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Arb Appeal No. 29 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
16.02.2026

PRONOUNCED ON
13.03.2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

Arb.Appeal No. 29 of 2025
and C.M.P.No.17893 of 2025

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

..Petitioner(s)

Vs

1. Competent Authority and Special District
Revenue Officer (IA)
National Highways, Kancheepuram and
Thiruvallur Districts At Kancheepuram and at
Poonamallee, Chennai-56.

2. The Arbitrator (NH) and Senior District
Collector,
Tiruvallur District at Thiruvallur.

M.Ramachandran died by legal heris

3. Vasanthi
W/o. Ramachandran, Res. at 127/37, P.H.Road,
Velappahchaddi, Chennai-77.

4. Renuka Deveii
D/o. Ramachandran, Res. at 127/37, P.H.Road,
Velappahchaddi, Chennai-77.

5. R.Baskar
S/o. Ramachandran, Res. at 127/37, P.H.Road,
Velappahchaddi, Chennai-77.



6. Sugana
D/o. Ramachandran, 1, First Street,
Gopalapuram, Chennai-86..

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..Respondent(s)

PRAYER:- Arbitration Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 (as amended), to set aside the order of the Honorable Principal District Judge, Tiruvallur in the Arbitration OP.106/2008 dated 24.08.2023 and pass such further or other orders.

For Petitioner(s): Ms.S.R.Sumathy

For Respondent(s): M/S. R.Anitha,
Special Government Pleader
For RR1 & 2

Mr.S.Karthikei Balan
for RR 3to 6

JUDGMENT

(Judgment of the Court was delivered by K.Kumaresh Babu J.)

The present appeal has been filed challenging the order passed in the Arbitration OP.106/2008 dated 24.08.2023

2. Heard, Ms.S.R.Sumathy, the learned counsel appearing on behalf of the petitioner, Ms.R.Anitha, the learned Special Government Pleader appearing for the 1st and 2nd respondents and Mr.S.Karthikei Balan, the learned counsel appearing for the respondents 3 to 6.



3. Ms.S.R.Sumathy, learned counsel appearing for the appellant would submit that for the purpose of widening NH-4, the lands in Nombal Village were sought to be acquired under the Provisions of National Highways Act, 1956. She would submit that an extent of 1278 Sq.meters of land in different survey numbers were originally owned by one Ramachandran, whose legal heirs are respondents 3 to 6. By a notification of the first respondent, compensation was also determined at Rs.365.44 per Sq. Meters in award dated 30.06.2004 and Rs.690 per sq. Meter in Award dated 16.05.2006.

4. The Original, land owner had preferred an Arbitration Petition and the second respondent by its proceedings dated 19.04.2008 had confirmed the Award made by the first respondent dated 30.06.2004 and 16.05.2006. Being aggrieved against the Award of the Arbitrator, the land owner had initiated an Arbitration Original Petition before the Principal District Judge, Thiruvallur in Arb.O.P.No.106 of 2008. She would contend that the Court without considering the merits of the case had allowed the Original Petition thereby setting aside the arbitral Award.

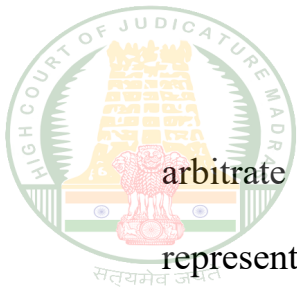
5. She would submit that the order impugned in this Appeal is contrary to the various judgments of the Hon'ble Apex Court wherein it had been categorically held that the Court should not ordinarily interfere with the Award



of the Arbitrator in any manner by modifying, enhancing or revising the order and that such arbitral Awards can only be set aside on restricted grounds such as being vitiated by patent illegality and opposed to public policy. She would submit that the Court below after holding that the Court do not have powers to modify the Award had set aside the Award leaving the entire issue in a limbo.

6. The Arbitration Original Petition had been filed by the land owners seeking enhancement of the compensation together with damages for loss of rental income and solatium, the Arbitration Original Petition was allowed and the Award of the arbitrator was set aside. According to her, such allowing of O.P. would only tantamount to granting of reliefs prayed for by the owner without adverting to the merits of such claim.

7. She would vehemently contend that it had been time and again held, that the Court exercising its power under Section 34 of the Arbitration Act cannot modify or revise the Award except to find that there is any perversity, vitiated by patent illegality and opposed to public policy which are the grounds available under Section 34 of the Arbitration and Conciliation Act, 1996. She would submit that the Court below beyond the scope of Section 34 had allowed the O.P. filed by the land owners. She would submit that the respondents 3 to 6 pending the Arbitration O.P. had again made a representation seeking to



arbitrate the disputes over the Award that was made and on the said representations, the second respondent had passed an arbitral Award in January 2020 enhancing the compensation payable. She would submit that for the very same Award which was originally confirmed by the Arbitrator a fresh arbitral Award had come to be passed, contradicting the earlier Award which would amount to re-arbitrating an issue which had already been settled which have been held to be bad.

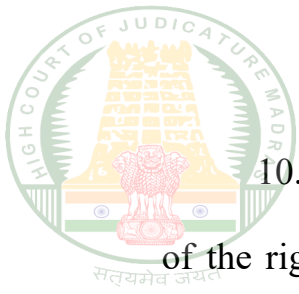
8. Referring to the judgment of the Hon'ble Apex Court in *Tantia Construction Limited*, she would submit that there cannot be two arbitration proceedings with regard to the same contract/ transaction and the subsequent arbitral Award passed by the second respondent had been challenged by the Appellant in a separate arbitration O.Ps which are also pending consideration before the District Court, Tiruvallur. She would submit that she would pray this Court to take judicial notice of the fact that the subsequent arbitral Award passed by the second respondent is non-est and therefore, prays this Court to grant necessary indulgence protecting the interest of the appellant.

9. Countering her arguments, the learned counsel appearing on behalf of the respondents would contend that the lands belonging to one Ramachandran of whom the respondents 3 to 6 are the legal heirs was acquired for the purpose



of widening NH-4 and the first respondent had made two separate Awards in respect of various parcels of land in the year 2004 and 2006 respectively. The land owners including their father had given various representations for referring the matter to a Statutory Arbitrator. The second respondent/ Arbitrator without following the due process of law enmasse and without issuing any notice to any of the land owners, dealt with the Awards of the year 2004 and 2006 in a single proceedings and rejected the same in a single stroke. Such an arbitral Award not only suffers from perversity, it is also vitiated to be patent illegality. Hence, the same came to be challenged by the land owner in the impugned proceedings. He would submit that the land owners have been making representations even from the year 2006 for grant of enhanced compensation and thereafter, the second respondent after thorough enquiry and contest by the appellants, had made an Arbitral Award in the year 2020 which came to be challenged by the appellants under Section 34 of the Arbitration Act. He would submit that the appellant had not objected to arbitration proceedings that was subsequently conducted by the second respondent. He would submit that the appellant having participated in the further arbitral proceedings conducted by the second respondent cannot be allowed to contend that such proceeding are wholly non-est.

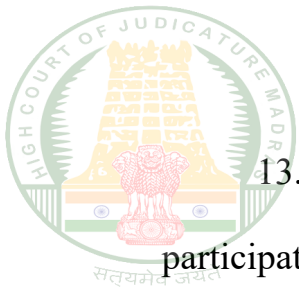
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10. That apart, he would submit that the land owners cannot be divested of the right of compensation for the lands by skimming on technicalities as it would affect their valuable constitutional right enshrined under Article 300A of the Constitution of India. He would further submit that the Court below had not modified the arbitral Award, but had set aside the arbitral Award as it had found that there was patent illegality committed by the second respondent in the arbitral Awards impugned before it and left it open to the second respondent to initiate appropriate proceedings. He would submit that in the interregnum, an Award came to be passed and the same is subject matter of challenge under Section 34 by the appellants themselves. Hence, he prays this Court to pass appropriate orders.

11. We have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

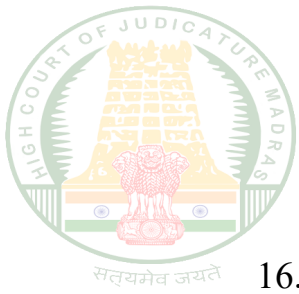
12. After hearing the parties, this Court was surprised with the manner in which the Authorities have conducted themselves in carrying out their statutory duties and has called upon the learned Special Government Pleader appearing on behalf of the first and second respondent to produce the files in which a subsequent Award had been passed and the learned Special Government Pleader had placed on record the files relating to the first respondent as also the second respondent.



13. A perusal of the records would reveal that the appellant had participated in the said proceedings and had also filed a detailed counter in respect of such arbitral proceedings in the year 2019. It is very surprising also to note that neither the first respondent nor the appellant herein have brought it to the notice that an Award had been passed earlier. The files relating to the initial arbitration proceedings was also placed before us and on a perusal of the same do not reveal that any of the land owners were issued any notice of the arbitration proceedings.

14. It is further surprising to note that the then second respondent had collectively decided all the Arbitration Petitions in respect of the Awards made on 30.06.2004 and 16.05.2006 in a single proceedings that too without issuing any notice to any of the parties, except to form its opinion based upon the Report of the first respondent alone.

15. In this scenario, we are constrained to deal with the entire issue more than dealing with the appeal only under the Provisions of Section 34 of the Arbitration Act as the rights of the respective land owners for receipt of proper compensation is not only a statutory right protected under the Provisions of the Land Acquisition Act but is also a constitutional right as protected under Article 300A of the Constitution of India.



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16. It is an admitted fact that the first respondent who is the acquiring Authority had acquired the lands in various parcels in favour of the appellants. The first respondent had also passed two Awards for acquiring the lands under proceedings dated 30.06.2004 and 16.05.2006. Reference was sought to be made by the various land owners in arbitration for enhanced compensation. It is admitted and also evidenced from the files produced by the first respondent that the second respondent in its proceedings dated 19.04.2008 had taken up for consideration of over 50 arbitration reference petitions relating to the Award of compensation under two proceedings dated 30.06.2004 and 16.05.2006 and had proceeded to uphold them.

17. A careful and thorough perusal of the Arbitral Award made on 19.04.2008 would indicate that except for receiving a Report from the first respondent and sustaining the Award made by it, the second respondent had not issued notice to any of the parties namely the land owners as well as the requisitioning Body (Appellant) before concluding the said Arbitral proceedings. The said procedure followed by the second respondent in passing an arbitral Award on 19.04.2008 wholly contravenes the Provisions of the Arbitration, the principles of natural justice, principles of *Audi alter partem*



thereby we have no hesitation in holding that such arbitral Award suffers from patent illegality, smacked with arbitrariness and a colourable exercise of power by the second respondent.

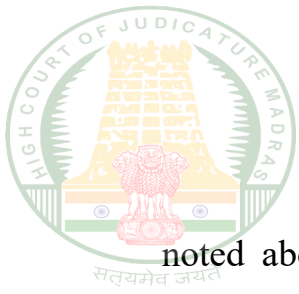
18. It is further to be noted that the appellant itself was not aware of such proceedings and it had participated in the subsequent arbitral proceedings over the very same Award of compensation and had suffered an arbitral Award in the hands of the second respondent which it had also challenged under Section 34 which is pending for consideration before the Principal District Court, Tiruvallur.

19. The learned District Judge also in the impugned proceedings had given a categorical finding that the arbitral Award passed by the second respondent is against public policy and had ignored the position of law, there has been no application of mind on the part of the second respondent. But, however, taking into consideration, the judgment of the Hon'ble Apex Court that there can be no modification or revision of the arbitral Award under the Provisions of Section 34, had simply set aside the arbitral Award but had left it



open to the second respondent to consider various factors in the event of it passing a fresh Award in the arbitration proceedings. It is to be noted that the said observations have been made under the impugned proceedings without remitting the matter to the Arbitrator. It is further to be noted that the Court below had also taken note of the fact that it had been more than two decades that the lands have been acquired.

20. The appellants even before the Section 34 Court had not brought it to its notice about passing of the subsequent arbitral Awards on the same proceedings. It is to be noted that the second set of arbitral Award came to be passed in the year 2020 and the order under Section 34 impugned in the present case had been only made in the year 2023. Even in the Writ Petitions filed seeking for implementation of the Award, the appellants had not brought it to the notice of the Court about the earlier arbitral Award. Even in the Intra-Court Appeal, the same has not been brought to the notice but, it had only pointed out the pendency of Section 34 against the second Award and had contested the claim for implementation of the arbitral Award to be only subject to the result of such Section 34 petitions pending considerations. Only for the first time before this Court, the appellants had brought it to the notice of the issues that had been



noted above. We are aware that in dealing with the present appeal, we are exercising the powers under Section 37 of Arbitration and Conciliation Act. We have put a question to ourselves as to whether in the interest of justice as to why we cannot also exercise the inherent powers of this Court for doing complete justice to the litigants that too particularly when a right under Article 300A of the Constitution lingers before us.

21. It would also be useful to refer to Sub-Section 4 of Section 34 where the Court can also in appropriate case and so requested by parties to give the arbitral Tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of the arbitral Tribunal will eliminate the grounds for setting aside the arbitral Award. Section 34 also envisages that an arbitral Award can be set aside by a Court in exercising of power under Section 34 where such Award suffers from failure to adhere the laws for the time being in force, that a party who had made an application was not given proper notice of the appointment of the Arbitrator or the arbitral proceedings, in contravention of the fundamental policy of Indian law or is in conflict with the basic notions of morality or justice. Explanation 2 appended would also restrict a review on the merits of the dispute if the contravention is with the fundamental policy of



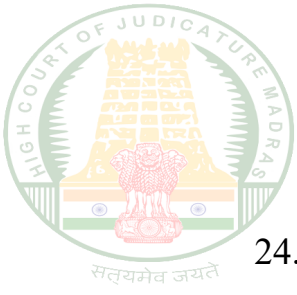
Indian Law. A conjoined reading of the entire Section 34 when applied to the facts of the case, would only draw us to the irresistible conclusion that the arbitral Award as made by the second respondent suffers from the vices indicated for interference with the Award. We are also of the considered view that the Court while exercising the powers under Section 34 had also not exercised its powers under Sub-Section 4 envisaged thereunder.

22. It is a peculiar case where pending Section 34, the second respondent had again taken up the dispute for arbitration and had passed an Award which is squarely hit by the ratio laid down by the Hon'ble Apex Court in *M/s Tania Construction Limited Vs Union of India*. The land acquisition proceedings were initiated in the year 2002, more than two decades ago. The land owners have not been paid the just compensation which is required to be paid by the Requisitioning Body for the lands acquired for them. We are faced with an Award of the year 2008 which had been made in contravention as indicated above, which was pending consideration under Section 34. In the interregnum, a fresh Award had been passed for the very same dispute by the second respondent. We have already noted that the first Award made in the year 2008 can only be a non-est Award for the contraventions indicated above. Hence, it



would have been only proper for us to remit the entire issue to the second respondent to re-arbitrate the issue as per the fundamental policy of law prevailing in India which had been reiterated by various judgments of the Hon'ble Apex in that regard, in the matter of granting of just and fair compensation to the land owners. However, we refrain to remit the matter back as the second respondent had passed the second arbitral Award on the very same dispute which is also pending consideration before the Section 34 Court namely the Principal District Court, Tiruvallur.

23. In that context, even though, we are conscious of the fact of the Hon'ble Apex Court judgment in the case of *M/s. Tantia Constructions Limited Vs Union of India*, we are of the considered view that the learned Principal District Judge, Tiruvallur who is dealing with the Section 34 applications on the second arbitral Award to proceed with the proceedings and pass orders on merits of the said Section 34 petitions and not reject the same on technicalities as envisaged by the Hon'ble Apex Court in the aforesaid judgment indicated and also on the issue of limitations if any raised before it. This we consider would only render full and true justice to the litigants and they shall not suffer with a *lis* on the grounds of technicalities.



24. With the aforesaid findings and reasonings, we do not find any merits in the present Appeal and accordingly, the same stands dismissed. Consequently, connected miscellaneous petition is also closed. However, there shall be no order as to costs.

(C.V.K.,J.) (K.B.,J.)
13.03.2026

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

GBA

To

1. Competent Authority and Special District Revenue Officer (IA)
National Highways, Kancheepuram and Thiruvallur Districts At Kancheepuram and at Poonamallee, Chennai-56.
2. The Arbitrator (NH) and Senior District Collector
Tiruvallur District at Thiruvallur.
3. Principal District Court,
Tiruvallur.



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Arb Appeal No. 29 of 2



**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

GBA

**A Pre-Delivery order made in
Arb Appeal No. 29 of 2025**

13.03.2026