.6 kms radius away from the property which had been acquired and that the said property had also been conveyed for commercial purposes, whereas the land acquired were residential in nature.

17.On the side of the claimant/petitioner in Arb.O.P.No. 19 of 2023 the main argument put forward was denial of the relief of solatium under Section 23(2) and interest under Section 28 as provided under the Land Acquisition Act 1894.

18.The above are the common issues which arise in all the Arbitration Petitions. Therefore, one common order is passed in all the Arbitration Petitions as they relate to acquisition of land under the same notification and for the same object.



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19. Let me straight away answer the claim of the petitioner in Arb.O.P.No. 19 of 2023 wherein a grievance had been raised that the petitioner had not been granted compensation of additional market value under Section 23(1)(A) and Solatium under Section 23(2) and interest under Section 28 as provided under the Land Acquisition Act, 1894.

20. The Judgment of the Hon'ble Supreme Court in this regard provides a guideline to answer the said issue. The Judgment is reported in ***AIR 2019 SC 4689 [Union of India and Another Vs. Tarsem Singh and others.*** By that Judgment, the Hon'ble Supreme Court had struck down Section 3J of the National Highways Act which would automatically mean that the claimants were entitled to compensation of additional market value under Section 23(1)(A) and solatium under Section 23(2) and interest under Section 28 as provided under the Land Acquisition Act 1894. But subsequently, that particular Judgment had been modified in Miscellaneous Application (D).No. 2572 of 2020 and in order dated 30.07.2021, the Hon'ble Supreme Court had deleted the relief granted under Section 23(1)(A) of the Land Acquisition Act 1894. In implication of the Judgment dated



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19.09.2019, reported in ***AIR 2019 SC 4689*** would mean that all the claimants in the all the aforementioned petitions, namely, in Arb.O.P.Nos. 19 of 2023, 20 of 2023, 28 of 2023, 21 of 2023 and 18 of 2023 are entitled for solatium under Section 23(2) and for interest under Section 28 as provided under the Land Acquisition Act 1894.

21.The next point to be addressed is the reliance placed on Document No.1181 dated 28.03.2005. It must be kept in mind that originally, an order had been passed by the competent authority dated 08.12.2006 fixing the compensation at Rs.1925 per sq.ft. The claimants have filed an application seeking enhancement of the compensation. This came up for consideration before the sole arbitrator / District Collector, Chennai, who passed an award dated 27.04.2018 enhancing the compensation from Rs.1925/- per sq.ft, to Rs.4103/- per sq.ft. That award was challenged before this Court in a batch of petitions and a learned Single Judge by common Judgment dated 04.07.2019 had set aside the award and had remanded the matter back to decide the issue afresh with a direction that the market value should be fixed in accordance with Section 3(G)(7) of the National Highways Act 1956. It was also directed that the sole Arbitrator/District Collector shall



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decide the issue of solatium and interest in accordance with law. It was also directed that notice shall be issued to both sides and opportunity must be given.

22.It had been contended by Mr.Su.Srinivasan, learned standing counsel that no reasons had been given in the award as to why Document No. 1181 of 2005 had been considered which is now the subject matter of challenge.

23.Even though the award dated 27.04.2018 had been set aside by the learned Single Judge, one observation in that award, namely, that the Land Acquisition Officer had also stated that the lands under acquisition are in well developed urbanised area and structures involved in acquisition are shops, business outlets, marriage halls etc., is a statement of fact and is of much significance. This is very significant since it had been contended by Mr.Su.Srinivasan, learned standing counsel that the transaction involved in document No. 1181 of 2005 dated 25.04.2018 is a commercial transaction and therefore that document could not be the basis of determining the market value. But as a fact the Land Acquisition Officer had himself stated that the



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lands acquired are well developed urbanised area and the structures are not just houses or the residential buildings but actually shops, business, outlets, marriage halls, etc. This would indicate that any sale made of those structures must also be termed as a commercial transaction. Therefore, I hold that this distinction with Document No 1181 of 2005 cannot be sustained.

24.The other objection raised by Mr. Su.Srinivasan is that the property which was the subject matter of Document No. 1181 of 2005 is beyond 1.6 kms radius and therefore, it should have been rejected. However, in the Judgment of the learned Single Judge, it is evident that the challenge by the National Highways Authority of India was on the ground that opportunity was not given as is seen from paragraph No. 4 of the order. The learned single Judge had therefore remanded the matter back and had directed that sufficient opportunity must be given. After the matter had been remanded back, a perusal of the records show that an amended claim petition had been filed and a counter affidavit had been filed by the competent authority and Special District Revenue Officer, Land Acquisition, National Highways, Kancheepuram and Tiruvallur Districts and a counter affidavit had also been filed by the first respondent National Highways Authorities of India. A reply



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affidavit had also been filed by the claimant. Thus, opportunity had been granted. After considering all these materials, the sole Arbitrator had still taken a decision to take that document into consideration. This Court cannot sit as an appellate authority over that decision taken. There cannot be modification of the award. The document had been considered twice over. Remanding the matter back would only prolong the litigation particularly, as determining the value of the lands acquired in the year 2005 would be an effort which may not yield fruit. Over passage of time, urbanisation has spread over the lands acquired and extended for beyond. I would, therefore, in the absence of any viable alternate, not interfere with that decision of the sole Arbitrator.

25.It is then contended by Mr.Su.Srinivasan that no reasons have been given in the award and when no reasons are given, the award should be set aside. The relevant portion of the award shows that the learned Arbitrator had reduced the points which are required to be determined, namely, (a) Verification of sale deed in Document No.985 of 2005 dated 16.03.2005, (b) the additional market value of 10% in the amended claim based on second development regulation plan issued by CMDA, (c) the implication of Section



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3(G)(7) of the National Highways Act 1956, (d) the provision of Section 3H of National Highways Act 1956 relating to grant of 9% interest to the enhanced land value, (e) the modification petition filed by National Highways Authority of India in *Union of India and Anr. Vs. Tarsem Singh and Others*, referred supra and (f) applicability of solatium and interest in the absence of specific provisions under the National Highways Act, 1956. Thereafter in the award, the learned arbitrator had stated that he had considered all the aforementioned factors and had ordered that the compensation for the land should be enhanced from Rs.1925/- per sq.ft., to Rs.4103/- per sq.ft. Thus document was already available in the records and had been the basis of the earlier award dated 27.04.2018 enhancing the compensation from Rs.1925/- per sq.ft., to Rs.4103/- sq.ft. The learned Single Judge while remanding the matter back had taken into consideration the arguments put forward on behalf of the National Highways Authorities of India Act that due opportunity had not been given. In the present petition such a ground had not been taken.

26.The learned arbitrator had come to a definite finding upholding the earlier award. The choice of the words may not be satisfactory. It could



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be that the award does not contain the reasons which the National Highways Authorities of India expect to be given. But the very fact that there has been reference in detail to all the relevant records, namely, the amended claim petition, the objections filed and the rejoinder filed only show that the learned arbitrator had an occasion to atleast peruse the records.

27.The scope under Section 34 of the Arbitration and Conciliation Act is extremely narrow. The Court cannot modify or thrust its own views for the view of the arbitrator. The Court will have to be determine whether the procedure required by law is followed. It had been found that it was not followed in the earlier round of litigation and therefore, the matter had been remanded back to the sole arbitrator. There is no grievance expressed that opportunity was not given. However, a grievance is expressed that the document which had been taken into consideration to determine the market value of the land should not have been taken into consideration. But, the fact is that the lands which had been acquired consisted of shops, marriage halls and commercial establishments. This had been stated by the Land Acquisition Officer in the earlier round which is also part of the records as is evident from the award dated 27.04.2018 which though has been set aside, a



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statement of fact can still be taken into consideration. Therefore, I hold that even if the award is not happily worded still, the learned Arbitrator has held out an impression that he had perused all the records before coming to the conclusion. The fact whether that particular property is within 1.6 kms in radius had not been determined directly as a point in issue by the learned Arbitrator. That is determination of a fact and the Court cannot sit over a decision on fact at this stage of the proceedings. Both the parties have not taken recourse to file an application under Section 34(4) of the Arbitration and Conciliation Act, 1996. They are both aware of such provision.

28.It is imperative that an application in writing is filed to determine a fact by the Arbitrator and render a finding on that fact to this Court. This Court cannot sit as an appellate Court. It cannot mould the award nor modify the award. The records also reveal that the claimants have been running from pillar to post right from the year 2005 when the lands have been acquired. Remanding the matter back to the arbitrator would only cause more hardship to both the parties, particularly to the claimants.

29.Taking all these facts, though it is to be stated that the learned



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Arbitrator could have worded the reasons in a better way, I would uphold the award and also grant solatium under Section 23(2) and interest under Section 28 as provided under the Land Acquisition Act 1894.

30. In the result,

(1) Arbitration Original Petitions filed by the National Highways Authorities of India, namely, Arb.O.P.Nos. 47 of 2023, 13 of 2023, 16 of 2023, 61 of 2023 and 57 of 2023 are dismissed;

(2) Arbitration Original Petitions filed by the Claimants in Arb.O.P.Nos. 19 of 2023, 20 of 2023, 28 of 2023, 21 of 2023 and 18 of 2023 are partly allowed with respect to the relief granted under Section 23(2) and Section 28 of the Land Acquisition Act 1894 and dismissed with respect to other reliefs;

(3) Consequently, connected applications are closed; and

(4) No order as to costs.

09.08.2024

vsg



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C.V.KARTHIKEYAN, J.

vsg

Pre Delivery Order made in
**Arb.O.P. Nos. 47, 19, 13, 20,
16, 28, 61, 21, 57 & 18 of 2023
And
A.Nos. 3621, 1478, 3783 and 1382 of 2023**

09.08.2024