



C.M.A(MD)No.579 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**C.M.A(MD)No.579 of 2020
and
C.M.P(MD)No.6035 of 2020**

The Project Director,
National Highways Authority of India,
Madurai 20.

... Appellant / 2nd Respondent

Vs.

1.V.Vijayaraj

... 1st Respondent / Petitioner

2.The Competent Authority and
Special District Revenue Officer /
National Highways-7,
Virudhunagar.

... 2nd Respondent / 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 37(1) & (2) of Arbitration and Conciliation Act, 1996 to set aside the order made in Arbitration O.P.No.108 of 2015 dated 20.09.2019 on the file of the Principal District Judge, Madurai.



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For Appellant : Mr.P.Karthick

For Respondents : Mr.R.Shankar Ganesh
for R1
: No appearance for R2

JUDGMENT

Heard both sides.

2.The lands belonging to the respondents herein were acquired under the provisions of the National Highways Act, 1956. The competent authority determined the amount payable as compensation. Since the said amount so determined by the competent authority was not acceptable by the land owners, they filed an application under Section 3G(5) of the Act before the District Collector. The District Collector passed arbitral award quantifying the compensation payable to the land owners. Not satisfied with the same, the persons whose lands were acquired, filed petitions under Section 34 of the Arbitration and Conciliation Act, 1996. By the orders impugned in these appeals, the learned District Judges chose to enhance the compensation amount. Questioning the same, these arbitration appeals have been filed under Section 37 of the Act by the NHAI.



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3.The only question that calls for determination is whether the District Judges could have enhanced the compensation amount thus modifying the arbitral awards while exercising their jurisdiction under Section 34 of the Act. We are conscious that the issue is presently pending reference before the Hon'ble Constitution Bench of Supreme Court of India in ***Gayathri Balasamy Vs M/s.ISG Novasoft Technologies Limited*** case. Orders have been reserved. But the position that prevailed on the date when the impugned orders under Section 34 was passed was that modification cannot be made.

4.We, therefore, hold that the impugned orders are clearly bad in law. We are therefore inclined to set aside the same and we accordingly set aside the same.

5.The learned Deputy Solicitor General of India, on instructions from NHAI, submitted that this Court may adopt the very same approach adopted in C.M.A.No.2763 of 2023 dated 15.12.2023 by the Hon'ble Division Bench of this Court. He has no objection for setting aside the arbitral awards impugned in the petitions filed under Section 34 of the Act. Accordingly, the awards passed by the District Collector are also set aside. The matter is remitted to the file of the arbitrator (jurisdictional District Collectors). The arbitrator shall



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conclude the proceedings within four months from the date of receipt of a copy

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of this order. The erstwhile land owners are entitled to plead that the arbitrator shall apply the principle of parity. NHAI is also entitled to place materials in support of their contention that the compensation amount does not deserve to be enhanced as claimed by the erstwhile land owners. In the event of the Hon'ble Supreme Court while answering the reference in ***Gayathri Balasamy*** holding that the District Courts are entitled to modify the awards in exercise of jurisdiction under Section 34 of the Arbitration and Conciliation Act, the respondents herein are given liberty to reopen these proceedings. Even if one application is filed, we make it clear that Civil Miscellaneous Appeals and Arbitration Appeals will stand reopened and the matter will be heard on merits.

5.The Civil Miscellaneous Appeal is accordingly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [M.J.R., J.]
15.04.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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The Principal District Court,
Madurai.



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and

M.JOTHIRAMAN, J.

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