



C.M.A.(MD) No.235 of 2019 etc. batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) Nos.235, 237, 245, 258, 267, 284,
783, 790, 791, 792, 794, 796, 797, 869 & 884 of 2019;
C.M.A.(MD) Nos.226, 237, 241, 247, 249, 252, 254, 255, 258,
261, 262, 266, 268, 280, 390, 412, 413, 419, 420, 422,
425, 456, 467, 469, 472, 540, 605 & 622 of 2020;
C.M.A.(MD) Nos.109, 192, 343, 345, 394, 426, 448,
449, 493, 502, 503, 519, 1062 & 1066 of 2021;
C.M.A.(MD) No.490 of 2022;
C.M.A.(MD) Nos.346 & 840 of 2023; and
C.M.A.(MD) Nos.468, 431, 452 & 635 of 2024
and
C.M.P.(MD) Nos.3104, 3203, 3428, 3515, 3716, 3862, 10124,10292,
10294, 10295, 10318, 10336, 10339, 11504 & 11720 of 2019;
C.M.P.(MD) Nos.3529, 3572, 3588, 3620, 3622, 3634, 3636,
3637, 3649, 3664, 3667, 3694, 3697, 3734, 4867, 4952, 4955, 5006,
5007, 5023, 5036, 5209, 5252, 5255, 5262, 5667, 6367 & 6502 of 2020;
C.M.P.(MD) Nos.966, 1649, 2837, 2843, 3217, 3424, 3046, 3220,
3083, 3847, 3949, 3951, 3045, 3222, 3085, 3236, 4326, 4393,
4408, 4514, 3221, 10106 & 10118 of 2021;
C.M.P.(MD) Nos.508 to 510, 513 to 521, 523, 524, 527,
529 to 535, 537, 538 & 4268 of 2022;
C.M.P.(MD) Nos.4263 & 11819 of 2023; and
C.M.P.(MD) Nos.6240, 5657, 6090 & 7770 of 2024

C.M.A.(MD) Nos.235 of 2019:

The Project Director,
National Highways No.7,
National Highways Authority of India,
No.83/-, S.B.I. First Colony Extension,



C.M.A.(MD) No.235 of 2019 etc. batch

(Near Gowri Krishna Hotel)
Bye-Pass Road, Madurai-16
and now Plot No.3,
Surya Towers 2nd Floor,
1st East Street, K.K.Nagar,
Madurai 625 020.

... Appellant

Vs.

1.R.Pandiselvi
W/o.Rajarathinam

2.The Special District Revenue Officer/
Competent Authority for Land Acquisition
(National Highways-7),
Collectorate Building,
Madurai – 625 020.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 37(1) & 92) of the Arbitration and Conciliation Act, 1996 to set aside the order made in Arbitration O.P.No.32 of 2013 dated 26.09.2018 on the file of the Principal District Judge, Madurai.

C.M.A. (MD) No.	Appearance
C.M.A.(MD) Nos.235, 237, 245, 267, 284, 783, 790, 791, 792, 796, 797 & 869 of 2019;	For Appellant : Mr.P.Karthick Standing Counsel for NHAI
C.M.A.(MD) Nos.226, 237, 241, 247, 249, 252, 254, 255, 258, 261, 262, 266, 268, 280, 390, 412, 413, 419, 422, 467, 469, 472, 540, 605, & 622 of 2020	For R1 : Mr.R.Govindaraj Mr.K.Chandrasekaran Mr.C.Karthikeya
	For R2 : Mr.M.Muthumanikkam Government Advocate



C.M.A.(MD) No.235 of 2019 etc. batch

C.M.A.(MD) Nos.109, 192, 343, 345, 449, 502, & 1066 of 2021; C.M.A.(MD) Nos.346 & 840 of 2023; C.M.A.(MD) Nos.468, 431, 452 & 635 of 2024	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1	: Mr.R.Govindaraj Mr.K.Chandrasekaran Mr.C.Karthikeya
	For R2	: Mr.M.Muthumanikkam Government Advocate
C.M.A.(MD) No.258 of 2019	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1, R3 to R7	: Mr.R.Govindaraj Mr.K.Chandrasekaran Mr.C.Karthikeya
	For R2	: Mr.M.Muthumanikkam Government Advocate
C.M.A.(MD) No.794 of 2019; and C.M.A.(MD) No.448 of 2021	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1 & R2	: Mr.R.Govindaraj Mr.K.Chandrasekaran Mr.C.Karthikeya
	For R3	: Mr.M.Muthumanikkam Government Advocate
C.M.A.(MD) No.884 of 2019; C.M.A.(MD) Nos.394, 426, 493, & 503 of 2021	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1 to R3	: Mr.R.Govindaraj Mr.K.Chandrasekaran Mr.C.Karthikeya
	For R4	: Mr.M.Muthumanikkam Government Advocate



C.M.A.(MD) No.235 of 2019 etc. batch

C.M.A.(MD) Nos.420, 425 & 456 of 2020; and C.M.A.(MD) No.490 of 2022	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1	: Mr.R.G.Sankar Ganesh
	For R2 & R3	: Mr.M.Muthumanikkam Government Advocate
C.M.A.(MD) No.519 of 2021	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1 to R4	: Mr.R.Govindaraj Mr.K.Chandrasekaran Mr.C.Karthikeya
	For R5	: Mr.M.Muthumanikkam Government Advocate
C.M.A.(MD) No.1062 of 2021	For Appellant	: Mr.P.Karthick Standing Counsel for NHAI
	For R1	: Mr.R.R.Kannan
	For R2	: Mr.M.Muthumanikkam Government Advocate

COMMON JUDGMENT

The captioned appeals have been filed by the National Highways Authority of India challenging the orders passed by the learned Principal District Judges of Madurai and Theni Districts in applications filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Arbitration Act').



C.M.A.(MD) No.235 of 2019 etc. batch

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2. The facts leading to the filing of the above appeals are as follows:

- (a) The lands belonging to the persons in Madurai and Theni Districts (hereinafter referred to as 'landowners') were acquired by the National Highways Authority of India by different Notifications for the same project during the same period of time.
- (b) The competent authority under Section 3G of the Arbitration Act determined, the compensation payable to the landowners for the acquisition of their lands.
- (c) Since the value of the lands fixed by the competent authority was not acceptable to the landowners, they approached the Arbitrators, who are the District Collectors of Madurai and Theni Districts, appointed by the Central Government under Section 3G(5) of the Arbitration Act and sought for enhancement of the compensation.
- (d) The Arbitrators/District Collectors confirmed the value of the lands and the compensation determined by the competent authority.
- (e) Aggrieved by the said awards, the landowners filed applications before the Principal District Courts of Madurai and Theni Districts under Section 34 of the Arbitration Act seeking to set aside the award of the Arbitrators/District Collectors.



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C.M.A.(MD) No.235 of 2019 etc. batch

- (f) The learned Principal District Judges found that the value determined by the competent authorities and confirmed by the Arbitrators was not in accordance with law and enhanced the compensation payable to the landowners.
- (g) Aggrieved by the said orders, the National Highways Authority of India has preferred the instant appeals, under Section 37 of the Arbitration Act.

3. For the sake of clarity and convenience, details of the acquisition, the compensation awarded by the competent authority, which was confirmed by the Arbitrators, and the compensation enhanced by the Principal District Judges under Section 34 of the Arbitration Act are given below:

Sl. No	C.M.A. (MD) Nos./ Party Name & Village	Acquired Extent	Date of 3A(1) Noti.	Dated of 3D(1) Noti.	Compensation Awarded by LAO/CALA Award No. & Date	PDJ Court & Ar.O.P. No. & Enhanced Compensation Amount
1	C.M.A.(MD) No. 468/2024 M.S.Manoharan Thamaraikulam	222 Sq.m (or) 5.485 Cents House sites	18.06.12	13.05.13	ROC No. 49/2010/Spl.DRO/LA Dt:15.05.2014 Rs.2,695/- Per Sq.m (or) Rs.1,09,067/- per cent	PDJ (Theni) Arb.O.P.No.7/2018 Rs.3,770/- Per Sq.m (or) Rs.1,52,572/- Per Cent Enhanced Amount Rs.5,20,705/-
2	C.M.A.(MD) No. 431/2024 U.Chitradevi Thamaraikulam	187 Sq.m (or) 4.620 Cents House sites	18.06.12	13.05.13	ROC No. 49/2010/Spl.DRO/LA Dt:15.05.2014 Rs.2,695/- Per Sq.m (or) Rs.1,09,067/- per cent	PDJ (Theni) Arb.O.P.No.12/2018 Rs.3,770/- Per Sq.m (or) Rs.1,52,572/- Per Cent Enhanced Amount Rs.4,38,612/-



C.M.A.(MD) No.235 of 2019 etc. batch

3	C.M.A.(MD) No. 452/2024 S.Susila Thamaraikulam	113 Sq.m (or) 2.792 Cents House sites	18.06.12	13.05.13	ROC No. 49/2010/Spl.DRO/LA Dt:15.05.2014 Rs.540/- Per Sq.m (or) Rs.21,854/- per cent	PDJ (Theni) Arb.O.P.No.02/2018 Rs.3,770/- Per Sq.m (or) Rs.1,52,572/- Per Cent Enhanced Amount Rs.5,32,910/-
4	C.M.A.(MD) No. 109/2021 J.Nivaskar Chinnamanaickan patti	1544 Sq.m (or) 38.151 Cents	24.04.06	14.11.06	ROC No.B10/111591/2005 Dt:14.02.2007 Rs.106.39/- Per Sq.m (or) Rs.4,306/- per cent ----- Total - Rs.35,827/-	PDJ (Madurai) Arb.O.P.No.91/2015 Rs.6,650/- Per Cent Enhanced Amount Rs.2,83,056/-
5	C.M.A.(MD) No. 192/2021 L.S.C.Parama Sivam Thanichiyam	100 Sq.m (or) 2.470 Cents House site with Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.6,54,872/- for Building ----- Total - Rs.7,36,646/-	PDJ (Madurai) Arb.O.P.No.06/2018 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land - Rs.58,193/- For Building - Rs.8,42,400/- Enhanced Amount Rs.1,63,947/-
6	C.M.A.(MD) No. 226/2020 Ankuthayammal Thanichiyam	57 Sq.m (or) 1.152 Cents House site with Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,49,471/- for Building ----- Total - Rs.2,83,701/-	PDJ (Madurai) Arb.O.P.No.08/2015 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land - Rs.27,140/- For Building - Rs.3,40,848/- Enhanced Amount Rs.84,287/-
7	C.M.A.(MD) No. 235/2019 R.Pandiselvi Thanakkankulam	554.5 Sq.m (or) 13.701 Cents House site	30.06.05	14.06.06	ROC No.B9/114808/2004 Dt:12.04.2007 Rs.144.13/- Per Sq.m. (or) Rs.5833/- Per cent for House site ----- Total - Rs.78,857/-	PDJ (Madurai) Arb.O.P.No.31/2013 Rs.23,365/- Per Cent Enhanced Amount Rs.3,74,028/-
8	C.M.A.(MD) No. 237/2019 S.Pandimadevi Thanakkankulam	554.5 Sq.m (or) 13.701 Cents House site	30.06.05	14.06.06	ROC No.B9/114808/2004 Dt:12.04.2007 Rs.144.13/- Per Sq.m. (or) Rs.5833/- Per cent for House site ----- Total - Rs.78,857/-	PDJ (Madurai) Arb.O.P.No.30/2013 Rs.23,365/- Per Cent Enhanced Amount Rs.3,74,028/-



C.M.A.(MD) No.235 of 2019 etc. batch

9	C.M.A.(MD) No. 237/2020 S.Latha Thanichiyam	142 Sq.m (or) 3.508 Cents House site with Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,15,328/- for Building ----- Total - Rs.2,59,988/-	PDJ (Madurai) Arb.O.P.No.16/2017 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land Rs.82,650/- For Building Rs.3,14,772/- Enhanced Amount - Rs.1,37,434/-
10	C.M.A.(MD) No. 241/2020 M.Chellamuthu Gunder Kulaseakaran- kottai	1625 Sq.m (or) 40.153 Cents Punja Land	28.07.06	19.01.07	ROC No.B10/111595/2005 Dt:04.06.2007 Rs.12.34/- Per Sq.m. (or) Rs.499/- Per cent + 38 Coconut Trees + 1 Sq. Well + 100ft Nut Bore and 6 Nos Side Bore 200 ft each Totally 7 Bores for Land ----- Total - Rs.2,57,080/-	PDJ (Madurai) Arb.O.P.No.50/2014 Rs.12,000/- Per Cent Enhanced compensation for land Amount - Rs.6,54,012/- Open well - Rs.3,25,220/- Open Well - Rs.1,75,000/- 38 Coconut Trees - Rs.2,28,000/- ----- Total - Rs.13,82,232/- Less Already Received - Rs.2,57,080/- Enhanced Compensation Rs.11,25,152/-
11	C.M.A.(MD) No. 245/2019 E.Pandeeswari Thanakkankulam	554.5 Sq.m (or) 13.701 Cents House site	30.06.05	14.06.06	ROC No.B9/114808/2004 Dt:12.04.2007 Rs.144.13/- Per Sq.m. (or) Rs.5833/- Per cent for House site ----- Total - Rs.78,857/-	PDJ (Madurai) Arb.O.P.No.32/2013 Rs.23,365/- Per Cent Enhanced Amount - Rs.3,74,028/-
12	C.M.A.(MD) No. 247/2020 P.Thirupathi Thanichiyam	110 Sq.m (or) 2.718 Cents House site with Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,10,475/- for Building ----- Total - Rs.2,49,438/-	PDJ (Madurai) Arb.O.P.No.07/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.64,037/- For Building : Rs.2,77,174/- Enhanced Amount Rs.91,773/-
13	C.M.A.(MD) No. 249/2020 K.Saratha Thanichiyam	250 Sq.m (or) 6.177 Cents House site with Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.33,352/- for Building ----- Total - Rs.77,404/-	PDJ (Madurai) Arb.O.P.No.09/2015 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.1,45,532/- For Building : Rs.2,08,258/- Enhanced Amount Rs.2,76,386/-



C.M.A.(MD) No.235 of 2019 etc. batch

14	C.M.A.(MD) No. 252/2020 T.Karuppiyah Thanichiyam	300 Sq.m (or) 7.412 Cents House site	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent ----- Total - Rs.48,860/-	PDJ (Madurai) Arb.O.P.No.10/2015 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land Rs.1,74,628/- Enhanced Amount Rs.1,25,768/-
15	C.M.A.(MD) No. 254/2020 V.Karunanithi Thanichiyam	37 Sq.m (or) 0.914 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.57,304/- For Building ----- Total - Rs.69,060/-	PDJ (Madurai) Arb.O.P.No.333/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.21,535/- For Building : Rs.2,14,255/- Enhanced Amount Rs.1,66,730/-
16	C.M.A.(MD) No. 255/2020 T.Arumugam Thanakkankulam	250 Sq.m (or) 6.177 Cents House site	30.06.05	14.06.06	ROC No.B9/114808/2004 Dt:12.04.2007 Rs.144.13/- Per Sq.m. (or) Rs.5833/- Per cent for House site ----- Total - Rs.39,636/-	PDJ (Madurai) Arb.O.P.No.26/2014 Rs.23,365/- Per Cent Enhanced Amount Rs.1,64,550/-
17	C.M.A.(MD) No. 258/2019 R.Ramadoss Melakottai	1,460 Sq.m (or) 36.076 Cents	26.04.05	13.04.06	ROC No.B10/110054/2004 Dt:29.03.2007 Rs.123.24/- Per Sq.m. (or) Rs.4,987.52/- Per cent ----- Total - Rs.1,97,923/-	PDJ (Madurai) Arb.O.P.No.63/2013 Rs.22,651/- Per Cent Enhanced Amount Rs.9,59,171/-
18	C.M.A.(MD) No. 258/2020 C.Sundari Kulaseakaran- kottai	1200 Sq.m (or) 29.651 Cents Dry Lands With 4 Poultry Sheds and One Residential Shed	28.07.06	19.01.07	ROC No.B10/111595/2005 Dt:04.06.2007 Rs.139.93/- Per Sq.m. (or) Rs.5,663/- Per cent ----- Total - Rs.2,40,422/-	PDJ (Madurai) Arb.O.P.No.41/2014 Rs.12,000/- Per Cent For land : Rs.4,82,956/- For 5 Sheds : Rs.4,13,472/- ----- Total : Rs.8,96,428/- Less Already Received : Rs.2,40,422/- Enhanced Compensation Rs.6,56,006/-



C.M.A.(MD) No.235 of 2019 etc. batch

19	C.M.A.(MD) No. 261/2020 M.Sekar Thanichiyam	27 Sq.m (or) 0.545 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.95,729/- For Building ----- Total - Rs.1,09,699/-	PDJ (Madurai) Arb.O.P.No.06/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.12,840/- For Building : Rs.1,27,397/- Enhanced Amount Rs.30,538/-
20	C.M.A.(MD) No. 262/2020 K.Chandran Thanichiyam	100 Sq.m (or) 2.470 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent For Building - Rs.1,68,898/- ----- Total -Rs.1,83,704/-	PDJ (Madurai) Arb.O.P.No.32/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.58,193/- For Building : Rs.2,51,009/- Enhanced Amount Rs.1,07,128/-
21	C.M.A.(MD) No. 266/2020 A.Ravi Thanichiyam	68 Sq.m (or) 1.374 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,58,633/- For Building ----- Total - Rs.2,95,571/-	PDJ (Madurai) Arb.O.P.No.12/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.32,372/- For Building : Rs.3,72,600/- Enhanced Amount Rs.1,09,401/-
22	C.M.A.(MD) No. 267/2019 A.Lakshmanan Melakottai	629 Sq.m (or) 15.542 Cents	26.04.05	13.04.06	ROC No.B10/110054/2004 Dt:29.03.2007 Rs.123.24/- Per Sq.m. (or) Rs.4,987.52/- Per cent ----- Total - Rs.85,270/-	PDJ (Madurai) Arb.O.P.No.64/2013 Rs.22,651/- Per Cent Enhanced Amount Rs.4,13,222/-
23	C.M.A.(MD) No. 268/2020 Dhanalakshmi Ammal Thanichiyam	343 Sq.m (or) 8.475 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.4,17,170/- For Building ----- Total - Rs.5,14,750/-	PDJ (Madurai) Arb.O.P.No.34/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.1,99,673/- For Building : Rs.5,48,921/- Enhanced Amount Rs.2,33,844/-



C.M.A.(MD) No.235 of 2019 etc. batch

24	C.M.A.(MD) No. 280/2020 S.Thiruvenkadam Thaniciyam	567 Sq.m (or) 14.010 Cents	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m. (or) Rs.5,992/- Per cent ----- Total - Rs.92,345/-	PDJ (Madurai) Arb.O.P.No.70/2013 Rs.17,362/- Per Cent Enhanced Amount Rs.2,37,735/-
25	C.M.A.(MD) No. 284/2019 R.Chandra Boopathy Melakottai	600 Sq.m (or) 14.825 Cents Wet Land	26.04.05	13.04.06	ROC No.B10/110054/2004 Dt:29.03.2007 Rs.123.24/- Per Sq.m. (or) Rs.4,987.52/- Per cent ----- Total - Rs.81,338/-	PDJ (Madurai) Arb.O.P.No.65/2013 Rs.22,651/- Per Cent Enhanced Amount Rs.3,94,156/-
26	C.M.A.(MD) No. 343/2021 K.Pappu Thanichiyam	110 Sq.m (or) 2.718 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.1,36,504/- For Building ----- Total - Rs.1,68,070/-	PDJ (Madurai) Arb.O.P.No.09/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.64,037/- For Building: Rs.4,87,779/- Enhanced Amount Rs.3,83,746/-
27	C.M.A.(MD) No. 345/2021 R.Raja Thumbichampatti	1152 Sq.m (or) 28.465 Cents	24.04.06	14.11.06	ROC No.B10/111593/2005 Dated: 22.02.2007 Rs.26.65/- Per Sq.m. (or) Rs.1,200/- Per cent ----- Total - Rs.37,573/-	PDJ (Madurai) Arb.O.P.No.85/2015 Rs.8,820/- Per Cent Enhanced Amount Rs.3,05,460/-
28	C.M.A.(MD) No. 346/2023 M.Eskilinaraj Melakottai	600 Sq.m (or) 14.825 Cents of house sites	26.04.05	13.04.06	ROC No.A2/174/2006 Dt:26.06.2008 Rs.129.19/- Per Sq.m. (or) Rs.5,228/- Per cent ----- Total - Rs.85,625/-	PDJ (Madurai) Arb.O.P.No.49/2015 Rs.22,651/- Per Cent Enhanced Amount Rs.3,72,096/-
29	C.M.A.(MD) No. 390/2020 Mariyammal Thaniciyam	94 Sq.m (or) 2.322 Cents House Site	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.14.83/- Per Sq.m. (or) Rs.600/- Per cent ----- Total - Rs.1,533/-	PDJ (Madurai) Arb.O.P.No.16/2016 Rs.17,362/- Per Cent Enhanced Amount Rs.53,175/-



C.M.A.(MD) No.235 of 2019 etc. batch

30	C.M.A.(MD) No. 394/2021 K.Chellasamy Thanichiyam	24 Sq.m (or) 0.593 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.12,769/- For Building ----- Total - Rs.17,955/-	PDJ (Madurai) Arb.O.P.No.07/2018 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.13,972/- For Building: Rs.81,842/- Enhanced Amount Rs.77,859/-
31	C.M.A.(MD) No. 412/2020 P.Muniyasamy Thanichiyam	100 Sq.m (or) 2.470 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.77,715/- For Building ----- Total - Rs.92,321/-	PDJ (Madurai) Arb.O.P.No.31/2015 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.58,192/- For Building: Rs.2,93,513/- Enhanced Amount Rs.2,50,123/-
32	C.M.A.(MD) No. 413/2020 R.Sethuramalingam Thanichiyam	100 Sq.m (or) 2.470 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.3,79,917/- For Building ----- Total - Rs.4,30,895/-	PDJ (Madurai) Arb.O.P.No.35/2015 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.82,650/- For Building: Rs.3,14,772/- Enhanced Amount Rs.1,94,020/-
33	C.M.A.(MD) No. 419/2020 Vanjathal Kulaseakaran- kottai	156 Sq.m (or) 3.854 Cents With 2 Coconut Trees	28.07.06	19.01.07	ROC No.B10/111595/2005 Dt:04.06.2007 Rs.12.34/- Per Sq.m. (or) Rs.499/- Per cent ----- Total - Rs.10,917/-	PDJ (Madurai) Arb.O.P.No.95/2015 Rs.12,000/- Per Cent For land : Rs.62,774/- For Coconut Trees : Rs.12,000/- ----- Total : Rs.74,474/- Less Already Received : Rs.10,917/- Enhanced Compensation Rs.63,857/-
34	C.M.A.(MD) No. 420/2020 K.Bose Thuvariman	3,200 Sq.m (or) 79.070 Cents	02.12.05	11.05.06	ROC No.B9/114810/2004 Dated: 30.07.2007 Rs.36.69/- Per Sq.m. (or) Rs.1485/- Per cent ----- Total - Rs.1,15,847/-	PDJ (Madurai) Arb.O.P.No.46/2013 Enhanced Amount Rs.10,06,188/-



C.M.A.(MD) No.235 of 2019 etc. batch

35	C.M.A.(MD) No. 422/2020 K.Vallatharasu Thaniciyam	46 Sq.m (or) 1.136 Cents of House Site	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.14.83/- Per Sq.m. (or) Rs.600/- Per cent ----- Total - Rs.750/-	PDJ (Madurai) Arb.O.P.No.14/2016 Enhanced Amount Rs.26,014/-
36	C.M.A.(MD) No. 425/2020 T.Ashok Kumar Thuvariman	2,580 Sq.m (or) 63.750 Cents	02.12.05	11.05.06	ROC No.B9/114810/2004 Dated: 30.07.2007 Rs.36.69/- Per Sq.m. (or) Rs.1,485/- Per cent ----- Total - Rs.1,23,791/-	PDJ (Madurai) Arb.O.P.No.44/201 Enhanced Amount Rs.8,79,358/-
37	C.M.A.(MD) No. 426/2021 Chellasamy Thanichiyam	19 Sq.m (or) 0.469 Cents House Site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.29,583/- For Building ----- Total - Rs.35,636/-	PDJ (Madurai) Arb.O.P.No.12/2017 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.11,050/- For Building: Rs.96,422/- Enhanced Amount Rs.71,836/-
38	C.M.A.(MD) No. 448/2021 V.S.Venkadachalam Thathampatti	420 Sq.m (or) 10.378 Cents	28.07.06	19.01.07	ROC No. B10/111594/2005 Dated 14.05.2007 Rs.10.88/- Per Sq.m. (or) Rs.440/- Per cent ----- Total - Rs.5,027/-	PDJ (Madurai) Arb.O.P.No.98/2015 Enhanced Amount Rs.1,64,010/-
39	C.M.A.(MD) No. 449/2021 C.Tharani Thumbichampatti	250 Sq.m (or) 6.177 Cents with Rice Mill, Shed, Kalam	24.04.06	14.11.06	ROC No.B10/111593/2005 Dated: 22.02.2007 Rs.46.91/- Per Sq.m. (or) Rs.1,898/- Per cent Rs.1,52,245/- For the Structure Value ----- Total - Rs.1,80,370/-	PDJ (Madurai) Arb.O.P.No.86/2015 Rs.8,820/- Per Cent Enhanced Amount Rs.61,539/-
40	C.M.A.(MD) No. 456/2020 R.Sampath	2400 Sq.m (or) 59.30 Cents	02.12.05	11.05.06	ROC No.B9/114810/2004 Dated: 30.07.2007 Rs.36.69/- Per Sq.m. (or) Rs.1485/- Per cent ----- Total - Rs.96,862/-	PDJ (Madurai) Arb.O.P.No.43/201 Enhanced Amount Rs.7,54,647/-



C.M.A.(MD) No.235 of 2019 etc. batch

41	C.M.A.(MD) No. 467/2020 P.Stella Thenur I Bit	166 Sq.m (or) 4.101 Cents of House site	28.07.06	19.01.07	ROC No.B9/21352/2006 Dated: 15.05.2007 Rs.12.35/- Per Sq.m. (or) Rs.500/- Per cent ----- Total - Rs.2,255/-	PDJ (Madurai) Arb.O.P.No.66/2013 Rs.5,201/- Per Cent Enhanced Amount Rs.26,689/-
42	C.M.A.(MD) No. 469/2020 P.Sundammal Kulaseakaran-kottai	440 Sq.m (or) 10.872 Cents	28.07.06	19.01.07	ROC No.B10/111595/2005 Dt:04.06.2007 Rs.12.34/- Per Sq.m. (or) Rs.499/- Per cent ----- Total - Rs.5,973/-	PDJ (Madurai) Arb.O.P.No.96/2015 Rs.12,000/- Per Cent Enhanced Compensation Rs.1,71,110/-
43	C.M.A.(MD) No. 472/2020 L.S.C.Paramasivam Thanichiyam	31 Sq.m (or) 0.765 Cents House Site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.1,54,261/- For Building ----- Total - Rs.1,74,736/-	PDJ (Madurai) Arb.O.P.No.11/2017 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.18,024/- For Building: Rs.2,16,186/- Enhanced Amount Rs.59,474/-
44	C.M.A.(MD) No. 490/2022 P.Rajendran	3,180 Sq.m (or) 78.577 Cents	02.12.05	11.05.06	ROC No.B9/114810/2004 Dated: 30.07.2007 Rs.36.69/- Per Sq.m. (or) Rs.1485/- Per cent ----- Total - Rs.1,32,193/-	PDJ (Madurai) Arb.O.P.No.26/2016 Enhanced Amount Rs.10,38,066/-
45	C.M.A.(MD) No. 493/2021 M.Rajendran Thanichiyam	41Sq.m (or) 1.013 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,12,322/- For Building ----- Total - Rs.2,40,232/-	PDJ (Madurai) Arb.O.P.No.36/2015 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.23,867/- For Building : Rs.2,76,307/- Enhanced Amount Rs.59,942/-
46	C.M.A.(MD) No. 502/2021 S.Sivabalan Thathampatti	2,750 Sq.m (or) 67.951 Cents	28.07.06	19.01.07	ROC No. B10/111594/2005 Dated 14.05.2007 Rs.25.58/- Per Sq.m. (or) Rs.1,035/- Per cent ----- Total - Rs.74,379/-	PDJ (Madurai) Arb.O.P.No.99/2015 Rs.12,000/- Per Cent Enhanced Amount Rs.10,29,407/-



C.M.A.(MD) No.235 of 2019 etc. batch

47	C.M.A.(MD) No. 503/2021 K.Chellasamy Thanichiyam	33 Sq.m (or) 0.815 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.64,228/- For Building ----- Total - Rs.76,091/-	PDJ (Madurai) Arb.O.P.No.05/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.19,202/- For Building: Rs.2,06,608/- Enhanced Amount Rs.1,49,719/-
48	C.M.A.(MD) No. 519/2021 G.Devarajan Thumbichampatti	1,019 Sq.m (or) 25.179 Cents	24.04.06	14.11.06	ROC No.B10/111593/2005 Dated: 22.02.2007 Rs.29.65/- Per Sq.m., 46.91 Per Sq.m. (or) Rs. 1,200/- , Rs.1,898 Per cent ----- Total - Rs.1,97,844/-	PDJ (Madurai) Arb.O.P.No.87/2015 Rs.8,820/- Per Cent Enhanced Amount Rs.2,66,989/-
49	C.M.A.(MD) No. 540/2020 K.Palaniyadi Thanichiyam	61 Sq.m (or) 1.507 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.66,135/- For Building ----- Total - Rs.82,683/-	PDJ (Madurai) Arb.O.P.No.14/2015 Rs.429/- Per Sq.m (or) Rs. 17,362/- Per Cent For Land : Rs.26,165/- For Building: Rs.2,28,614/- Enhanced Amount Rs.1,62,471/-
50	C.M.A.(MD) No. 605/2020 C.Selvam Thanichiyam	128 Sq.m (or) 3.162 Cents of House Site	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.14.83/- Per Sq.m. (or) Rs.600/- Per cent ----- Total - Rs.2,088/-	PDJ (Madurai) Arb.O.P.No.15/2016 Rs.17,362/- Per Cent Enhanced Amount Rs.72,410/-
51	C.M.A.(MD) No. 622/2020 R.Karuppai Chinnamanaic- kanpatti	1450 Sq.m (or) 35.829 Cents	24.04.06	14.11.06	ROC No.B10/111591/2005 Dt:14.02.2007 Rs.106.39/- Per Sq.m (or) Rs.4,306/- per cent ----- Total - Rs.1,69,692/-	PDJ (Madurai) Arb.O.P.No.20/2014 Rs.6,650/- Per Cent Enhanced Amount Rs.1,55,855/-
52	C.M.A.(MD) No. 635/2024 V.Krishnasamy Thanichiyam	1,267 Sq.m (or) 31.307 Cents	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.14.83/- Per Sq.m. (or) Rs.600/- Per cent ----- Total - Rs.20,669/-	PDJ (Madurai) Arb.O.P.No.69/2013 Rs.11,112/- Per Cent Enhanced Amount Rs.4,51,408/-



C.M.A.(MD) No.235 of 2019 etc. batch

53	C.M.A.(MD) No. 783/2019 V.Rajammal Thanichiyam	20 Sq.m (or) 0.494 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.9,925/- For Building ----- Total - Rs.14,175/-	PDJ (Madurai) Arb.O.P.No.13/2017 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.11,639/- For Building : Rs.62,675/- Enhanced Amount Rs.60,139/-
54	C.M.A.(MD) No. 790/2019 A.Ramuchettiar Thanichiyam	56 Sq.m (or) 1.383 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,63,473/- For Building ----- Total - Rs.2,98,941/-	PDJ (Madurai) Arb.O.P.No.4/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.32,585/- For Building: Rs.3,50,633/ Enhanced Amount Rs.84,277/-
55	C.M.A.(MD) No. 791/2019 V.Rajalakshmi Thanichiyam	14 Sq.m (or) 0.345 Cents House Site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5,990/- per cent Rs.4,836/- For Building ----- Total - Rs.7,600/-	PDJ (Madurai) Arb.O.P.No.02/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land Rs.8,128/- Enhanced Amount - Rs.5,848/-
56	C.M.A.(MD) No. 792/2019 K.Baskaran Thanichiyam	19 Sq.m (or) 0.469 Cents House Site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.25,553/- For Building ----- Total - Rs.31,203/-	PDJ (Madurai) Arb.O.P.No.31/2017 For Land : Rs.11,050/- For Building : Rs.95,541/- Enhanced Amount Rs.75,358/-
57	C.M.A.(MD) No. 794/2019 T.Murugan Thanichiyam	250 Sq.m (or) 6.177 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.72,708/- For Building ----- Total - Rs.1,20,695/-	PDJ (Madurai) Arb.O.P.No.03/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.1,45,532/- For Building: Rs.2,82,113/- Enhanced Amount Rs.3,06,950/-



C.M.A.(MD) No.235 of 2019 etc. batch

58	C.M.A.(MD) No. 796/2019 K.Mathanavalli Thanichiyam	48 Sq.m (or) 1.186 Cents House Site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,50,094/- For Building ----- Total - Rs.2,82,921/-	PDJ (Madurai) Arb.O.P.No.15/2017 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.27,942/- For Building: Rs.4,67,328/- Enhanced Amount Rs.2,12,349/-
59	C.M.A.(MD) No. 797/2019 K.Baskaran Thanichiyam	21 Sq.m (or) 0.518 Cents House site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent ----- Total - Rs.3,420/-	PDJ (Madurai) Arb.O.P.No.30/2016 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land – Rs.12,205/- Enhanced Amount Rs.8,785/-
60	C.M.A.(MD) No. 840/2023 A.Shanthi Thumbichampatti	800 Sq.m (or) 19.764 Cents	24.04.06	14.11.06	ROC No.B10/111593/2005 Dated: 22.02.2007 Rs.29.65/- Per Sq.m., (or) Rs.1,200/- Per cent ----- Total - Rs.26,092/-	PDJ (Madurai) Arb.O.P.No.25/2014 Rs.8,820/- Per Cent Enhanced Amount Rs.2,12,122/-
61	C.M.A.(MD) No. 869/2019 T.Kottaichamy Thanichiyam	244 Sq.m (or) 6.024 Cents Land With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.2,20,748/- For Building ----- Total - Rs.2,82,572/-	PDJ (Madurai) Arb.O.P.No.1/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.1,42,044/- For Building: Rs.3,38,061/- Enhanced Amount Rs.1,97,547/-
62	C.M.A.(MD) No. 884/2019 V.George Thanichiyam	200 Sq.m (or) 4.94 Cents House Site With Building	28.07.06	19.01.07	ROC No.B9/9166/2006 Dated: 30.07.2007 Rs.148.06/- Per Sq.m (or) Rs.5990/- per cent Rs.1,27,517/- For Building ----- Total - Rs.1,72,842/-	PDJ (Madurai) Arb.O.P.No.08/2018 Rs.429/- Per Sq.m (or) Rs.17,362/- Per Cent For Land : Rs.1,16,412/- For Building: Rs.4,49,662/- Enhanced Amount Rs.3,93,232/-
63	C.M.A.(MD) No. 1062/2021 R.Prakash Babu Thuvariman	819 Sq.m. and 65 sq.mts. or 20.24 Cents and 1.01 Cents Land	02.12.05	03.08.06	ROC No.B9/114810/2004 Dated: 26.03.2007 Award Amount Rs.35,677/-	PDJ (Madurai) Arb.O.P.No.27/2015 Enhanced Amount Rs.2,77,959/-



C.M.A.(MD) No.235 of 2019 etc. batch

64	C.M.A.(MD) No. 1066/2021 K.Vasantharani Thanakkankulam	200 Sq.m (or) 4.941 Cents House site	30.06.05	14.06.06	ROC No.B9/114808/2004 Dt:12.04.2007 Rs.144.13/- Per Sq.m. (or) Rs.5,833/- Per cent for House site ----- Total - Rs.31,709/-	PDJ (Madurai) Arb.O.P.No.58/2014 Rs.23,365/- Per Cent Enhanced Amount Rs.1,31,643/-
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4 (a). The learned counsel for the appellant submitted that the orders passed by the learned Principal District Judges of Madurai and Theni Districts under Section 34 of the Arbitration Act are liable to be set aside, since the learned Principal District Judges have modified the awards, which are contrary to the settled principles of law.

4 (b). The learned counsel relied upon the judgment of the Division Bench of this Court in *NHAI (National Highways Authority of India), by its Project Director, PIU, Salem-4 Vs. District Collector cum Arbitrator (LA-NH7), Dharmapuri, and others*, dated **15.12.2023**, rendered in **C.M.A.No.2763 of 2023**, and submitted that under Section 34 of the Arbitration Act, the Principal District Judge has no power to modify the award and at best, the awards can be set aside and remanded back to the Arbitrators/District Collectors to determine the compensation afresh.



C.M.A.(MD) No.235 of 2019 etc. batch

WEB COPY 4 (c). The learned counsel also relied upon the decision of another Division Bench of this Court in ***The Project Director, National Highways No.45E and 220, Madurai Vs. N.Syed Levai Rowther and others, etc.***, dated **26.06.2024**, rendered in ***C.M.P.(MD) Nos.14864 of 2023, etc.***, wherein this Court, while condoning the delay in preferring appeals, held that the District Court had not acted within the scope of Section 34 of the Arbitration Act.

4 (d). The learned counsel submitted that the question as to whether the award can be modified or not under Section 34 of the Arbitration Act was referred to a Larger Bench of the Hon'ble Supreme Court and is pending consideration and these appeals can await the answer to the reference by the Hon'ble Supreme Court.

5 (a). The learned counsels for the landowners, per contra, submitted that all these cases relate to the acquisition of lands for the same project done for the same period, pursuant to different notifications issued for different villages; that the appellant had not challenged the compensation awarded to some of the landowners, who were awarded the



C.M.A.(MD) No.235 of 2019 etc. batch

enhanced compensation in the applications under Section 34 of the Arbitration Act; that the appeals filed by the appellant in other cases have been dismissed at the condone delay stage; and that on parity, the landowners in these cases are also entitled to the very same compensation.

5 (b). The learned counsel further submitted that in respect of the very same notification issued for acquisition of lands situated within Thanichiyam Village and other adjacent Villages, another Division Bench of this Court in the judgment in ***The Project Director, National Highways No.7, Madurai Vs. R.Karuppiah and another, etc.***, dated **08.02.2024** rendered in ***C.M.A.(MD) No.104 of 2019 etc. batch***, held that though the Principal District Judge may not have power to modify the awards, since the value fixed by the Arbitrators/Collectors was very low and based on perverse reasoning, there is no infirmity in the orders passed by the Principal District Judge under Section 34 of the Arbitration Act. The Division Bench followed the observations in the decision of the Hon'ble Supreme Court in ***Project Director, National Highways No.45E and 220, National Highways Authority of India Vs. M.Hakeem and another***, reported in **(2021) 9 SCC 1**.



C.M.A.(MD) No.235 of 2019 etc. batch

5 (c). The learned counsel further submitted that similarly, another Division Bench of this Court in the judgment in ***The Project Director, National Highways No.45E and 220, Madurai Vs. D.Muruganandan, and another***, dated **01.08.2024** rendered in ***C.M.A.(MD) No.164 of 2024***, in respect of the lands acquired for the same project, had confirmed the order passed by the District Court in an application filed under Section 34 of the Arbitration Act.

5 (d). The learned counsel further submitted that, in ***M.Hakeem's*** case cited *supra*, in respect of the lands acquired under the same notification, where the compensation determined by the Arbitrator was enhanced by the Principal District Court under Section 34 of the Arbitration Act and confirmed by this Court, the Hon'ble Supreme Court held that although there is no power to modify the award under Section 34 of the Arbitration Act, in the facts of that case, the order passed under Section 34 of the Arbitration Act need not be interfered with, as the compensation determined by the Arbitrator was on a perverse basis and contrary to the actual market value of the land, and the remand of the matter would cause grave hardships to the landowners, since the awards were passed nearly 7 to 10 years ago.



C.M.A.(MD) No.235 of 2019 etc. batch

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6. The point for consideration in the instant appeals is whether the orders passed by the Principal District Judges of Madurai and Theni Districts under Section 34 of the Arbitration Act are liable to be set aside.

7. Admittedly, the awards of the Arbitrators have been modified by the Principal District Courts by enhancing the compensation payable to the landowners.

8. It is also the admitted case that the landowners, whose lands were acquired under a similar notification issued for the same project or by the same notification, were paid compensation on the basis of orders passed by the District Courts under Section 34 of the Act, pursuant to the dismissal of S.L.Ps. by the Hon'ble Supreme Court in ***M.Hakeem's*** case cited *supra*.

9. By an order dated 08.02.2024 in C.M.A.No.104 of 2019 etc. batch in which the compensation awarded to the similarly placed persons were challenged by the appellant, this Court, by following the judgment of the Hon'ble Supreme Court in ***M.Hakeem's*** case cited *supra*, held that on



C.M.A.(MD) No.235 of 2019 etc. batch

parity, the landowners are entitled to the compensation enhanced by the Principal District Courts.

10. Another Division Bench of this Court in C.M.A.No.164 of 2024 had confirmed the order passed by the District Court under Section 34 of the Act by citing the judgment of the Hon'ble Supreme Court in ***M.Hakeem's*** case cited *supra*.

11. It is also seen that another Division Bench of this Court, in respect of the lands acquired under a different notification and situated within Dharmapuri District, *vide* order dated 15.12.2023 in C.M.A.No. 2763 of 2023, held that the award of the Arbitrator cannot be modified under Section 34 of the Act. However, the Division Bench of this Court found that the value fixed by the competent authority and Arbitrator was too low, and the appellant had taken advantage of the ignorance and gullibility of the Arbitrator and obtained orders. The Division Bench hence set aside the order passed under Section 34 of the Act and directed the Collector to re-fix the compensation in accordance with the provisions of the National Highways Act, 1956, read with the Arbitration Act.

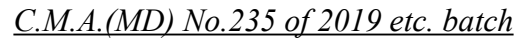


C.M.A.(MD) No.235 of 2019 etc. batch

12. Similarly, another Division Bench of this Court in the condone delay petitions in C.M.P.(MD) Nos.14864 of 2023, etc., in respect of the acquisition of lands held that each case has to be decided on its own merits depending on the facts and circumstances, and held that all the orders passed under Section 34 of the Arbitration Act cannot be confirmed, as the modification of the award is contrary to the settled principles of law.

13. The Division Bench of this Court in **R.Karuppiyah's** case cited *supra* had elaborately considered all the judgments, which had discussed the scope of Section 34 of the Arbitration Act and also considered the judgment of the Hon'ble Supreme Court in **M.Hakeem's** case cited *supra* and held as follows:

“30. The gamut of case-law on the matter has been taken note of and discussed in Project Director (NHAI) V. Hakeem, (2021) 9 SCC 1 which decision is relied on by both parties. That judgment disposed a batch of appeals that arose from the same acquisition as is the subject matter of the present case. This Court had concluded that as far as Arbitral awards made under the National Highways (NHAI) Act, 1956 were concerned, Section 34 must be read as if it permitted modification of the award made under the Highways Act enhancing compensation awarded originally.



32. *At paragraph 48, they state as follows:*

Thus, the conclusion in law is to the effect that there was no power to modify, revise or vary an award that could be read into Section 34 of the 1996 Act.

33. From paragraph 49 onwards, the matter takes a dramatic turn. On merits the specific submission was, as in the present cases, was that parity in compensation awarded as between landowners covered by the same Notification must be maintained. It was noted by the Apex Court that the NHAI had not filed appeals in all matters and there were some instances where land owners had got away with higher compensation, whereas others had



been awarded reduced/lower amounts.

34. The Court also took note of the fact that the quantification of the compensation, was itself perverse, that is, by taking into account the guideline value, which would not be relevant for determining of compensation under the Land Acquisition Act.

35. They say at paragraph 50 that 'the arbitral award in these cases is given by a government servant appointed by the Central Government, the result being the rubber stamping of compensation awarded on a completely perverse basis. Given the fact that, in these petitions at least, the constitutional validity of the NH Amendment Act, 1997 has not been challenged, we must proceed on the basis that grave injustice would be done if we were to interfere on facts, set aside the awards and remand the matter to the very government servant who took into account depressed land values which were relevant for purposes of stamp duty only'. This position is analogous to the present appeals as well.

36. At paragraph 56, they made an observation that there could be no differential compensation awarded as the public purpose sought to be achieved is one and the same. Paragraph 56 reads thus:

'56. There can be no doubt that differential compensation cannot be awarded on the ground that a different public purpose is sought to be achieved. Also, the legislature cannot say that, however laudable the public purpose and however important it is to expedite the process of land acquisition, differential compensation is to be paid depending upon the public purpose involved or the statute involved.'

37. They then take the case of a land owner who has two parcels of lands close to each other, one abutting the National Highway and the other some distance from the National Highway and, in that context, state as follows:



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C.M.A.(MD) No.235 of 2019 etc. batch

57. Take the case of a single owner of land who has two parcels of land adjacent to each other. One parcel of land abuts the national highway, whereas the other parcel of land is at some distance from the national highway. Can it be said that the land which abuts the national highway, and which is acquired under the National Highways Act, will yield a compensation much lesser than the adjacent land which is acquired under the Land Acquisition Act only because in the former case, an award is by a government servant which cannot be challenged on merits, as opposed to an award made under Part III of the Land Acquisition Act by the reference Court with two appeals in which the merits of the award can be gone into? There can be no doubt that discrimination would be writ large in such cases.

38. Ultimately, they refer to the judgment of 7 Judges in *Nagpur Improvement Trust V. Vithal Rao* (1973) 1 SCC 500 on the question of a reasonable classification for the purpose of Legislation. At paragraphs 29 and 30 of Vithal Rao's case, extracted below, the Bench has stated as follows:

29. Can classification be made on the basis of the public purpose for the purpose of compensation for which land is acquired? In other words can the Legislature lay down different principles of compensation for lands acquired say for a hospital or a school or a Government building? Can the Legislature say that for a hospital land will be acquired at 50% of the market value, for a school at 60% of the value and for a Government building at 70% of the market value? All three objects are public purposes and as far as the owner is concerned it does not matter to him whether it is one public purpose or the other. Article 14 confers an individual right and in order to justify a classification there should be something which justifies a different treatment to this individual right. It seems to us that ordinarily a classification based on the public purpose is not permissible under Article 14 for the purpose of determining compensation. The position is different when the owner of the land himself is the recipient of benefits from an improvement scheme, and the benefit to him is taken into consideration in fixing compensation. Can classification be made on the basis of the authority acquiring the land? In other words can different principles of compensation be laid if the



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C.M.A.(MD) No.235 of 2019 etc. batch

land is acquired for or by an Improvement Trust or Municipal Corporation or the Government? It seems to us that the answer is in the negative because as far as the owner is concerned it does not matter to him whether the land is acquired by one authority or the other.

30. It is equally immaterial whether it is one Acquisition Act or another Acquisition Act under which the land is acquired. If the existence of two Acts could enable the State to give one owner different treatment from another equally situated the owner who is discriminated against, can claim the protection of Article 14.

39. The conclusion in Hakeem's case was that the appeals of the Project Director were to be dismissed on the ground that the National Highways Authority of India had allowed similarly situated persons to receive compensation at a much higher rate than awarded to other land owners and parity must be maintained in the case of similarly placed persons. They also conclude that they would not be inclined to send the matters back to be re-done afresh in view of the elapse of nearly one decade from the original awards.

40. The aforesaid decision is fundamental to the decision to be taken on the averments that have been made by both parties. The land owners have placed very great reliance on this judgment. The respondents for their part, would emphasize that, in principle, there was no quarrel on the proposition that parity in compensation has to be maintained. However, it is only by the exercise of discretion under Article 142 that such parity was, in fact, brought into fruition by the Hon'ble Supreme Court.

41. Neither the Constitution nor the Judgment in the case of Hakeem (supra), the respondents say, extend such discretion to the High Court. Thus the decision in the case of Hakeem (supra) is distinguishable for the simple reason that it is a judgment of the Hon'ble Supreme Court exercising a discretion which the High Court does not possess.



42. For these reasons, they would submit that the authorities had no power to review the compensation and place the same on par with other similarly placed persons, but ought to have, in keeping with the mandate under Section 34 of the 1996 Act, dismissed the appeals before them.

43. The conclusion in Hakeem's case is as follows:

59. Given the fact that the NH Amendment Act, 1997 has not been challenged before us, we refrain from saying anything more. Suffice it to say that, as has been held in *Taherakhatoon v. Salambin Mohammad*, [(1999) 2 SCC 635] (at para 20), even after we declare the law and set aside the High Court judgment on law, we need not interfere with the judgment on facts, if the justice of the case does not require interference under Article 136 of the Constitution of India.

60. Given the fact that in several similar cases, the NHAI has allowed similarly situated persons to receive compensation at a much higher rate than awarded, and given the law laid down in *Nagpur Improvement Trust v. Vithal Rao* [(1973) 1 SCC 500], we decline to exercise our jurisdiction under Article 136 in favour of the appellants on the facts of these cases. Also, given the fact that most of the awards in these cases were made 7-10 years ago, it would not, at this distance in time, be fair to send back these cases for a de novo start before the very arbitrator or some other arbitrator not consensually appointed, but appointed by the Central Government. The appeals are, therefore, dismissed on facts with no order as to costs.

44. We have studied the judgment in Hakeem's case carefully. The relevant facts are the same as in the present cases. The subject acquisitions have all been done under the same Notifications as in that case. True there will be variations in the finer details such as, the dimensions of the lands acquired, the survey numbers, the exact locations of the lands, the defences put forth by the landowners before the original authorities and the specifics of the valuations itself.



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C.M.A.(MD) No.235 of 2019 etc. batch

45. However, the authorities who have passed the impugned orders have adverted to the facts in detail, finding rank perversity in the valuations adopted in the quantification of the compensation. No details of any sort have been produced before us by the respondents to indicate, let alone establish, that the original compensation was correct and proper and based on acceptable materials.

46. On the other hand in Hakeem, the Bench has specifically referred to the methodology adopted by the authorities for valuation, finding the same to be incorrect and inadequate. At the risk of repetition, we once again draw attention to that portion of the judgement in Hakeem's case extracted at paragraphs 34 and 35 of this order.

47. The exercise of appellate power in the matters was for the reasons adumbrated in paragraphs 59 and 60 of that judgement extracted supra. Having the benefit of those observations, we believe we would be remiss if we do not apply them to the present cases particularly seeing as the facts and circumstances in the matters are near identical. The observations in Hakeem's case in regard to the slipshod and incorrect manner of quantification of compensation at the lower levels would equally apply in the present cases as well.

48. Undoubtedly, the position of law that the contours of intervention/interference in an award are severely circumscribed by the parameters under Section 34 of the 1996 Act, is too well settled now. However the concluding observations in Hakeem's case make it unambiguously and categorically clear that there has been perversity in the orders of the lower authorities in determining compensation. In a sense, one could say that the original awards of compensation were in conflict with the most basic notions of justice. This position would enable and fortify our decision to dismiss the appeals.



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C.M.A.(MD) No.235 of 2019 etc. batch

49. That apart, the Supreme Court also declines interference for the reason that the original awards had been passed a decade earlier. In the present cases, the awards have been passed on various dates in 2007, 2012, 2013, 2015 and 2016 and this position is thus analogous with those appeals. Even for this reason, we decline interference”

14. The above observations are self-explanatory. In the instant cases also, the awards were passed on various dates in 2007, 2013, and 2014. The appellant is unable to point out any infirmity in the value adopted by the Principal District Courts or justify the quantification of compensation by the competent authorities and the Arbitrators, which are perverse. Therefore, the reasons assigned by the Division Bench of this Court in the above order for dismissing the appeals filed by the National Highways Authority of India would apply to the present appeals also.

15. Similarly, another Division Bench of this Court had dismissed the appeal in C.M.A.(MD) No.164 of 2024 filed by the appellant on the ground that the Arbitrator had committed a patent illegality by not following the procedure contemplated under the National Highways Act, 1956. This Court in the said case in paragraph 14.6 held as follows:



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C.M.A.(MD) No.235 of 2019 etc. batch

14.6. Even though detailed guiding factors were incorporated in the 3G-(7) of NHAI to determine market value and other Damages, the Arbitrator dismissed the application without any judicial approach on the basis of the document adduced to determine the market value on the side of the claimants. The Arbitrator simply copied the award of competent authority contrary to Section 3 G(7) of the Act. Section 3G(7) of the Act, clearly fixes the detailed obligation, on the part of the arbitrator to determine the amount by taking into consideration the market value of the land on the date of the publication of section 3(A) of the Act, and also providing damages sustained by the persons in acquiring the land and taking possession by the Land Acquisition Officer. If the landowner is compelled to change his residence or place of the business the reasonable expenses if incurred, the same should be properly compensated. This mandatory duty is cast upon both the competent authority as well as the arbitrator. If none of the above procedure is followed, then it is a case of apparent illegality on the part of the arbitrator. His decision suffers from perversity. His method of approach in determining the compensation is against known public policy. In such a situation, in numerous cases the Hon'ble Supreme Court has upheld the power exercised by the Arbitration Tribunal under Section 34 of the Arbitration Act. Therefore, the extra ordinary situation warranted the Arbitration Tribunal to determine the compensation under Section 34 of Arbitration and Conciliation Act, on the basis of material produced before it by following the precedents laid down by the Hon'ble Supreme Court:

(1) 2024 (2) SCC 375 ; (2) 2018 (11) SCC 328 ; (3) 2022 (3) SCC 237



C.M.A.(MD) No.235 of 2019 etc. batch

Therefore, this Court finds no grounds to interfere in the said award under Section 37 of the Arbitration Act, 1996.

16. It is also pertinent to mention that both in the judgment in **M.Hakeem's** case cited *supra* and the judgment in **R.Karuppiah's** case cited *supra*, the Hon'ble Supreme Court and this Court were dealing with the lands of the persons belonging to the same Villages or adjacent Villages acquired by the appellant for the same project and during the same period of time, by similar notifications.

17. Another Division Bench of this Court in judgment in **NHAI (National Highways Authority of India), by its Project Director, PIU, Salem-4's** case (**C.M.A.No.2763 of 2023**) cited *supra* had set aside the order under Section 34 of the Act and remanded it back to the Arbitrator/District Collector to decide afresh. However, in view of the observations made in paragraphs 50 and 60 of the judgment in **M.Hakeem's** case cited *supra*, which are extracted in paragraphs 35 and 43 of the judgment of the Division Bench in **R.Karuppiah's** case cited *supra*, this Court is not inclined to set aside the order and remit the case



C.M.A.(MD) No.235 of 2019 etc. batch

back to the Arbitrators/District Collectors, considering the fact that the awards were passed 10 to 17 years ago. Therefore, the judgment of the Division Bench of this Court in ***NHAI (National Highways Authority of India), by its Project Director, PIU, Salem-4's case (C.M.A.No.2763 of 2023)*** is not applicable to the facts of the present case. Similarly, the observations of the other Division Bench in the condone delay petitions are on the facts of those cases.

18. It is also seen that the appellant was unable to point out any infirmity insofar as the value fixed by the Principal District Courts in respect of the lands acquired. Therefore, this Court is of the view that the appeals have to fail and the landowners are entitled to the compensation determined by the Principal District Courts of Madurai and Theni Districts under Section 34 of the Arbitration Act, and this Court finds no grounds to interfere with, under Section 37 of the Arbitration Act, the orders passed by the Principal District Courts under Section 34 of the Arbitration Act.

19. As far as reference to the Larger Bench of the Hon'ble Supreme Court on the scope of Section 34 of the Arbitration Act is concerned, as



C.M.A.(MD) No.235 of 2019 etc. batch

on date, the law is that the award cannot be modified. However, even in such circumstances, the Hon'ble Supreme Court in ***M.Hakeem's*** case cited *supra* and this Court did not interfere with the orders passed under Section 34 of the Arbitration Act, as the value fixed by the Arbitrator was based on perverse reasoning. The answer to the reference and any change in the law would only benefit the landowners in these cases. Therefore, adjudication in these appeals need not wait for the answer to the reference made before the Larger Bench of the Hon'ble Supreme Court.

20. The learned counsel for the appellant submitted that in some cases, namely C.M.A. (MD) Nos. 468, 431, and 452 of 2024, the interest awarded by the District Courts was at the rate of 15% per annum for the enhanced compensation, whereas in all other cases, only 9% was awarded. This Court finds force in the submission of the learned counsel for the appellant. The Court is of the view that the enhanced compensation in all cases will carry interest at the rate of 9% per annum.

21. The appellant is directed to pay the compensation enhanced by the Principal District Courts of Madurai and Theni Districts in each of the cases together with interest at the rate of 9% per annum from the date of



C.M.A.(MD) No.235 of 2019 etc. batch

possession till the date of realization, within a period of six weeks from the date of receipt of a copy of this Judgment.

22. In the result, these Civil Miscellaneous Appeals are dismissed.

No costs. Consequently, the connected Miscellaneous Petitions are closed.

25.10.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

JEN

Copy To:

- 1.The Principal District Judge,
Madurai.
- 2.The Principal District Judge,
Theni.
- 3.The District Collector,
Madurai District, Madurai.
- 4.The District Collector,
Theni Distict, Theni.
- 5.The Special District Revenue Officer/
Competent Authority for Land Acquisition
(National Highways-7),
Collectorate Building,
Madurai – 625 020.



C.M.A.(MD) No.235 of 2019 etc. batch

6.The Special District Revenue Officer/
Competent Authority for Land Acquisition,
(National Highways-45E and 220)
Collectorate Buildings, Theni.

7.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD) No.235 of 2019 etc. batch

SUNDER MOHAN, J.

JEN

Common Judgment made
in
C.M.A.(MD) No.235 of 2019 etc. batch

25.10.2024