



Arb Appeal(MD)No.44 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Arb Appeal(MD)No.44 of 2025

and

C.M.P(MD)No.6337 of 2025

The Project Director,
National Highways No.45-B,
National Highways Authority of India
having his office at Old No.6,
New No.44, 1st Floor,
IIIrd Main Road,
Pon Nagar,
Trichy.

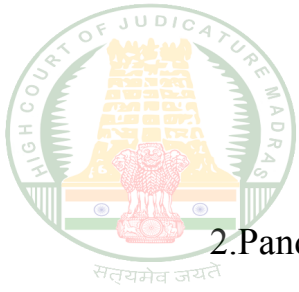
Presently at
Door No.39, 3rd Cross Road,
Kalyana Sundaram Nagar,
Karumandapam,
Trichy – 620 001.

... Appellant /
2nd Respondent /
Beneficiary

Vs.

1.Sivalingam

... 1st Respondent /
Petitioner /
Applicant



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2.Pandi Mahalakshmi

... 2nd Respondent /
Petitioner /
Applicant

3.G.Meenambal

... 3rd Respondent /
Petitioner /
Applicant

4.G.Bahyalakshmi

... 4th Respondent /
Petitioner /
Applicant

5.A.Preethi Lakshmi

... 5th Respondent /
Petitioner /
Applicant

6.S.Sivasnakari

... 6th Respondent /
Petitioner /
Applicant

7.R.Sharmila

... 7th Respondent /
Petitioner /
Applicant

8.The District Revenue Officer /
Competent Authority for Land Acquisition,
(National Highway – 45B),
Collectorate Buildings,
Madurai – 625 020.

... 8th Respondent /
1st Respondent /
Competent Authority

Prayer: Arbitration Appeal filed under Clause 15 of Letters Patent to call for the record and set aside the order made in Arbitration.O.P.No.41 of 2015 dated 26.02.2024 on the Principal District Judge, Madurai and allow this Appeal.



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For Appellant : Mr.P.Karthick

For Respondents : Mr.R.Govindaraj
for R.1 to R.7

Ms.P.B.Ahamad Yasmin Parvin
Government Advocate for R.8

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.The lands belonging to the private 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 to the land owners, they filed applications under Section 3G(5) of the Act before the District Collector. The District Collector passed arbitral awards 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



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learned District Judges chose to enhance the compensation amount.

Questioning the same, this arbitration appeal has been filed under Section 37 of the Act by the NHAI.

3.The only question that calls for determination is whether the District Judge could have enhanced the compensation amount and thus modified the arbitral award while exercising 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 order is clearly bad in law. We are therefore inclined to set aside the same and we accordingly set aside the same.

5.The learned counsel appearing for the NHAI, on instructions from NHAI, submitted that this Court may adopt the very same approach



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adopted in C.M.A.No.2763 of 2023 dated 15.12.2023 by the Hon'ble

WEB COPY Division Bench of this Court. He has no objection for setting aside the

arbitral award impugned in the petition filed under Section 34 of the Act.

Accordingly, the award passed by the District Collector is also set aside.

The matter is remitted to the file of the arbitrator (jurisdictional District

Collectors). The arbitrator shall conclude the proceedings within four

months from the date of receipt of a copy 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 Court is 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. If any application is filed, we make it clear that this

Arbitration Appeal will stands reopened and the matter will be heard on

merits.



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

[G.R.S., J.] [M.J.R., J.]
16.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The Principal District Judge,
Madurai.
- 2.The District Revenue Officer /
Competent Authority for Land Acquisition,
(National Highway – 45B),
Collectorate Buildings,
Madurai – 625 020.



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