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C.M.A.No.294 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2026

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

C.M.A.No.294 of 2022 and C.M.P. No.2026 of 2022

The Project Director,
National Highways Authority of India,
Project Implementation Unit (NS)
Door No.212-3/D3-1, Sri Nagar Colony,
Narasothipatti, Salem 636 004.

...Appellant

Vs.

1. Banumathi

2. Sarojini

3. Thamayanthi

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 37(1) & (2) of the Arbitration and Conciliation Act, 1996, to set aside the order dated 29.09.2020 passed in Arbitration OP.No.88 of 2016 on the file of the Principal District Judge, Erode.



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For Appellant : Mr.Su.Srinivasan

**For Respondents: Mr.M. Guruprasad for R3
R1 and R2 - not ready in notice**

JUDGMENT

K. GOVINDARAJAN THILAKAVADI,J.

This appeal is filed by the The Project Director, National Highways Authority of India, against the fair and decreetal order dated 29.09.2020 passed in Arbitration OP.No.88 of 2016 on the file of the Principal District Judge, Erode.

2. The brief facts which are necessary for disposal of this appeal are as follows:

The land in survey No. 64/1A2, measuring to a total extent of 150 sq. mtr. in Mettunasuvampalayam Village, Erode District, belong to the respondents, was acquired by the appellant for the purpose of widening of NH 47 and for formation of four lane roads in the Highways Road. The competent authority / District Revenue Officer, Erode District, had passed an Award in No.31/2007



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dated 29.12.2007 by fixing the rate at Rs.68.64/- sq. mtr. Aggrieved over the same, the respondents filed an appeal before the Arbitrator / District Collector, Erode District, and an order had been passed by the Arbitrator in Ref. No.SR.132/E/Arbitration dated 22.02.2016 by enhancing the compensation at Rs.1,076.40 sq. mtr. Aggrieved over the same, the appellant filed an application under Section 34 of Arbitration and Conciliation Act, 1996 (herein after referred as “the Act”) in Arb.OP.No.88/2016 before the Principal District Judge, Erode, and the same was dismissed on 29.09.2020. Aggrieved by this, the present appeal is preferred.

3.The learned counsel for the appellant would submit that the Arbitrator had passed the order without following mandatory provisions of law and rules and regulation of National Highways Act and that the enhancement of compensation is very high. The documents considered by the Arbitrator / District Collector, Erode District are not legally applicable to the respondents survey number. The learned Judge failed to examine the contentions of the respective parties before the Court and without analyzing the contentions and giving reason for arriving at the finding had simply passed an order confirming the award of the Arbitrator, which is unsustainable in law. The learned judge



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failed to note that the competent authority (Land Acquisition) / District Revenue Officer, after considering the documents, which are similar to acquired lands arrived at just compensation of Rs.68.64 sq. mtr. Further, the land acquired was Ryotwari Dry, whereas, the exemplar land, for fixing the value, is of Housing site of smaller extent. He would further submit that, comparable sales method of valuation of land for fixing the market value of the acquired land is not always conclusive. There are certain factors which are required to be fulfilled and on fulfilment of those factors, the compensation can be awarded, according to the value of the land reflected in the sales. The factors are, the sales must be similar to the acquired land and the size of plot of the land covered by the sales be comparable to the land acquired. In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in **Shaji Kuriakose vs. Indian Oil Corporation Ltd., reported in (2001) 7 SCC 650.** Further, the learned counsel submitted that the order passed by the learned Principal District Judge, Erode, is bereft of reasons, legal backing and it is a non speaking order, warrants interference by this Court.

4.On the other hand, the learned counsel for the 3rd respondent would submit that, the Arbitrator / District Collector, Erode District, had passed the



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order modifying the compensation only after considering all the material facts and documents placed before him, and the same was also rightly confirmed by the Principal District Judge, Erode. Therefore, prayed for dismissal of the appeal.

5.Heard on both sides, records perused.

6. The scope of interference under Section 34 and 37 of the Arbitration Act, regarding NHAI land compensation is strictly narrow, limited to setting aside awards for perversity, lack of jurisdiction or, violation of public policy. Courts cannot re appreciate evidence or substitute their own views on valuation as the arbitrator is the final authority on facts.

7.On perusal of records, it is seen that, the land owners, dissatisfied with the award, sought for arbitration, under Section 3G(5) of the National Highways Act. The District Collector, who was appointed as an Arbitrator, enhanced the valuation made by the Competent Authority from Rs.68.64 per sq. mtr to Rs.1,076.40 per sq. mtr. This award was sought to be set aside in an



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application under Section 34 of the Arbitration and Conciliation Act, 1996, filed before the Principal District Judge, Erode. The learned Principal District Judge, Erode, dismissed the said application on 29.09.2020. It is this order of the learned Principal District Judge passed under Section 34 of the Act, which is subject matter of the challenge.

8. It is not in dispute that the National Highways Authority of India, has acquired lands of the respondents/land owners as per Section 3A(1) of the National Highways Act, 1956 and the same was published in Government of India Gazette 600 Part II Section 3 Sub Section (ii) and S.O. 880 dated 12.06.2006 and 3A (3) notice was also published in Tamil and English daily on 10.08.2006. As per Section 3 D (1) of National Highways Act, 1956(48/1956), notification was also published in Central Gazette Notification No.S.O.930(E) dated 07.06.2007 and also 3G (3) notification was also published in Tamil and English daily paper on 01.08.2007. On the basis of the notification the land owners were enquired and the documents were perused by the competent authority and order was passed on 29.12.2007 in Award No.31/2007.



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9. According to the appellant, on an appeal by the respondents / land owners, the Arbitrator has enhanced the compensation fixed by the competent authority without any basis. It is settled law that when an arbitral award is challenged under Section 34 of the Arbitration Act, no challenge can be made on the merits of the arbitral award.

10. The Competent Authority (Land Acquisition) passed the award on 29.12.2007 determining compensation for the lands acquired. It is not in dispute that the land was acquired for public purpose under the National High Ways Act, 1956. It is to be noted that, the competent authority or the arbitrator while determining the amount under Sub Section (1) or Sub Section (5) of Section 3(G) of the NH Act, as a case may be, shall take into consideration :-

(a) the market value of the land on the date of publication of the notification under Section 3 A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of.



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11.It is an admitted fact between the parties that the acquired land was classified as agricultural dry land and accordingly the competent authority fixed the value of the land. However, the arbitrator, after finding that there were 203 sales of vacant house sites and 10 sales of agricultural lands within 1.6 km radius and that a petrol bunk was running in the acquired land since 2000, came to the conclusion that the land was put to commercial use and accordingly fixed the value. It is seen that the all the issues raised by the appellant were well considered and answered by the learned District Judge, Erode. Therefore, the argument of the learned counsel for the appellant that, the order passed by the learned District Judge is a non speaking order, is unsustainable.

12.As mentioned earlier, the scope of judicial interference under Section 34 (setting aside) and Section 37 (appeal) of the Arbitration and Conciliation Act, 1996, is extremely narrow and circumscribed. The Hon'ble Supreme Court has mandated that courts cannot re-appreciate evidence, correct errors or modify the award on its merits. But, can only set aside if it falls under limited statutory grounds. The Arbitrator is the final court of facts. Therefore, courts cannot re appreciate evidence to determine if land plots are similar or if deduction rates are appropriate. Under Section 34, a Court cannot modify, vary,



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or increase/decrease the compensation amount awarded by the arbitrator. It can only set aside the award entirely or in part, leaving the parties to initiate fresh arbitration. Interference is only permitted if the award is patently illegal (going to the root of the matter), violates public policy of India or suffers from fundamental procedural unfairness (natural justice violation). The scope of the appellant under Section 37 of the Act is narrower than Section 34. The appellate court cannot undertake an independent assessment of the merits and must only check if the Section 34 Court overstepped its jurisdiction.

13. On perusal of the records, it is seen that the Arbitrator has strictly acted within the provisions of law and followed all the procedures in arriving at the compensation amount and passed a well considered Award by following the mandatory provisions of law, warrants any interference.

14. This Court is of the considered view that there is no merit in this appeal and the learned Principal District Judge, Erode, under the impugned order dated 29.09.2020 passed in Arb.OP.No.88 of 2016 under Section 34 of the Arbitration and Conciliation Act, has rightly dismissed the said application.



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There is no infirmity in the impugned order and the civil miscellaneous appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

(P.V.J.) (K.G.T.J.)

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Principal District Judge, Erode.



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