



W.P(MD)No.24003 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.24003 of 2024

- 1.Agilandeswari
- 2.Sharumathi
- 3.Anusuya

... Petitioners

Vs

- 1.The Arbitrator / the District Collector,
Trichirappalli,
Trichirappalli District.
- 2.The Authorized Officer /
The Special District Revenue Officer,
District Revenue Officer,
Land Acquisition,
National Highways 227,
Collectorate Campus,Trichirappalli,
Now Office at: The Pudukkottai Collectorate Campus,
Pudukkottai and District.
- 3.The Project Director,
National Highways 227,
No.6, 1st Floor, VGP Nagar West,
Vazhutharetti,
Villupuram – 605 401.

...Respondents



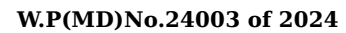
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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file 1st respondent pertaining to his order bearing C4/71722/2023-Me.Mu.04/2023, dated 08.08.2024 and quash the same and consequently directing the 1st respondent to arbitrate upon the claim petition, dated 18.10.2023 filed u/s. 3-G(5), (6), (7) of the National Highways Act r/w the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for enhancement of compensation within a time frame that may be stipulated by this Court.

For Petitioners	: Mr.S.C.Herold Singh,
For R1 & R2	: Mr.P.Thambidurai Government Advocate
For R3	:Mr.Rajagopal Standing Counsel

ORDER

The first petitioner's husband (by name Amirtham) land in S.No.41/5(41/5B) to an extent of 2200 sq.mt has been acquired by the Government for the purpose of expansion of National Highways, Trichy to Chidambaram Division, vide notification No.296, S.O.



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2.The learned counsel appearing for the petitioners by relying upon the judgment of the Honourable Division Bench of this Court in W.A Nos.308 to 312 of 2016 etc., batch, dated 25.04.2018 submits that the provisions of limitation will not be applicable to a statutory arbitration under Section 3(G) 5 of the National Highways Act, 1956 and the relevant portion from the above judgment is extracted as under:-

"30. Adverting to the cases on hand, the facts are not in dispute. The lands belonging to the land owners who are the respondents in the Writ Appeals and petitioners in the Writ Petitions were acquired for the purpose of widening the National Highways under the National Highways Act, 1956. The competent Authority passed orders under Section 3-G(1) of the said Act. The landowners had filed applications though belatedly seeking re-determination of the compensation by referring the matter to an arbitrator appointed by the Central Government in terms of Section 3-G(5) of the Act. The applications were dismissed by the Arbitrator on the ground that they have been filed beyond 3 years.

31. The judgment of the Kerala High Court in K.Leela is the basis for the contention of the National Highways authorities



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to non-suit the landowners.

32 (a) The Division Bench of the Kerala High Court in K.Leela case cited (supra) by placing reliance on Section 43 of the Arbitration and Conciliation Act, 1996, which made the provisions of Limitation Act, 1963 applicable to arbitrations under Section 3-G(5) of the National Highways Act, 1956, concluded that Limitation Act would apply to a proceeding for arbitration under the Act.

(b) The attention of the Division Bench of the Kerala High Court was not drawn to the provisions of Section 2(4) of the Arbitration and Conciliation Act, 1996 which exclude the applicability of Section 43 to statutory arbitrations. The judgments of the Hon'ble Supreme Court in PPN Power Generating Company Private Limited and Lanco Kondapalli Power Limited and others would make the position clear that the provisions of the Limitation Act, 1963 cannot be applied to statutory arbitrations in view of Section 2(4) of the Arbitration Act, 1996.

33. The judgment in Savitra Khandu Beradi Vs. Nagar Agricultural Sale and Purchase Co-operative Society Ltd., Ahmednagar and others [AIR 1957 BOMBAY 178], though rendered under the Arbitration Act, 1940, the provisions being substantially same, we see no difficulty in applying the ratio



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laid down by the Division Bench of the Bombay High Court and the Hon'ble Supreme Court in the above quoted decisions to conclude that the provisions of the Limitation Act will not be applicable to statutory arbitrations under Section 3-G(5) of the National Highways Act, 1946.

34. We therefore make the position clear that the provisions of the Limitation Act and more particularly Article 137 would not apply to an application for reference to arbitration under Section 3G(5) of the National Highways Act, 1956.

35. In view of the aforesaid reasons, the orders of the learned Single Judge in the Writ Petitions directing initiation of arbitration proceedings are confirmed. The order passed by the 1st respondent in the Writ Petitions dated 27.10.2015 and 31.12.2015 are quashed. There will be a direction to the respondents to refer the claims of the petitioners in the Writ Petitions for arbitration as contemplated under Section 3-G(5) and (6) of the National Highways Act, 1956.

The learned counsel has also relied on a similar order passed by this Court in W.P(MD) No. 16876 of 2024, dated 05.08.2024, wherein, the decision of the Honourable Division has been followed.



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3.In view of the decision of the Honourable Division Bench of this Court as stated supra, this writ petition is allowed. The order impugned in this writ petition is set aside and the matter is remanded back to the first respondent for fresh consideration of the petitioners' claim petition, without insisting upon the period of limitation and dispose of the same on its merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. No costs.

18.10.2024
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NCC :Yes/No
Index :Yes
Internet :Yes
vrn



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To
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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.24003 of 2024

18.10.2024
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