



W.A No. 2827 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-09-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.A No. 2827 of 2025 and CMP Nos. 22941 and 23060 OF 2025

1.M.Karunanidhi

S/o.Late V.Mani, res at No.108/68, Hariharanatha
Swami Koil Street, Dharmapuri-636701

2.M.Senthil Velan

S/o.Late V.Mani, res at No.108/68, Hariharanatha
Swami Koil Street, Dharmapuri-636701

3.S.Sharmila

W/o.Srinivasan and D/o.Late Chennakesavan, C2-
101, Akshaya Republic 4/287, Kundrathur Main
Road, Kovur, Chennai-600128

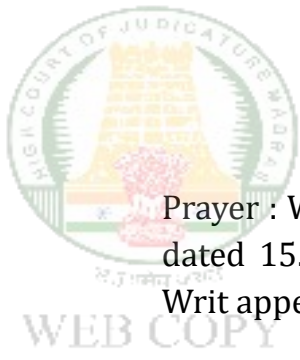
..Appellants

Vs

1. The District Collector/sole Arbitrator
Dharmapuri District, Collectorate Complex,
Dharmapuri-636705

2. Competent Authority And
Special District Revenue Officer-Land Acquisition
National Highways-844 (Hosur-Royakottai
Dharmapuri Section), Dharmapuri-636705

..Respondents



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Prayer : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 15.2.2024 passed in the Writ petition WP.No. 3502/2024 and allow the Writ appeal.

For Appellants : Mr.S. Thanka Sivan

For Respondents : Mr A.Selvendran
Special Government Pleader

Judgment

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 15.02.2024 in W.P.No.3502 of 2024.

2. The appellants were the writ petitioners, who are the joint owners of the land situated at S.No.417/1A and 1B, A-Reddihalli Village, Dharmapuri Taluk and District. This was one of the lands sought to be acquired by the respondents for the Highways Project ie., National Highway (NH) 844, Hosur-Dharmapuri Section. After acquiring the land, an award has been passed by the second respondent on 17.03.2022 fixing the quantum of compensation at Rs.5.46 per Sq.ft. Since the said amount, according to the writ petitioners / appellants was obnoxiously low, they preferred Arbitration Appeal under Section 3(g)(v) of the National Highways Act before the first respondent / Sole Arbitrator. The first respondent being the Arbitration Officer, has ultimately passed the award on 18.04.2022, whereby he fixed a sum of Rs.8.31 per Sq.ft on the basis of the market value.



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3. However, in respect of the adjacent land ie., S.No.418 of the same village, which was also taken under the land acquisition proceedings for the very same road project, similar Arbitration Appeal when was filed, the same was considered by the very same Arbitrator and he passed an order on 31.10.2022, where he has determined the market value per Sq.ft for the said land at Rs.340.36/- per Sq.ft and accordingly the award was passed.

4. According to the petitioners / appellants even well prior to the order passed on 31.10.2022 for the neighbour's land, on the basis of the award passed in respect of the appellants' land by order dated 18.04.2022, the appellants / petitioners claimed to have given a petition on 10.05.2022, of course within the meaning of Section 33 of the Arbitration Act.

5. Subsequently, a reminder representation also was given on 20.12.2023 to the first respondent / District Collector-sum-Sole Arbitrator to act upon the representations of the petitioners dated 10.05.2022 followed by a representation dated 20.12.2023 for the purpose of correcting the error committed by the first respondent in applying the land value of Rs.88 per Sq.mtr ie., Rs.8.31/- per Sq.ft in the order dated 18.11.2022 in respect of the petitioner's land in S.No.417 and applying the land value of Rs.3641.95 per Sq.mtr ie., Rs.340.36 per Sq.ft in respect



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of the neighbour's land at S.No.418, and accordingly order enhancement of compensation to the petitioner / appellant.

6. The writ petition having been considered, was rejected by the writ Court through the impugned order stating that, as against the award dated 18.11.2022 passed by the first respondent District Collector, appeal has to be preferred by the petitioners / appellants under Section 34 of the Arbitration Act and instead since a writ petition has been preferred under Article 226 of the Constitution of India, the writ petition was not maintainable and therefore it is liable to be dismissed in limine and accordingly the writ petition was dismissed through the impugned order.

7. We have heard Mr.S.Thanka Sivan, learned counsel for the appellants and Mr.A.Selvendran, learned Special Government Pleader for the respondents.

8. It is submitted by the learned counsel for the appellants that if this kind of apparent error has occurred in passing the award under Section 3(g)(v) by the Arbitrator, before filing an appeal under Section 34 of the Arbitration Act, a Rectification Petition could be filed to rectify or correct such errors and mistakes committed by the Arbitrator in passing the Arbitral Award under Section 33 of the Arbitration Act. If such an application is filed, the same shall be considered and decided by the Arbitrator within a time frame of 60 days and even by a suo-



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motu action, the Arbitrator is empowered to make such corrections or modifications in the Award under Section 33 of the Act. Relying upon this provision, learned counsel for the appellants would contend that when such an exhaustive procedure is contemplated under Section 33 of the Act, and when such an application has been filed by the appellants, the same ought to have been considered and decided by the first respondent and since the same has been kept pending and not been considered, having no other option the writ petition was filed and the writ Court erroneously dismissed the same exercising writ jurisdiction as if the writ petition is not maintainable for want of filing regular appeal against the arbitral award under Section 34 of the Act, this approach of the learned Judge may be erroneous and hence the learned counsel for the appellants seeks the indulgence of this Court.

9. Learned counsel for the appellants also has compared the market value as well as the value fixed by the Arbitrator in respect of S.No.417 as well as S.No.418 as both are adjacent survey numbers and both lands are acquired for the very same project and therefore, there is huge difference in fixing the market value, as both are adjacent lands and there has been a grave error that has crept in the award passed by the Arbitrator and therefore that is necessarily to be rectified. If such application was submitted under Section 34 of the Act, the same ought to have been directed to be considered.



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10. On the other hand, learned Special Government Pleader appearing for the respondents would submit that, insofar as the arbitral award passed by the first respondent / District Collector in respect of the property belonging to the appellants is concerned, that award was passed on 18.04.2022, whereas in respect of the other land in respect of S.No.418 belongs to an other person, only subsequently award was passed ie., on 31.10.2022. Therefore, subsequent fixation cannot be taken as reference for the purpose of determination of compensation for the award passed six months prior to the said award.

11. Moreover, each and every land has its own value and once guideline value is fixed by the concerned authority for each and every land or survey number, based on such guideline value only the Arbitrator can act upon, and in both the cases, based on the guideline value alone the award has been passed and therefore, it cannot be compared merely by stating that both are adjacent lands and therefore the value fixed by the District Collector as Arbitrator in respect of the land belonging to the petitioners / appellants is obnoxiously low.

12. Learned Special Government Pleader would also submit that insofar as the type of land is concerned, the petitioners' land is categorised as Dry Maanavari Land Type III, whereas the adjacent land is categorised as Residential



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Class I type land. Therefore, there is a vast difference between these two types of categorisation of land and accordingly since the guideline value and market value has been fixed, it cannot be found fault with and hence the learned Judge has rightly rejected the writ petition through the impugned order.

13. We have carefully considered the submissions made by both sides and have perused the materials placed on record.

14. On going through the order impugned, it is seen that the writ Court has not decided the writ petition on merits of the claim that has been made by both the parties insofar as the compensation of lower amount of market value for the purpose of fixation of compensation to the land belongs to the petitioners / appellants. The Writ Court in fact has dismissed the writ petition only on the ground that, once award is passed by the District Collector under Section 3(g)(v) of the National Highways Act, as against which only appeal under Section 34 of the Arbitration Act can be preferred before the appellate forum and a writ petition cannot be filed. Only on this premise the learned Judge has dismissed the said writ petition stating that the writ petition was liable to be dismissed in limine for want of maintainability.

15. Here in the case in hand, it should be noted that apart from Section 34 of the Arbitration Act, Section 33 of the Act provides for Correction and



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Interpretation of Award, Additional Award. Once such application is filed, how it should be disposed of and the manner in which it should be decided and disposed of by the District Collector / Sole Arbitrator also has been contemplated under Section 33. Looking at the said provisions of the Act, some time line though also has been given for the District Collector to decide it and the said time line can be extended by the District Collector or Arbitral Tribunal, if necessary. If the application cannot be disposed of within the timeline prescribed under the Statute, it can be disposed of within a reasonable time. Therefore, the limitation of 60 days in disposing the appeal can be extended by the Sole Arbitrator or Arbitral Tribunal as contemplated under sub-section (6) of Section 33 of the Act.

16. When that being the position, if any inordinate delay is caused in disposing of the application, according to the learned counsel for the appellants, if a simple mandamus was prayed for to give a direction to the District Collector being the Sole Arbitrator, that kind of direction can be given provided the delay caused is an inordinate one. If the Court feels that the delay caused is not inordinate one and reasonable time has been consumed by the District Collector, the prayer for such mandamus sought for can be rejected on merits, but not on the ground that Article 226 cannot be invoked.



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17. Here in the case in hand, Article 226 of the Constitution of India has been invoked by the petitioners / appellants not in lieu of Section 34 of the Arbitration Act, but only seeking a writ of Mandamus to dispose of the Section 33 petition, which has already been filed and pending before the District Collector. Therefore, to that extent the view taken by the learned Judge as reflected in the impugned order may be erroneous and therefore it warrants interference at the hands of this Division Bench.

18. But at the same time, as far as the power and limitation of the Sole Arbitrator or Arbitral Tribunal within the meaning of Section 33 of the Act to dispose of such petition filed by the awardees are concerned, it is the discretion of the Arbitrator and Arbitral Tribunal to decide the same on merits and in accordance with law within the parameters as has been prescribed under Section 33 of the Act, of course after giving of an opportunity of being heard to all the parties. In this context, the National Highways Authority being the user department or beneficiary department, since they are not parties before this Court in this lis as well as before the lis before the learned writ Court, we deem it appropriate to give a direction to the first respondent / District Collector to give notice to not only the appellants herein, but also to National Highways Authority of India, The Projector Director (NH-844), PIU-Krishnagiri, 259/1, Salem Main



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Road, Near KAKC Petrol Bunk, Krishnagiri 636 705, and after hearing the parties, a decision can be arrived at by the first respondent / District Collector / Arbitral Tribunal on the representation filed by the appellants / writ petitioners dated 10.05.2022 as well as 20.12.2023, treating them as an application within the meaning of Section 33 of the Arbitration Act.

19. In that view of the matter, this writ appeal is disposed of with the following orders.

(a) That the order impugned passed by the Writ Court dated 15.02.2024 is set aside.

(b) As a sequel, there shall be a direction to the first respondent / District Collector / Sole Arbitrator to decide the representation / application dated 10.05.2022 and 20.12.2023 filed by the appellants by treating it as a petition within the meaning of Section 33 of the Arbitration Act, decide the same on merits and in accordance with law, after giving an opportunity of being heard to the parties to this lis as well as the National Highways Authority represented by the officer as indicated above, as early as possible preferably within a



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period of three months from the date of receipt of a copy
of this order.

(c) All the contentions raised by the parties herein can also
be raised before the Arbitrator including maintainability
of Section 33 petition.

20. With the above directions, this writ appeal is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J.) (H.C.,J.)
19-09-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

KST

To

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Dharmapuri District, Collectorate Complex,
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2. Competent Authority And
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National Highways-844 (Hosur-Royakottai-
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AND
HEMANT CHANDANGOUDAR J.**

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