

Arbitration Appeal (MD)No.3 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.01.2025

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**Arbitration Appeal (MD)No.3 of 2024
and
CMP(MD)No.17688 of 2024**

The Project Director,
National Highways-45-B,
National Highways Authority of India,
New No.6, Old No.44, 1st floor, 3rd Main Road,
Ponnagar, Tiruchi-62001

... Appellant/2nd Respondent

Vs

1.T.Sathya Prakash

... 1st Respondent/Writ Petitioner

2.The District Revenue Officer/Competent Authority
Land Acquisition (National Highways-45B),
Collectorate Buildings,
Madurai-625 020.

... 2nd Respondent/1st Respondent

Prayer:

The Arbitration Appeal is filed under Section 37(1) of Arbitration and Conciliation Act, 1996, to set aside the order of compensation awarded by the learned Principal District Judge, Madurai in Arbitration O.P.No.34 of 2013 dated 14.03.2019.



Arbitration Appeal (MD)No.3 of 2024

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For Appellant : Mr.DR.R.Rajagopal

For Respondents : Mr.R.Govindaraj for R1

Mrs.D.Farjana Ghousia

Special Government Pleader for R2

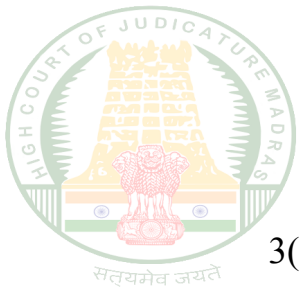
JUDGMENT

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

The Arbitration Appeal is filed to set aside the order of compensation awarded by the learned Principal District Judge, Madurai in Arbitration O.P.No. 34 of 2013 dated 14.03.2019.

2.Heard DR.R.Rajagopal, learned counsel appearing for the appellant/Project Officer, National Highways Authority and Mr.Govindaraj, learned counsel for the first respondent.

3(a) Both the learned counsel represented that the matter is covered to a certain extent by the Hon'ble Division Bench of this Court, dated 01.08.2024 made in CMA(MD)No.517 of 2022.

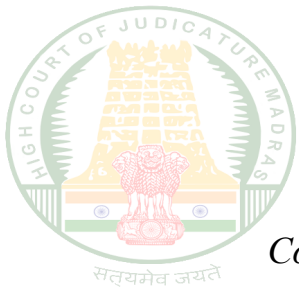


3(b) In CMA(MD)No.517 of 2022, the first respondent is the land owner.

The land has been acquired by the National Highways Authorities and the proceedings and compensation have been incorporated as required under the Act. Aggrieved against the award passed by the learned Principal District Judge, Madurai in Arbitration O.P.No.21 of 2015 dated 15.07.2019, the National Highways Authority has preferred the said CMA(MD)No.517 of 2022 in respect of the very same village and in respect of the very same notifications.

4.In the instant case, initially, the District Collector/Arbitrator has passed an award in A.C.No.55 of 2007 in B8/83351/2002, dated 30.10.2006 and to set aside the arbitral award dated 31.05.2013, the first respondent/petitioner has filed an appeal before the learned Principal District Judge, Madurai in Arbitration O.P.No.34 of 2013 under Section 34(2) of the Arbitration and Conciliation Act, 1996. After elaborate discussion and also taking note of the evidence of P.W.1 and Ex.P.1 to Ex.P.5, the learned Principal District Judge/Appellate Authority has passed the following award:

“...35.In the result, this petition is partly allowed with cost and the Award dated 31.05.2013 passed by the District



Arbitration Appeal (MD)No.3 of 2024

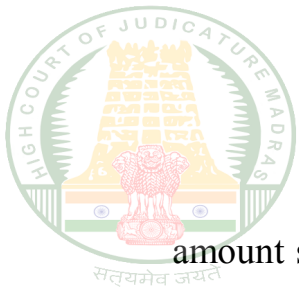
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Collector/Arbitrator, Madurai passed in Arbitration Case No. 55/2007 in B8/83351/2002, dated 30.10.2006 is set aside and the petitioner is entitled to an enhanced compensation of Rs. 82,79,275/- towards the acquired land. The petitioner is also entitled to interest at the rate of 9% for the enhanced compensation amount from the date of possession till the date of deposit. Advocate fees Rs.7500/-. Time for deposit is three months.”

5. Aggrieved against the said award, the National Highways Authority of India has filed the present appeal under Section 37(1) of the Arbitration and Conciliation Act, 1996.

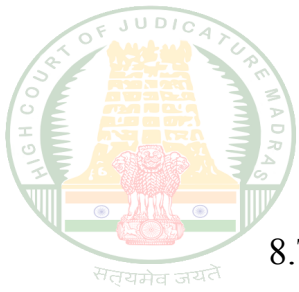
6. The learned counsel appearing for the first respondent/erstwhile land owner would contend that he is entitled to 30% solatium and 12% additional amount of enhanced amount by relying upon the Judgment of the Hon'ble Supreme Court of India in Civil Appeal Nos.129-159 of 2014, dated 21.04.2016.

7. However, the learned counsel appearing for the appellant would contend that the land owner is not entitled to claim 30% solatium and 12% additional



amount since the same is acquired under the National Highways Authorities. The

learned Principal District Judge, in exercising its powers under Section 34 of the Arbitration and Conciliation Act, 1996, has partly allowed to the limited extent as indicated in the Judgment and arrived at the compensation by including 30% solatium and 12% additional amount on the market value towards acquired land to an extent of 211.88 cents in this case and the award amount deposited and withdrawn are also detailed therein. In respect of the very same notification and in respect of the very same village, batch of cases have been disposed of in CMA(MD)Nos.19 of 2023, 432 of 2023, 630 of 2022, 631 of 2022, 1187 of 2022, 548 of 2022, 526 of 2023, 1225 of 2022, 603 of 2023, 562 of 2023, 565 of 2023, 567 of 2023, 697 of 2022, 47 of 2022, 751 of 2022, 949 of 2022, 533 of 2022, 633 of 2022, 632 of 2022, 508 of 2022, 473 of 2023, 517 of 2022, 578 of 2022, 460 of 2023, 1182 of 2023, 504 of 2022, 519 of 2022, 512 of 2022, 512 of 2022, 628 of 2022, 998 of 2022, 997 of 2022, 505 of 2022, 517 of 2022, 510 of 2022, 503 of 2022, 538 of 2023, 627 of 2022, 657 of 2022, 1121 of 2022, 626 of 2022, 655 of 2022, 629 of 2022, 580 of 2022, 740 of 2022, 1075 of 2024, 628 of 2024, 728 of 2023, 475 of 2023 and 735 of 2022, dated 01.08.2024.



8.The Division Bench of this Court in ***C.M.A(MD)No.517 of 2022 [The Project Director, National Highways No.45B, National Highways Authority of India, Having office at Old No.6, New No.44, 1st Floor, Ponnagar, III Main Road, Trichy Vs. M.Thangaraj and another]***, dated 01.08.2024, based upon the earlier order passed by the Hon'ble Supreme Court of India, has come to the conclusion and the same is extracted as under:

“...16.As per the “Tarsemcase-2” reported in 2021 SCC Online S.C. 3175, the paragraph No.41 of the “Tarsemcase-1” reported in 2019 (9) SCC 304 is deleted. Therefore, the lands owners are not entitled for any amount under Section 23(1)(A) of the Land Acquisition Act, 1894. Hence, this Court is unable to concur with the decision of the learned Tribunal Judge in granting the 12% additional value of the amount as per the Section 23(1)(A) of the Land Acquisition Act, 1894, on the basis of the subsequent development of law i.e., subsequently the Hon'ble Supreme Court in 2021 SCC Online SC 3175 has clarified that the land loser is not entitled to the compensation under Section 23(1)(A) of the land Acquisition of the Act, 1894. Therefore, this Court inclines to set aside the award in respect of the granting of the compensation under the head of 23(1)(A) of the Land Acquisition Act, 1894, to the extent of 12% amount.

17.However, in all cases, the learned Tribunal Judge failed to grant 10% additional amount as per the 3 G of the NH Act, to the enhanced market value of the land and hence, this Court is duty bound to grant 10% additional compensation of the enhanced market value of the acquired land.

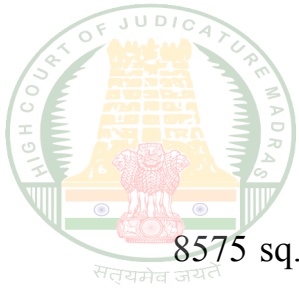


18. In view of the above discussion, this Court re-determined the compensation for the extent of the 1320 Sq.mtrs or 32.616 cents land of the respondent/land loser situated in the Melamadai village acquired for the expansion of NH-four way lane

Types of authority	Total Value per Sq.mtrs/cents	Market per	Solatum of 30% on market value as per the judgment of the 2019 9 SCC 304 Amount awarded	12% additional value under Section 23 (1) (a) of the Land acquisition Act	10% on the sale price as per the section 3G(2) of NHAI Act	Total compensation awarded (after deducting the amount already received)
Amount awarded by the Competent Authority	(1320x39.54) Rs.52,192					Rs.57,412/-
Amount awarded by the Arbitrator	(1320x39.54) Rs.52,192					Rs.57,412/-
Amount awarded by the Arbitration Tribunal	(32.616 x 30,114) Rs.9,82,198		Rs.2,94,659	Rs.55,003		Rs.13,31,860 -57,412 =Rs. 12,74,448/-
Amount awarded by this Court	(32.616 x 30,114) Rs.9,82,198		Rs.2,94,659		Rs.98,220	Rs.13,75,077 -57,412 =Rs.13,17,665/-

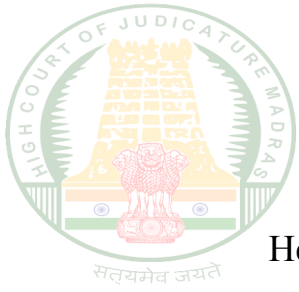
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9. In view of the above said Judgment, this Court is of the view that the first respondent/petitioner is entitled for 10% additional compensation of the enhanced market value. Hence, this Court re-determines the compensation for the extent of



8575 sq.mtrs or 211.885 cents land of the first respondent/land looser situated in the Melamadi Village acquired for the expansion of NH-four way lane,

Types of authority	Total Market Value per Sq.mtrs/cents	Solatum of 30% on market value as per the judgment of the 2019 9 SCC 304 Amount awarded	12% additional value under Section 23 (1) (a) of the Land acquisition Act	10% on the sale price as per the section 3G(2) of NHAIA Act	Total compensation awarded (after deducting the amount already received)
Amount awarded by the Competent Authority	Rs.39.54/- per sq.mtr (or) Rs.1600/- per cent 8575sq.mtrx39.54 =Rs.3,39,056			Rs.33,905/-	Rs.3,72,961/-
Amount awarded by the Arbitrator	8575sq.mtrx39.54 =Rs.3,39,056			Rs.33,905/-	Rs.3,72,961
Amount awarded by the Arbitration Tribunal	Rs.30,114/- per cent [8575 sq.mtr (or) 211.885 cents] Rs.30,114/- per centx211.885 =Rs.63,80,705/-	Rs.19,14,212	Rs.3,57,319		Rs.82,79,275/-
Amount awarded by this Court	Rs.30,114/- per cent [8575 sq.mtr (or) 211.885 cents] Rs.30,114/- per centx211.885 =Rs.63,80,705/-	Rs.19,14,212		Rs.6,38,070/- (or) Rs.6,38,071	Rs.89,32,988/- (-3,72,961/-) =Rs.85,60,027/-



Arbitration Appeal (MD)No.3 of 2024

Hence, the first respondent/petitioner in Arbitration O.P.No.34 of 2013 is entitled to Rs.85,60,027/- with interest of 9%, from the date of possession till the date of deposit. The cost awarded in the said Arbitration Award is hereby confirmed.

10. Accordingly, the Arbitration Appeal is dismissed with the modification to the limited extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]
10.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal District Judge, Madurai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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and
N.SENTHILKUMAR, J.

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Arbitration Appeal (MD)No.3 of 2024

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