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C.M.A.No.3232 of 2021

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.3232 of 2021

Poomalai,

....Appellant

Vs.

1.The Arbitrator/District Collector,

Collectorate, Villupuram.

2.The Authorized Officer/Special District Revenue Officer,

Land Acquisition (National Highways No.68),

Salem-4.

3.The Project Director,

National Highway Authority of India,

Narasohipatti, Salem-636 004

....Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 37(1)(a) of the Arbitration and Conciliation Act, 1996, to set aside the order dated 21.12.2020 passed in Arbitration O.P.No.97 of 2017 on the file of the Principal District Judge, Villupuram.

For Appellant : Mr.R.Nalliyappan

For Respondents :Mr.P.Gurunathan



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Additional Government Pleader for R1
& R2

Mr.Su.Srinivasan, Standing Counsel
for R3

JUDGMENT

K. GOVINDARAJAN THILAKAVADI,J.

This appeal is filed by the claimant/land owner against the fair and decreetal order dated 21.12.2020 passed in Arbitration O.P.No.97 of 2017 on the file of the Principal District Judge, Villupuram.

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

The land in Survey No.216/2B, measuring 5700 sq.mtr. (Main Award) and 385 sq.mtr. (Additional Award), totalling 6085 sq.mtr. or 65,499 sq.ft., situated in Chinnasalem Village, Chinnasalem Taluk, Villupuram District, belonging to the appellant/land owner, was acquired by the 2nd respondent for laying 4-way lane road under the National Highways Authorities Act for the Salem-Ulundurpet section of National Highway No.68. The acquisition notification under Section 3A(1) of the National Highways Act, 1956 was



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published in Government of India Gazette No.890 S.O.1564(E) dated

26.06.2008, and 3A(3) notice was also published in Tamil and English dailies on 20.08.2008. The 3D(1) notification was published in Central Gazette No.438/2009 S.O.675(E) dated 13.03.2009, and the 3G(3) enquiry was notified and published in Tamil and English dailies on 12.04.2009.

2.1. The 2nd respondent, after conducting field inspection on 20.07.2009 and classifying the lands as agricultural and Manai lands, collected 262 sales statistics for the reasonable period from 25.06.2007 to 26.06.2008. For agricultural lands, the data land in S.F.No.222/4 as per Document No.2216/2008 dated 18.06.2008 was selected — 0.40 acre sold at Rs.60,000/-, working out to Rs.1,50,000/- per acre, Rs.3,70,500/- per Ha, and Rs.37/- per sq.mtr. For Manai lands, the data land Document No.2156/2008 dated 16.06.2008 pertaining to S.F.No.330/5 was relied upon — 1300 sq.ft. sold at Rs.1,04,000/-, working out to Rs.80/- per sq.ft. (Rs.860/- per sq.mtr.). The appellant's land in S.F.No.216/2B was classified as agricultural land and valued at Rs.37/- per sq.mtr. with 10% additional compensation. The Main Award of Rs.2,10,990/- with 10% additional totalling Rs.2,31,990/- and the Additional Award of Rs.15,670/- (385 sq.mtr. at Rs.37/- per sq.mtr. with 10% addition) were paid to the appellant in proceedings No.286/2009 dated 07.09.2009.



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2.2.The appellant/land owner, dissatisfied with the said amount, filed an application before the 1st respondent/Arbitrator/District Collector on 01.12.2014 seeking enhanced compensation under Section 3G(5) of the National Highways Act, 1956. He had also filed W.P.No.36933/2015 before the Hon'ble High Court of Madras, and pursuant to the directions of that Court, the matter was considered and enquiry was conducted on 11.03.2016. The 1st respondent, after examining all documents and hearing both sides including the petitioner's counsel and NHAI, passed an Arbitration Award in Na.Ka.(Arbit) A2/2935/2015 dated 04.07.2016. The 1st respondent, considering that the appellant's land is adjacent to Chinnasalem Town and is a well-developed area, enhanced the compensation by 100% over the rate fixed by the 2nd respondent at Rs.37/- per sq.mtr., with 9% interest per annum from the date of notification under Section 3D(1) till the date of payment.

2.2.Aggrieved by the Arbitration Award dated 04.07.2016, the appellant/land owner filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 in Arb.O.P.No.97 of 2017 before the Principal District Judge, Villupuram, praying to set aside the said award and to direct the respondents to pay compensation at Rs.80/- per sq.ft. (Rs.861/- per sq.mtr.) and further relief. The learned Principal District Judge, Villupuram, dismissed the



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said application on 21.12.2020. Aggrieved by this, the present appeal is preferred.

3.The learned counsel for the appellant/land owner would submit that the 1st respondent/Arbitrator failed to appreciate that the properties acquired by the 3rd respondent are house sites existing very near to the residential area, school, hotel, hospital, shopping complex, etc., and hence the same ought to have been valued as plotable site and not as agricultural land. He further submitted that the 1st respondent, without properly considering the location and nature of the acquired land, merely enhanced the compensation for all the applicants to the extent of 100% by a blanket order, without applying her mind to the individual facts. He further submitted that the petitioner's land measuring 6085 sq.mtr. or 65,499 sq.ft. adjacent to Chinnasalem Town was valued at Rs.37/- per sq.mtr. (Rs.3.43/- per sq.ft.) resulting in a meagre total award of Rs.2,45,145/- only, whereas the acquired property will easily fetch at least Rs.80/- per sq.ft. He also submitted that the 3rd respondent did not properly value the well which was existing in the said property. He further submitted that the lower court erred in holding that Section 34 of the Arbitration and Conciliation Act, 1996 does not confer power on the court to enhance compensation, and that the same is



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contrary to the principles laid down by this Hon'ble Court in CMA.No.387 of 2014 and 390 of 2014 reported in 2021 (1) CTC 34.

4. On the other hand, the learned counsel for the respondents would submit that the lands in question were acquired by the National Highways Authority of India under the National Highways Act, 1956. The Competent Authority (Land Acquisition), Salem, after conducting field inspection, classifying the lands as agricultural lands and collecting 262 sales statistics for the reasonable period from 25.06.2007 to 26.06.2008, fixed the value of the land at Rs.37/- per sq.mtr. based on the highest rate found in the data land in S.F.No.222/4 as per Document No.2216/2008 dated 18.06.2008, where 0.40 acre was sold for Rs.60,000/-, working out to Rs.1,50,000/- per acre or Rs.3,70,500/- per Ha or Rs.37/- per sq.mtr. The 1st respondent/Arbitrator, after conducting enquiry on 11.03.2016, hearing the representation of the petitioner's counsel and NHAI and examining all records, was of the considered view that the rate fixed by the 2nd respondent required modification justifiable by facts and accordingly enhanced the compensation by 100%, which is fair and justifiable. The petitioner has failed to substantiate his claim at Rs.80/- per sq.ft. or Rs.861/- per sq.mtr. with any clinching documentary evidence. There is no provision under the National Highways Act, 1956 for awarding solatium and

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interest under the Land Acquisition Act, 1894. The arbitral awards passed under the NH Act, 1956 cannot be set aside under Section 34(2) of the Act. Therefore, the respondents' counsel prays for dismissal of the appeal.

5. Heard on both sides, records perused.

6. The scope of interference under Section 34 and Section 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 owner, dissatisfied with the award passed by the 2nd respondent, sought for arbitration under Section 3G(5) of the National Highways Act, 1956. The District Collector, who was appointed as Arbitrator, after conducting enquiry, enhanced the value fixed by the 2nd respondent by 100%, by its order dated 04.07.2016. This award was sought to be set aside in an application under Section 34 of the Arbitration and Conciliation Act, 1996, filed before the Principal District Judge, Villupuram. The learned Principal District Judge, Villupuram dismissed the said application



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on 21.12.2020. It is this order of the learned Principal District Judge passed under Section 34 of the Act, which is the subject matter of challenge in this appeal.

8. The learned counsel for the appellant/land owner contended that the lands acquired and the lands adjacent thereto possessed similar potentialities and ought to have been valued as plotable site, and further that the well existing in the property was not properly valued. It is not in dispute that the National Highways Authority of India has acquired the lands of the appellant/land owner as per Section 3A(1) of the National Highways Act, 1956 and the same was published in Government Gazette Notification No.890 S.O.1564(E) dated 26.06.2008, and 3A(3) notice was also published in Tamil and English daily papers on 20.08.2008. As per Section 3D(1) of the National Highways Act, 1956 (48/1956), notification was also published in Central Gazette Notification No.438/2009 S.O.675(E) dated 13.03.2009 and 3G(3) notification was also published in Tamil and English daily paper on 12.04.2009. On the basis of the notification, the land owners were enquired, documents were perused by the 2nd respondent and order was passed in proceedings No.286/2009 NH-68 dated 07.09.2009.



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9. According to the appellant/land owner, the competent authority under the NHA had determined very low compensation. 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. It is also well settled that it is the duty of the claimant to produce relevant documents before the competent authority and the District Collector for fixing the market value of the acquired lands. The appellant had earlier approached the Hon'ble High Court of Madras by way of W.P.No.36933/2015, and pursuant to the directions of this Court, the 1st respondent conducted fresh enquiry on 11.03.2016, heard the petitioner's counsel, examined all documents including those submitted by the appellant, and passed the award dated 04.07.2016 after due application of mind, enhancing the compensation by 100% having regard to the proximity of the land to Chinnasalem Town. Insofar as the claim regarding the well in the property, the same ought to have been raised before the 2nd respondent/Competent Authority and substantiated with appropriate documentary evidence at the relevant stage. The argument of the learned counsel for the appellant/land owner that the 1st respondent passed the award mechanically without considering the individual facts cannot be accepted.



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10. The 2nd respondent/Competent Authority (Land Acquisition) passed the award on 07.09.2009, determining compensation for the lands acquired. It is not in dispute that the lands were acquired for a public purpose under the National Highways Act, 1956 and not for any commercial purpose. 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 the case may be, shall take into consideration:

- (a) the market value of the land on the date of publication of the notification under Section 3A;
- (b) the damage, if any, sustained by the person interested at the time of taking possession of the land.

11. Therefore, the market value of the land on the date of publication of notification under Section 3A is the relevant date and no other date can be considered. The appellant has solely contended that the tribunal ought to have appreciated that the properties acquired are house sites, whereas the 1st respondent, without considering the same, enhanced only 100% of the value fixed by the 2nd respondent, which is very meagre. It is pertinent to note that the appellant has not produced any clinching documentary evidence to substantiate his claim at Rs.80/- per sq.ft. before the respondents. The 2nd

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respondent had already considered the highest available sale rate in the village as per Document No.2216/2008 dated 18.06.2008 and fixed the value at Rs.37/- per sq.mtr., and the 1st respondent further doubled the rate by 100% having regard to the proximity to Chinnasalem Town. Therefore, the argument of the learned counsel for the appellant/land owner that the learned District Judge failed to consider the enhancement claim cannot be accepted.

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, in any compensation awarded for land acquired by the National Highway Authority of India, 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 the 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 valuation rates are appropriate. Under Section 34, a Court cannot modify, vary, 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



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from fundamental procedural unfairness. The scope 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 1st respondent has strictly acted within the provisions of law and followed all the procedures in arriving at the compensation amount. The 1st respondent conducted enquiry on 11.03.2016 after giving adequate notice to both parties, heard the matter with the assistance of the petitioner's counsel and NHAI, examined all records and documents, considered the proximity of the acquired land to Chinnasalem Town and the developments in the area, and passed a well-considered Arbitration Award dated 04.07.2016 by enhancing the compensation by 100% over the rate fixed by the 2nd respondent at Rs.37/- per sq.mtr. The 1st respondent was of the considered view that the rate fixed by the 2nd respondent required modification justifiable by facts and accordingly the enhancement of 100% was held to be fair and justifiable. The petitioner has failed to produce any clinching documentary evidence to substantiate his claim at Rs.80/- per sq.ft. or Rs.861/- per sq.mtr. The claim for solatium, additional market value and interest under the Land Acquisition Act, 1894 is not maintainable as the same is not applicable to

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acquisitions concluded under the National Highways Act, 1956, and the Hon'ble

Supreme Court has restricted such benefits to cases which do not already stand concluded. The award passed by the 1st respondent warrants no interference.

14. This Court is of the considered view that there is no merit in this appeal and the learned Principal District Judge, Villupuram, under the impugned order dated 21.12.2020 passed in Arb.O.P.No.97 of 2017 under Section 34 of the Arbitration and Conciliation Act has rightly dismissed the said application. There is no infirmity in the impugned order and the civil miscellaneous appeal is dismissed. No costs.

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

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

vsn



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To

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2. The Authorized Officer/Special District Revenue Officer, Land Acquisition (NH No.68), Salem-4.
3. The Project Director, National Highway Authority of India, Narasothipatti, Salem-636 004.



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