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W.A.Nos.2978 & 2979 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos.2978 & 2979 of 2021

S.P.Anthonisamy .. Appellant in both W.As
Vs.

1. Government of India
Ministry of Road Transport and Highways
Transport Bhawan, No.1, Parliament Street
New Delhi – 110 001.
2. The District Collector/Arbitrator
Cuddalore, Cuddalore District.
3. The Competent Authority & District Revenue Officer
(Land Acquisition), National Highways
No.64, Seetharaman Nagar
3rd Cross Street, Pudupalayam, Cuddalore.
4. The General Manager (Technical & Project Director)
National Highways Authority of India
Villupuram Project Implementation Unit
28, VGP Nagar West, Vizhudha Reddy Post
Villupuram – 605 401.

[R4 impleaded vide order dated 05.03.2020
in W.M.P.No.6226 of 2020 in W.P.No.30376 of 2019]

[R4 impleaded vide order dated 05.03.2020
in W.M.P.No.6224 of 2020 in
W.P.No.30373 of 2019] .. Respondents in both W.As

Common Prayer: Appeal filed under Clause 15 of the Letters Patent
against the order in W.P.Nos.30373 and 30376 of 2019 dated
18.08.2021.



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For Appellant : Mr.Sudharshanasundar
in both W.As for Mr.G.Vikraman

For Respondents : No Appearance for R1
in both W.As

Mr.A.Selvendran
Special Government Pleader
for R2 and R3

Mrs.S.R.Sumathy
for R4

COMMON JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM, J.)

The writ petitioner is the appellant before us.

2. The order passed under Section 3G(5) of the National Highways Act, 1956, in proceedings dated 27.07.2019 came to be challenged in the writ proceedings. The Writ Court adjudicated the issues and relegated the appellant to approach the District Court for adjudication of issues under Section 34 of the Arbitration and Conciliation Act, 1996.

3. The learned counsel for the appellant would submit that the arbitrator passed an order adjusting the calculation and the compensation determined by the Land Acquisition Officer. The documents and the grounds raised by the appellant to determine the factors were not taken into consideration and therefore, the Writ



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Court ought to have set aside the order of the Arbitrator passed in proceedings dated 27.07.2019.

4. *Mr.A.Selvendran*, learned Special Government Pleader would oppose by stating that under the scheme of the Act, the appellant has to approach the District Court under Section 34 of the Arbitration and Conciliation Act, 1996. Thus, the Writ Court has rightly relegated the appellant to exhaust the remedy as contemplated. It is further contended that the determining factors were taken into consideration by the Land Acquisition Officer, which was adjusted by the Arbitrator and thus, there is no infirmity.

5. We are not inclined to adjudicate the grounds on merits raised by the parties. The scheme of the Act has to be followed for the effective adjudication of issues relating to acquisition proceedings. Exhausting a statutory remedy is of paramount importance. Entertaining a Writ Petition, dispensing with the alternate remedy, is only an exception. Thus, against the order of the Arbitrator, the aggrieved person has to approach the District Court under Section 34 of the Arbitration and Conciliation Act, 1996, which is a Judicial Forum and a fair opportunity will be provided for redressal of the grievances.



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6. The Courts have time and again reiterated that factual findings of a Statutory Authority would be of greater assistance to the High Court for exercise of the power of Judicial Review under Article 226 of the Constitution of India. Therefore, the Writ Court would be slow in entertaining a writ petition for adjudication of disputed facts between the parties.

7. The determining factors are not considered is the ground raised by the appellant. *Per contra*, the learned Special Government Pleader rebuts the same by stating that the same was considered. Such disputed facts shall be adjudicated before the District Court through documents and evidences available on record.

8. In fine, the appellant is permitted to approach the District Court under Section 34 of the Arbitration and Conciliation Act, 1996. In the event of any such approach, the period during which the Writ Petitions and the Writ Appeals were pending before the High Court is to be taken into consideration for the purpose of condoning the delay, if any, and the issues are to be adjudicated on merits and in accordance with law.



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9. With this liberty, these writ appeals stand disposed of.

There shall be no order as to costs. Consequently, C.M.P.Nos.20255 and 20252 of 2021 are closed.

(S.M.S., J.) (C.K., J)
15.07.2024

Neutral Citation:Yes/No

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To:

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AND
C.KUMARAPPAN, J.

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