



C.R.P.(MD)No.20 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD)No.20 of 2024

Dr.M.Indira : Petitioner/Claimant

Vs.

- 1.The District Collector and Arbitrator under the National Highways Act, Collectorate, Nagercoil-629 001.
- 2.The Competent Authority and Special District Revenue Officer, (Land Acquisition-National Highways), Tirunelveli, now at Observatory Street, Opposite to Collectorate, K.P Road, Nagercoil-629 001.
- 3.The National Highways Authority of India, (Beneficiary) rep. by the Project Director, National Highways Authority of India, Tirunelveli, now at Pleasant Nager, Nagercoil. : Respondents/Respondents

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the unnumbered AR.O.P(S.R)No.4245 of 2022 on the file of the Principal District Judge, Kanyakumari District at Nagercoil, dated 19/10/2023.



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For Petitioner : Mr.M.Suri
For R1 and R2 : Mr.A.Sivanu Pandian
Government Advocate (Civil)
For 3rd Respondent : Mr.Su.Srinivasan
Standing Counsel

O R D E R

This civil revision petition has been filed seeking to set aside the un-umbered AR.O.P(S.R)No.4245 of 2022 on the file of the Principal District Judge, Kanyakumari District at Nagercoil, dated 19/10/2023.

2.The facts in brief:-

The petitioner herein as claimant filed un-numbered Aribitral OP(SR)No.4245 of 2022 before the Principal District Judge, Kanyakumari under sections 34(2)(b)(ii) of the Arbitration and Conciliation Act, 1996, challenging the award passed by the District Collector, Kanyakumari, in Roc No.12/329/2016, dated 13/12/2017 based on the District Collector's Proceedings No.E3/22140/15, dated 31.07.2017. That came to be returned by the trial court raising certain queries. It was re-presented with explanation, but the Principal District Judge, Nagercoil heard the matter for maintainability and rejected the same as not maintainable.



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3. Aggrieved over the above said rejection order, this civil revision petition has been preferred.

4. Without going into the other aspects, now let us straightaway go to the order passed by the Principal District Judge, Nagercoil. In that order, it has been stated that already the order was passed, on 31/07/2017; Actually, this is not a letter; Only three months time is prescribed for challenging the arbitral award, which can be extended by 30 days; When the order copy was received by the petitioner is not mentioned; After a lapse of five years, the present petition came to be filed. Apart from that, it is also observed that the prayer sought for in the petition is beyond the scope of section 34 of the Arbitration and Conciliation Act.

5. The learned counsel appearing for the petitioner would submit that the main grievance of the petitioner is that without even giving opportunity to put forth her argument, the petition filed by the petitioner has been straightaway rejected without even numbering the same. Had it been given proper hearing, she would have explained her position before the court, when it was denied to her, this must be interfered under Article 227 of the Constitution of India.



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6. Even during the course of hearing, I pointed out to the learned counsel appearing for the petitioner that what has been under challenge cannot be construed as arbitral award; What has been ordered by the District Collector is that the Land Acquisition Officer namely the Special District Revenue Officer may re-fix the compensation amount by relying upon the guideline value, dated 01/04/2012. So what has been done by the District Collector is only remitting the matter back to the Land Acquisition Officer. In a strict sense, it cannot be treated as arbitral award.

7. In the light of the direction issued by the District Collector, a fresh award must be passed by the Land Acquisition Officer. Be that as it may, the legality of the rejecting the petition, even without numbering appears to be not appropriate.

8. So, in the light of the above facts, I am of the considered view that even the point of limitation must be decided, after numbering the petition. Limitation has been repeatedly held by the courts that it is a mixed question of facts and law. So there shall be a direction to the Principal District Judge, Nagercoil, to entertain the petitioner on the judicial side and pass fresh order even on the point of limitation on the judicial side,



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since order of rejection can be passed only in the light of O7 R11 CPC. If rejected, it must be followed by an ex-order so that the petitioner can file appeal. Here that is not followed by the trial court.

9. With the above said direction, this civil revision petition stands **disposed of**. Let the above said representation of the petition by the petitioner within a week from the date of receipt of a copy of this order. No costs.

28/02/2024

Index: Yes/No
Internet: Yes/No
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To,

The Principal District Judge,
Kanyakumari District @
Nagercoil.



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G.ILANGOVAN, J

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