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W.A.Nos.1672 of 2023 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.A.Nos.1672, 1676, 1681, 1686 and 1687 of 2023

W.A.No.1672 of 2023:

1.The Project Director,
National Highways Authority of India (NH 227)
Vazhudhareddi (Post), Villupuram,
Villupuram District.

2.The Regional Officer,
National Highways Authority of India (NH 227)
No.34, Sri Towers, 3rd Floor, Guindy,
Chennai-600 032.

.. Appellants

Vs

1.S.Puhazhenth
2.K.Ganesamoorthy
3.C.Chandrasekaran
4.K.Kandasamy
5.R.Muthuvelu

6.The District Collector/Arbitrator,
Cuddalore District,
Cuddalore.



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7.The Special District Revenue Officer/
Competent Authority (Land Acquisition), NH 227,
Cuddalore,
Cuddalore District.

.. Respondents

W.A.Nos.1676, 1681, 1686 and 1687 of 2023:

The Project Director,
National Highways Authority of India
Project Implementation Unit – Chennai
"SRI TOWER", 3rd Floor, DP – 34 (SP)
Industrial Estate, Guindy,
Chennai-600 032.

.. Appellant in
W.A.Nos.1676, 1681,
1686 and 1687 of 2023

Vs

G.Devika
K.M.Vidhyasagar
V.C.Kuppan
G.Anitha

.. Respondent No.1
in W.A.Nos.1676,
1681, 1686 and 1687
of 2023

The Arbitrator & District Collector,
Thiruvallur District.

The Special District Revenue Officer (LA)
NH 205, No.3&4, Lal Bagadhur Sasthiri Street,
Periyakuppam Railway Road,
Near Thulasi Theatre,
Thiruvallur-602 001.

.. Respondent Nos.
2 & 3 in W.A.Nos.
1676, 1681, 1686,
1687 of 2023



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Prayer: Appeals under Clause 15 of the Letters Patent against the orders dated 05.09.2022; 30.09.2022; 08.11.2022; 02.12.202 and 24.01.2022 passed by the learned Single Judge in W.P.Nos.23622, 26567, 29625, 32666 and 214 of 2022.

For the Appellants : Mr.S.Srinivasan

For the Respondents : Mr.C.Prakasam
for respondent No.2
in W.A.No.1672 of 2023

: Mr.P.Muthukumar
State Government Pleader
assisted by
Mr.K.Karthik Jegannath
Government Advocate
for respondent Nos.6 & 7
in W.A.No.1672 of 2023;
and respondent Nos.2 & 3
in W.A.Nos.1676,1681,1686
and 1687 of 2023

COMMON JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The present private respondents/original writ petitioners have filed writ petitions before the learned Single Judge seeking directions



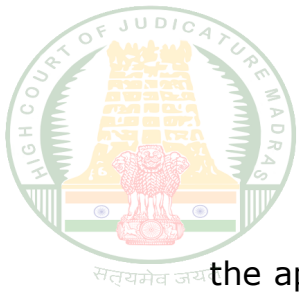
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against the third respondent therein/present appellant to deposit the compensation amount as per the award passed by the Collector under the provisions of the National Highways Act, 1956 and disburse the same. The learned Single Judge disposed of the writ petitions by directing the authorities concerned to pay the enhanced compensation.

2. Learned counsel for the appellant strenuously contented that none of the conditions raised by the present appellant was considered by the arbitrator while passing the award. The issue of limitation was subsequently raised and the same has not been addressed by the arbitrator. Other factual aspects were also raised, however, without considering the grounds raised by the present appellant the award has been passed, thereby awarding the exorbitant compensation amount.

3. The appellant has filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 (for brevity, hereinafter referred to as, 'the Act of 1996') challenging the said award, but, due to the fact that the officer in-charge to register got changed twice,



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the application was not registered.

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4. Learned counsel further submits that in fact, the writ petitions ought not to have been entertained. The writ petitions are not maintainable. The original petitioners had the liberty to file execution. Learned counsel further submits that the learned Single Judge came to the conclusion that the writ petition is not maintainable, where there is a specific alternate remedy available under Section 36 of the Act of 1996 for execution, however, still directed the appellant to deposit the enhanced compensation amount with interest at the rate of 9% per annum and further observed that if any interim order against the arbitral award is not obtained within four weeks, the competent authority was directed to disburse the compensation amount. Learned Single Judge has not decided on the merits of the contentions of the present appellant. The condition imposed to deposit the amount and disburse the same is an onerous one.

5. It is the case of the private respondents/original writ



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petitioners that the writ petitions claiming payment of the enhanced amount as per the award are maintainable. Reliance is placed on the judgment of a Division Bench of this Court dated 24.07.2018 in W.P.No.1230 of 2018. It is stated that in respect of the property acquired for the same project earlier, award is passed in the year 2017 and the rate of compensation award therein is only awarded to the original petitioners in these matters.

6. It is further stated that it is the bounden duty of the authorities to deposit the amount as per the award. The appellant has paid the enhanced amount of compensation, as per the arbitral award, in respect of some claimants, but is selectively depriving of the enhanced amount to the original petitioners.

7. We have considered the submissions made by learned counsel for the parties.

8. No doubt, the original petitioners have a remedy of execution under Section 36 of the Act of 1996.



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9. Be that as it may, according to the present appellant, the challenge to the arbitral award is pending consideration before the concerned District Judge. In view of that, it would not be proper for us to comment upon the merits of the arbitral award. In light thereof, we have not considered the contentions of the respective parties upon the merits of the arbitral award.

10. The deposit of amount would also be to the advantage of the present appellant, inasmuch as with regard to the amount deposited, the further interest would be arrested.

11. We may appreciate the anxiety of the original petitioners to receive the enhanced compensation amount and at the same time, the grounds raised by the present appellant also will have to be considered by the Court, dealing with the application under Section 34 of the Act of 1996. The equities will have to be adjusted.

12. Learned Single Judge had also passed further orders, which in our opinion would be required to be modified. In the light of that, we pass the following orders:



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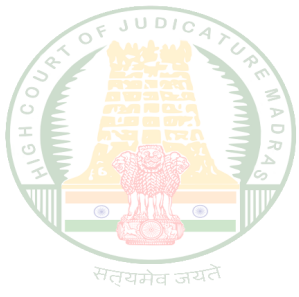


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(i) In the appeals, this Court had directed the present appellant to deposit 50% of the amount of enhanced compensation, which according to the learned counsel for the appellant, has been complied with and the 50% of the amount is deposited. The 50% of the amount already deposited shall be transferred to the Court of the concerned District Judge, where the application filed by the appellants under Section 34 of the Act of 1996 is pending;

(ii) The original petitioners are at liberty to apply for the withdrawal of the amount, which application shall be considered by the concerned District Judge, on its own merits and after hearing all parties concerned, appropriate orders shall be passed;

(iii) The present appellant may also seek further orders on the stay petition before the learned District Judge;



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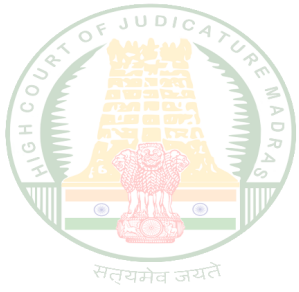


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(iv) Depending upon the order, that may be passed by the learned District Judge on the application of the original petitioners for withdrawal of the amount, further steps may be taken with regard to the amount, if lying in the Court, such as to invest the same in a Nationalised Bank or otherwise.

(v) Considering the huge amount involved, the learned District Judge, with whom the application under Section 34 of the Act of 1996 is pending, may endeavour to decide the application under Section 34 of the Act of 1996 expeditiously.

13. With these observations and directions, the writ appeals stand disposed of. There will be no order as to costs. Consequently, C.M.P.Nos.14907, 14919, 14926, 14930 and 14870 of 2023 are closed.



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(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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To

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