



WEB COPY

CMA No. 277 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2026

CORAM

**THE HON'BLE MR.JUSTICE P. VELMURUGAN
AND
THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI**

CMA.No. 277 of 2022

K K S K Educational Trust,
23, E.M.Balasubramaniam St,
Thirunagar Colony, Erode - 638 003
Rep by its Managing Trustee
Mr.K.Ahamed Sheik Mohideen

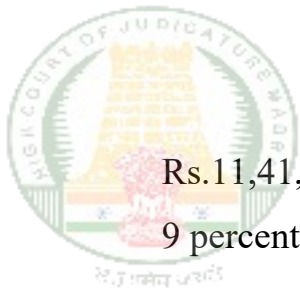
..Appellant(s)

Vs

1. The Deputy General Manager (Tech) &
The Project Director,
National Highways Authority of India,
Project Implementation Unit (NS),
Door No.212-3/D3-1, Srinagar Colony,
Narasothipatti, Salem – 636004,
Salem Taluk, Salem District.
2. The Competent Authority/
The District Revenue Officer,
NH-47, Collector Office,
Erode District, Erode – 11.

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996, praying to set aside the fair and decreetal order dated 16.09.2021 made in Arb.OP.No.113/2017 on the file of the Principal District Judge Court, Erode and further modify the award and the arbitral award by fixing the market value of the land acquired from the petitioner at the rate of Rs.1 Crore and directing the payment of a total sum of



Rs.11,41,86,443.14/- towards compensation with accrued interest at the rate of 9 percent and also with future interest.

For Appellant(s): Mr.P.V.Balasubramaniam, Senior Counsel
for Mr.M.Roshan Atiq

For Respondent(s): Mr.Su.Srinivasan for R1
Mr.P.Gurunathan, AGP for R2

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN,J.)

The present appeal is filed by a land owner aggrieved by the order of the learned Principal District Judge, Erode, made in Arb.O.P.No.113 of 2017, dated 16.09.2021 filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) as against the Award of the District Collector/Arbitrator under Section 3-G(5) of the National Highways Act, 1956 (hereinafter referred to as “NH Act”)

2.The appellant is the owner of a land measuring an extent of 8.00 acres comprised in RS.No.163/1, 163/2A and 163/3A in Nallagoundenpalayam Village, Erode Taluk, Erode District, out of which, an extent of 23200 sq.mts, corresponding to 5.73 acres, has been acquired for the purpose of widening the National Highways NH-47. An Award was passed fixing the compensation for the acquired land at Rs.20,49,256/-. Aggrieved against the same, the appellant has filed a claim before the learned Arbitrator seeking for enhancement of



compensation, which was rejected on 30.12.2016. Challenging the same, the impugned order in Arb.O.P.No.113 of 2017 was filed, which was also dismissed by the learned Principal District Judge, Erode, on 16.09.2021. This order is put under challenge in the present appeal.

3.The learned Senior Counsel appearing for the appellant would submit that the appellant's land has been acquired for the purpose of widening the National Highways, however, the Competent Authority/2nd respondent herein has passed an Award fixing the compensation for the acquired land, without considering the evidences produced by the appellant. The Competent Authority had relied upon a sale with regard to the village which is 1.6 kms away from the acquired land of the appellant and has fixed the compensation, which is not proper. Since the learned Arbitrator and the learned Principal District Judge have neither considered the potential and utility of the land nor the guiding principles, he would content that this Court should intervene and fix just compensation on the basis of the documents. For this proposition, the learned Senior Counsel place reliance on the decision of a Division Bench of this Court in the case of *A.Ismail Sait Vs. The Competent Authority, Land Acquisition and Special District Revenue Officer, NH 45 and others passed in C.M.A.No.386 of 2016, dated 04.06.2024*. Therefore, he sought for setting aside the order of the learned Principal District Judge.



4. The learned counsel for the 1st respondent submitted that the provisions of 1996 Act cannot be enlarged or modified by interpretations contrary to the judgments of the Hon'ble Supreme Court. He further submitted that the District Court or this Court, in exercise of its powers under Sections 34 and 37, cannot modify the Award of the learned Arbitrator. The learned counsel, by relying upon a few precedents on the scope of Sections 34 and 37 of 1996 Act, submitted that the present appeal itself is not maintainable for enhancement of compensation, which is in the nature of modification of Award. Hence, he prayed for dismissal of the present appeal.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Admittedly, the Land Acquisition Act provides for compensation to be awarded for a land acquired in terms of Section 23. The Courts should take into consideration the market value of the land in question on the date of notification under Section 4(1) of the Land Acquisition Act, while determining the compensation. The land owners are entitled to solatium at 30% and additional interest at 12% in terms of Section 23(1-A) on the market value for the period from the Award of the Arbitrator or on the date of taking possession of the land, whichever is earlier.



7. In the instant case, upon perusing the records, this Court finds that the Arbitrator failed to consider the "potential and utility" of the acquired land.

While the scope of Sections 34 and 37 is limited, it is not non-existent. The learned Senior Counsel for the appellant pointed out that the valuation is fundamentally flawed as it relies on sale data from a village 1.6 kms away from the land in question, completely ignoring the proximity and potential of the subject land. Thus, a "patent illegality" occurs when an authority ignores relevant evidence or relies on irrelevant sale deeds located at a significant distance when local evidence is available.

8. According to the learned Senior Counsel for the appellant, the Competent Authority has not ordered for fair compensation for the land acquired from the appellant. For this purpose, he relied on the judgment of the Division Bench of this Court in *A. Ismail Sait's case (supra)*, wherein it has been held that the pursuit of "fair and just compensation" is a constitutional right under Article 300-A that cannot be defeated by purely restrictive interpretations of the 1996 Act in land acquisition matters. The relevant portion of the judgment reads as follows:-

“53.....

Even though right to property is no more a fundamental right, Article 300-A was introduced in our Constitution. Whenever a land of individual is acquired for public purpose by the State in exercise of its power of Eminent



Domain, the Statute under which the acquisition is done should be fair and reasonable providing compensation. After the advent of Act 30 of 2013, the compensation cannot be less than the amount payable under Act 30 of 2013 apart from other benefits under the same legislation. In the absence of procedural safeguards and the possible official bias by the authorities to pass perverse orders as Government servants, there must be minimum protection available to the land owners to get just compensation by providing a mechanism by which compensation is fairly determined and paid within a reasonable time. As pointed out earlier, when the price of land is going high, the Statutory interest may not be sufficient to compensate the land owners, if there is delay in disbursement of compensation. Therefore, judicial review should be retained necessary to suppress the mischief and advance the remedy intended while incorporating 1996 Act into NH Act, 1956.”

9. Following the aforesaid judgment of the Division Bench, this Court is of the view that the learned Principal District Judge has failed to see that the Award passed by the Arbitrator has not properly considered the substantial provisions of law with regard to awarding severance compensate, solatium, together with interest. Therefore, under these circumstances, the order passed by the learned Principal District Judge is liable to set aside.



10. In light of the above, the impugned order passed by the learned Principal District Judge, Erode, in Arb.O.P.No.113 of 2017, dated 16.09.2021, is set aside. Consequently, the Award passed by the Arbitrator dated 30.12.2016 is also set aside on the grounds of patent illegality in the valuation process and the matter is remitted back to the learned Arbitrator/District Collector for fresh consideration of the compensation. The Arbitrator shall pass a fresh Award within a period of three months from the date of receipt of this order, taking into account the sale deeds produced by the appellant and the potential value of the land.

11. The Civil Miscellaneous Appeal stands allowed on the above terms.
There shall be no order as to costs.

(P.V.,J.) (K.G.T.,J.)
22-04-2026

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

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P.VELMURUGAN, J.
AND
K.GOVINDARAJAN THILAKAVADI, J.

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To

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The Project Director,
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Door No.212-3/D3-1, Srinagar Colony,
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