



WA No.432 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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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. Suresh
2. The Arbitrator & District Collector, Thiruvallur District.
3. The Special District Revenue Officer (LA)
NH 205, No.3&4, Lal Bagadhur 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 28.11.2022 in W.P.No.31739 of 2022.

For Appellant	:	Mr.S.Srinivasan
For 1 st Respondent	:	Mr.M.P.Saravanan
For Respondents 2 and 3	:	Mr.A.Edwin Prabakar, State Government Pleader Assisted by Mr.T.K.Saravanan, Government Advocate



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JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.S.Srinivasan, learned counsel for the appellant, Mr.M.P.Saravanan, learned counsel for the first respondent and Mr.A.Edwin Prabakar, learned State Government Pleader, for respondents 2 and 3.

2. The present private respondent/original writ petitioner has filed a writ petition before the learned Single Judge seeking directions against the third respondent herein to deposit the 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:

"6. Considering the limited request made by the learned counsel for the petitioner, this Court without expressing any opinion on the merits of the case, issues direction to the 3rd respondent to pay the petitioner the enhanced compensation, as awarded by the 1st respondent, vide proceedings 31.08.2020 bearing Rc.No. 6867/2017/F2/Arbitration for his land within a period of six weeks from the date of receipt of a copy of this order,



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if there is no legal impediment.”

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3. 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, awarding an exorbitant compensation amount.

4. The appellant has filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 (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.

5. Learned counsel further submits that in fact, the writ petition ought not to have been entertained and the writ petition is not maintainable. The original petitioner had the liberty to file execution petition.



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6. 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 awarded therein is only awarded to the original writ petitioner/first respondent herein.

7. 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 writ petitioner.

8. We have considered the submissions advanced by learned counsel for the parties.

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



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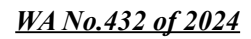
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10. Be that as it may, according to the present appellant, the challenge to the arbitral award is pending consideration before the concerned District Judge. In view of that, it would not be proper for us to comment upon the merits of the arbitral award.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

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

12. 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 an application under Section 34 of the Act of 1996. Equities will have to be adjusted.

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



(i) The appellant shall deposit 50% of the enhanced compensation amount with the concerned Court within a period of ten weeks from today;

(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, 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



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under Section 34 of the Act of 1996 is pending, may endeavour to decide the application under Section 34 of the Act of 1996 expeditiously.

14. With these observations and directions, the writ appeal stands disposed of. There shall be no order as to costs. Consequently, C.M.P.No.2947 of 2024 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

06.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

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Thiruvallur District.
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