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C.R.P.No.2881 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2881 of 2024

G.Shanmugam

.. Petitioner

Versus

1. The District Collector/Arbitrator,
Office of the District Collector,
Cuddalore District.
 2. The District Revenue Officer,
(Land Acquisition Officer) NH 45C,
Vikranvandi - Kumbakonam - Tanjore Division,
Villupuram.
 3. The Special Tahsildhar
(Land Acquisition),
NH 45C Unit II,
Kurinjipadi @ Vadalur,
Cuddalore District - 607 303.
 4. The Project Director,
Project Implementation Unit,
Puducherry, Arumparthapuram,
28 and 29 Sun City, Puducherry.
- .. Respondents

(Fourth respondent is impleaded as per the order,
dated 07.08.2024 in C.R.P.No.2869 of 2024)



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order, dated 10.04.2024 made in unnumbered Arbitration Original Petition No. of 2023, on the file of the learned Principal District Judge, Cuddalore and consequently, direct the Court below to number the Arbitration Original Petition and dispose the same within the time frame to be stipulated by this Court.

For Petitioner : Mr.P.Dinesh Kumar

For Respondents : Mr.C.Sathish,
Government Advocate,
for RR-1 to 3

: Mrs.S.R.Sumathy,
Standing Counsel for Highways,
for R4

ORDER

This Civil Revision Petition is filed against the order passed by the learned Principal District Judge, Cuddalore in unnumbered Arbitration Original Petition of the year 2023, dated 10.04.2024.

2. The civil revision petitioner is the claimant in the proceedings. His land was acquired for the purpose of expansion of the National Highway, NH 532. A special compensation was fixed by the Land Acquisition Officer. He was not satisfied with the special compensation awarded by the



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second respondent and therefore, preferred a claim petition before the Arbitrator-cum-District Collector, Cuddalore. The District Collector increased the compensation, but, it was not to the satisfaction of the claimant. Therefore, invoking Section 34(2) of the Arbitration and Conciliation Act, he approached the learned Principal District Judge, Cuddalore.

3. At the time of filing the Original Petition under Section 34(2) of the Arbitration and Conciliation Act, he not only sought for setting aside the award passed by the Arbitrator/District Collector but, also prayed for enhancement of the compensation by fixing a fair value for the lands acquired. The learned Principal District Judge directed the party by way of the order impugned in the Civil Revision Petition calling upon him to pay the additional Court fee with respect to prayer No.2. Against which, the present Civil Revision Petition is filed.

4. Heard Mr.P.Dinesh Kumar, learned Counsel for the petitioner and Mr.C.Sathish, learned Government Advocate for the respondent Nos.1 to 3



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and Mrs.S.R.Sumathy, learned Standing Counsel for Highways for the fourth respondent.

5. The position of law relating to Section 34 of the Arbitration and Conciliation Act, challenging the award of the District Collector under the National Highways Act, has been settled by the Supreme Court. In clear and categorical terms, the Supreme Court has held that a Court, sitting under Section 34, has the power to set aside the award, but, it does not possess the power to either modify or enhance the compensation. See, *NHAI Vs. M.Hakeem*, (2021) 9 SCC 1 (para 48).

6. The confusion arose in this revision because the civil revision petitioner sought for modification of the award by enhancement. Since this prayer is not maintainable as per the mandate of the Supreme Court, the question of payment of Court fees, on that aspect, does not arise. Therefore, I instructed Mr.P.Dinesh Kumar to get instructions from his client to delete the second portion of the prayer in their Section 34 petition and I adjourned the matter today.



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7. When the matter is taken up, Mr.P.Dinesh Kumar submits that he has got instructions from his client and he is agreeable to delete the portion seeking for enhancement. In other words, the petitioner will be satisfied if the prayer in the Section 34 petition is confined only to setting aside the award passed by the District Collector.

8. The apprehension of Mr.P.Dinesh Kumar that deleting the prayer will be construed as if the petitioner is not entitled to agitate the plea that the quantum fixed by the District Collector is inadequate is absolutely misplaced. Unless and until the petitioner prove that the valuation has not been properly done, he cannot maintain a petition under Section 34. The condition precedent for a petition under Section 34 to be allowed is that the District Collector had not properly appreciated the value, and consequently reflects patent irregularity in the award having been passed.

9. In similar circumstances, I had taken a view in C.R.P.(PD).No.462 of 2023, dated 11.07.2024. I had followed the view taken by my brother Hon'ble Mr.Justice S.Sounthar in C.R.P.No.1373 of 2021, dated 20.02.2024.



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10. In the view of the willingness expressed by the civil revision petitioner to delete the latter portion, the following order is passed:-

(i) If the petitioner will confine/limit his prayer only to set aside the award passed by the first respondent/Arbitrator, then the issue of paying *ad valorem* Court fee will not arise;

(ii) The petitioner is permitted to represent the papers before the learned Principal District Judge, Cuddalore within 30 days from the receipt of a copy of this order, after making the necessary amendment to the prayer.

11. In the light of the deletion of the second portion of the prayer, the Civil Revision Petition stands allowed. The learned Principal District Judge, Cuddalore is directed to number the Arbitration Original Petition after receiving a deletion memo with respect to the latter portion of the order. The requisition body namely, the Project Director, Project Implementation Unit, Puducherry, Arumparthapuram, 28 and 29 Sun City is impleaded as the fourth respondent. This impleadment shall enure in the Original petition also. The learned Principal District Judge, Cuddalore is requested to ensure that in the Arbitration Original Petition, the amendment is suitably carried out. No costs.



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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

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V.LAKSHMINARAYANAN, J.

grs

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