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C.M.A.No.2364 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.02.2026

PRONOUNCED ON : 30.03.2026

CORAM

THE HONOURABLE **Mr. JUSTICE P.DHANABAL**

C.M.A.No.2364 of 2022 &
C.M.P.Nos.18432 of 2022 & 3204 of 2023

The Deputy General Manager and Project Director,
National Highways Authority of India,
Project Implementation Unit,
259/1, Salem Main Road,
Near KAKC Petrol Bunk,
Krishnagiri - 635 001.

...Petitioner

vs.

1.Ramesh Chandra Bansall

2.The Special Tahsildar (National Highways)
Land Acquisition, Vellore - 9.

3.Arbitrator-cum-Vellore District Collector,
Vellore District, Vellore - 9.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 37(1) & (2) of Arbitration and Conciliation Act, 1996, to set aside the order in Arbitration O.P.No.2 of 2016 on the file of the Principal District Judge, Vellore, dated 31.07.2019.

For Petitioner : Mr.S.Srinivasan

For Respondents : Mr.S.R.Sundaram for R1

Mr.M.Rajendiran,
Additional Government Pleader
for R2 & R3



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JUDGMENT

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This Civil Miscellaneous Appeal has been preferred as against the order passed by the Principal District Court, Vellore, in Arbitration O.P.No.2 of 2016, dated 31.07.2019.

2. The short facts necessary to dispose this appeal are as follows:-

2.1. The appellant is the National Highways Authority of India, Project Implementation Unit, Krishnagiri and third party to the Arbitral proceedings. The second respondent herein acquired the lands of the first respondent herein for the appellant. The property of the first respondent in S.No.240/1E to an extent of 550 square meter, situated at Vinnamangalam Village, Ambur Taluk, were acquired for NH4 extension. The compensation was fixed by the competent Authority at Rs.30.27/- per square meter. Thereby, the first respondent herein took the matter to Arbitrator-cum-District Collector, Vellore and the Arbitrator enhanced the value for the punja lands from Rs.30.27 to Rs.143.49/- per square meter and also awarded 9% interest. Aggrieved by the Arbitral Award, the first respondent herein has preferred Arbitration Original Petition before the Principal District Court, Vellore and the Principal District Court allowed the petition and enhanced the compensation by awarding a sum of Rs.537/- per square meter and awarded a sum of Rs.9,08,136/- in total. The Principal District Court also held that after



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deducting the sum already received by the first respondent, he is entitled to a sum of Rs.6,16,141/- with interest at the rate of 9% Per Annum. Aggrieved by the said order, the appellant has filed this appeal after obtaining leave of this Court.

3. The learned counsel appearing for the appellant would submit that the learned Principal District Judge ought not to have enhanced the compensation to a sum of Rs.537/- per square meter from Rs.143.49/- per square meter awarded by the Arbitrator and ought not have modified the award dated 23.11.2012, contrary to Section 34(2) of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as 'the Act']. The Arbitrator himself has enhanced the compensation from Rs.30.27/- per square meter to Rs.143.49/- per square meter. The acquired land was classified as 'agricultural dry'. The competent Authority based on the sale deed pertaining to dry lands has fixed the compensation at Rs.30.27/- per square meter and the same was modified by the Arbitrator based on the report of the Expert Committee. However, the learned Principal District Judge, Vellore, failed to appreciate the same and without any valid ground, enhanced the award. Therefore, it is against Section 34(2) of the Act. The application under Section 34 of the Act has to be filed within 90 days and thereafter, 30 days. But, after dismissal of the Writ Petition, the first respondent has not filed



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Arbitration Original Petition before the District Court within the limitation period and it was only filed on 12.11.2012. He ought to have filed the petition on or before 13.04.2013. Thereby, the claim is barred by limitation. Therefore, the order passed by the District Court in Arbitration Original Petition is liable to be set aside.

4. The learned counsel appearing for the first respondent would submit that the land of the first respondent has been acquired by the second respondent for the appellant and the first respondent has not filed any appeal as against the Award passed by the Principal District Court, Vellore and the petitioner has no *locus standi* to file this appeal and the award passed by the learned Principal District Judge is in accordance with law. The Arbitration Original Petition has been filed within the time and no plea in this regard has been raised by the appellant before the Court below. The learned Principal District Judge, Vellore, after analysing the evidences correctly, enhanced the amount and modified the award. Therefore, this appeal is liable to be dismissed.

5. This Court heard both sides and perused the records.

6. There is no dispute on the fact that the lands of the first respondent have been acquired by the second respondent for the benefit of the appellant.

Initially, the Authorities have fixed the compensation at Rs.30.27/- per square



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meter and thereafter, the first respondent herein being the owner of the lands, filed a petition before the Arbitrator and the Arbitrator enhanced the amount from Rs.30.27/- to Rs.143.49/- per square meter. Thereafter, again, the first respondent filed the Arbitration Original Petition before the Principal District Court, Vellore, challenging the Arbitral Award and the Principal District Court has modified the award by enhancing the compensation amount. It is well settled law that the Award can be set aside only on the grounds mentioned under Section 34 of the Act. On perusal of records, including the order passed by the Principal District Court in the original petition, none of the grounds under Section 34 of the Act have been attracted for setting aside the Arbitral Award, and the Court below has also not discussed about the grounds under Section 34 of the Act.

7. Section 34 (2) of the Act, is extracted hereunder:-

"34. Application for setting aside arbitral award.

(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if—

(a) the party making the application establishes on the basis of the record of the arbitral tribunal that—

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon,



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under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.



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(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party."

8. It is seen that the learned Principal District Judge, Vellore, has framed points for determination as follows:-



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"(i) Whether the appellant is entitled to enhancement of Award as

claimed in the petition? If so, what is the quantum?

(ii) To what other relief the petitioner / appellant is entitled?"

9. It is well settled law that while deciding the case under Section 34 of the Act, the Court cannot sit as an Appellate Court to re-appreciate the evidence and the Court has to see whether any of the grounds under Section 34 of the Act is made out or not. The scope of interference in such original petition is very limited. Therefore, the order passed by the Principle District Court, Vellore is not in accordance with law and warrants interference.

10. It is an admitted fact that the first respondent approached this Court through Writ Proceedings and the same was dismissed and thereafter, they approached the Principal District Court by way of petition under Section 34 of the Act. The Principal District Court examined the witness, marked documents and appreciated the facts as it is done in the regular appeal and none of the grounds mentioned under Section 34 of the Act have been discussed therein. Therefore, the Award passed by the Principal District Court is not in consonance with the Act and hence, the order passed by the Principal District Court is unsustainable and the same is liable to be set aside, and the matter has to be remanded back to the Court below for fresh consideration in accordance with the provisions of Section 34 of the



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Arbitration and Conciliation Act, 1996.

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11. In the result, this Civil Miscellaneous Appeal stands allowed. Consequently, the order passed by the Principal District Court, Vellore, in Arbitration O.P.No.2 of 2016, dated 31.07.2019 is set aside. The matter is remanded back to the Principal District Court, Vellore for fresh consideration by observing the provisions of Section 34 of the Arbitration and Conciliation Act, 1996. No costs.

30.03.2026

Speaking / Non-speaking order

Index : Yes/No

NCC : Yes/No

mbi / mjs

To

1.The learned Principal District Judge,
Vellore.

2.The Special Tahsildar (National Highways)
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P.DHANABAL, J.

mbi / mjs

Pre-Delivery Judgment in
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