



W.P.No. 31472 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

W.P.No. 31472 of 2023

P.Manimozhi

... petitioner

Vs.

1. The District Collector cum Arbitrator,
Namakkal District

2. The Competent Authority,
(NHAI) /District Revenue Officer,
NH- 7 & 47,
Namakkal District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in relation to the impugned proceedings in Na.Ka. 18569/2010/Arbitration dated 29.10.2018, quash the same and further direct the first respondent to hear the claim petitions preferred by the petitioners.



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For petitioner : Mr. S.Senthil

For Respondents : Mr. T.Arun Kumar
Additional Government Pleader

ORDER

This writ petition is for issuance of Certiorarified Mandamus, challenging the proceedings in Na.Ka.18569/2010/Arbitration, dated 29.10.2018.

2. It is the case of the petitioner that the land in survey No. 35/3-21 of Kurukkapuram Village, Rasipuram Taluk with an extent of 30.0 sq.mtrs belonging to the petitioner, was acquired by the second respondent for the purpose of expansion of NH-7 & 47.

3. An Award was passed by the second respondent under Section 3(G)(5) of the National Highways Act 1956. Even at the time of award enquiry, the petitioner had produced various records to show the valuation of the land, buildings under enjoyment and other factors to show that the valuation done by the authorities was not proper and therefore



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sought to refer the matter to Arbitral Tribunal to fix the enhanced compensation based upon the prevailing market value at the time of acquisition.

4. In this Connection, the petitioner has sent various representations to the first respondent and final representation dated 06.08.2018 to refer the matter to the Sole Arbitrator as contemplated in Sec. 3-G(5) of National Highways Act, 1956, but the respondent rejected the claim as it is barred by Limitation as per Article 137 of Limitation Act. 1963.

5. It is seen from the records that the petitioner made a representation before the first respondent under Section 3-G(5) of the National Highways Act 1956 whereas the first respondent rejected the claim, since the petition has not been filed within a period of three years under Article 137 of Limitation Act 1963 and hence it was rejected on the technical ground by applying the Limitation Act.

6. The Hon'ble Supreme Court of India time and again in various cases held that under Section 137 of the Limitation Act would not be



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applicable in the matters of Arbitration and Conciliation cases. Therefore,

the impugned order passed by the first respondent is set aside and the first respondent is directed to hear the application afresh on merits, after giving opportunity of hearing to the petitioner and hear the matter and dispose of the same in accordance with law. By considering the claim of the petitioner on merits and in accordance with law. The matter is remitted back to the first respondent who shall pass order as directed above.

7. With the above direction, this Writ petition is disposed of. No cost.

19.02.2024

nsI

Index: Yes/No

Speaking Order : Yes/No

Neutral case citation: Yes/No



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To

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Kallakurichi.



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P. VELMURUGAN, J.

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