



W.A.No.3004 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.3004 of 2023

The Project Director
National Highways Authority of India
Project implementation Unit – Chennai
"Sri Tower", 3rd Floor, DP – 34(SP)
Industrial Estate, Guindy
Chennai – 600 032.

.. Appellant

Vs.

1. M.Rajendran
2. The Arbitrator & District Collector
Thiruvallur District.
3. The Special District Revenue Officer (LA)
NH 205, No.3&4, Lal Bagadthur Sasthiri St
Periyakuppam Railway Street
(Near) Thulasi Theatre
Thiruvallur – 602 001.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 15.11.2022 in W.P.No.30330 of 2022.



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For the Appellant : Mr.S.Srinivasan

For the Respondents : Mr.M.P.Saravanan
for Respondent-1

Mr.P.Muthukumar
State Government Pleader
assisted by Mr.K.M.D.Muhilan
Additional Government Pleader
for Respondents 2 & 3

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The present private respondent/original writ petitioner has filed a writ petition before the learned Single Judge seeking a direction against the third respondent therein/present appellant to pay the enhanced compensation amount as per the award passed by the Collector under the provisions of the National Highways Act, 1956 and disburse the same. The learned Single Judge disposed of the writ petition by passing the following order:

"9. Considering the facts and circumstances of the case and the limited relief sought for by the petitioner, this Court, without going into the merits



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of the case, directs the first respondent to pay the enhanced compensation amount as per the proceedings dated 31.08.2020, if there is no legal impediments, within a period of six weeks from the date of receipt of a copy of this order.”

2.1. Learned counsel for the appellant strenuously contented that none of the contentions raised by the present appellant was considered by the Arbitrator while passing the award. The issue of limitation was subsequently raised and the same has not been addressed by the Arbitrator. Other factual aspects were also raised, however, without considering the grounds raised by the present appellant the award has been passed, thereby awarding the exorbitant compensation amount.

2.2. The appellant has filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 (for brevity, hereinafter referred to as, 'the Act of 1996') challenging the said award, but, due to the fact that the officer in-charge to register got changed twice, the application was not registered.



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2.3. Learned counsel further submits that in fact, the writ petition ought not to have been entertained; the writ petition is not maintainable. The original petitioner had the liberty to file execution. Learned counsel further submits that the learned Single Judge came to the conclusion that the writ petition is not maintainable, where there is a specific alternate remedy available under Section 36 of the Act of 1996 for execution, however, still directed the appellant to pay the enhanced compensation amount, if there is no legal impediment, within a period of six weeks. Learned Single Judge has not decided on the merits of the contentions of the present appellant. The condition imposed to pay the amount is an onerous one.

3.1. Learned counsel for the private respondent/original writ petitioner submits that the writ petition to claim payment of the enhanced amount as per the award is maintainable. Reliance is placed on the judgment of a Division Bench of this Court dated 24.07.2018 in W.P.No.1230 of 2018. It is submitted that in respect of the property acquired for the same project earlier, award is passed in the year 2017 and the rate of compensation award therein is only



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awarded to the original petitioners in these matters.

3.2. It is further submitted that it is the bounden duty of the Authorities to deposit the amount as per the award. The appellant has paid the enhanced amount of compensation, as per the arbitral award, in respect of some claimants, but is selectively depriving of the enhanced amount to the original petitioner.

4. We have considered the submissions advised by learned counsel for the parties.

5. No doubt, the original petitioner has a remedy of execution under Section 36 of the Act of 1996.

6. Be that as it may, according to the present appellant, the challenge to the arbitral award is pending consideration before the concerned District Judge. In view of that, it would not be proper for us to comment upon the merits of the arbitral award. In light thereof, we have not considered the contentions of the respective parties



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upon the merits of the arbitral award.

7. The deposit of amount would also be to the advantage of the present appellant, inasmuch as with regard to the amount deposited, the further interest would be arrested.

8. We may appreciate the anxiety of the original petitioner to receive the enhanced compensation amount and at the same time, the grounds raised by the present appellant also will have to be considered by the Court, dealing with the application under Section 34 of the Act of 1996. The equities will have to be adjusted.

9. Learned Single Judge had also passed further orders, which in our opinion would be required to be modified. In the light of that, we pass the following orders:

(i) 50% of the enhanced compensation amount shall be deposited by the present appellant with the concerned Court within a period of ten weeks from today (i.e., 05.01.2024);



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(ii) The original petitioner is at liberty to apply for the withdrawal of the amount, which application shall be considered by the concerned District Judge, on its own merits and after hearing all parties concerned, and appropriate orders shall be passed;

(iii) The present appellant may also seek further orders on the stay petition before the learned District Judge;

(iv) Depending upon the order that may be passed by the learned District Judge on the application of the original petitioner for withdrawal of the amount, further steps may be taken with regard to the amount, if lying in the Court, such as to invest the same in a Nationalised Bank or otherwise.

(v) Considering the huge amount involved, the learned District Judge, with whom the application under Section 34 of the Act of 1996 is pending, may endeavour to decide the application under Section



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34 of the Act of 1996 expeditiously.

10. With these observations and directions, the writ appeal stand disposed of. There will be no order as to costs. Consequently, C.M.P.No.24867 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)
05.01.2024

Index : Yes/No
Neutral Citation : Yes/No

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To

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