
(2013) 11 MAD CK 0090
In the Madras High Court
Case No : C.R.P. (NPD) No. 1960 of 2009

R. Srinivasan

APPELLANT

Vs

The District Collector/Arbitrator, The Competent Authority
(L.A.) and National Highways Authority of India

RESPONDENT

Date of Decision : 07-11-2013

Acts Referred:

Citation : AIR 2014 Mad 1 : (2013) 5 LW 495 : (2014) 1 MLJ 47

Hon'ble Judges : M.M. Sundresh, J

Bench : Single Bench

Advocate : David Tyagaraj, for the Appellant; P. Willson, for R3, for the Respondent

Final Decision : Allowed

Judgement

M.M. Sundresh, J.—This revision has been filed by the petitioner being aggrieved against the return of papers made by the District Court,

Villupuram stating that the application filed u/s 34 of the Arbitration and Conciliation Act, 1996 is not maintainable. The petitioner made an

application before the Arbitrator appointed by the Central Act viz., the District Collector. The District Collector passed an award u/s 3G(5) of the

National Highways Act, 1956. Challenging the same, the petitioner has invoked Section 34 of the Arbitration and Conciliation Act, 1996.

2. Section 3G(5) of the National Highways Act, 1956 clearly stipulates that subject to the provisions of the said Act, the provisions of Arbitration

and Conciliation Act, 1996 shall apply to every arbitration under the Act. It is not in dispute that the award passed by the Arbitrator u/s 3G(5) is

an arbitration under the Act and therefore, the application filed before the District Court u/s 34 of the Arbitration and Conciliation Act, 1996 is

maintainable in law. The view taken by this court in *A. Venkatachalapathy v. The Secretary, Ministry of Road Transport and Highways, New*

Delhi & Others (W.P. (MD) No. 3882 of 2010 dated 8.12.2011) is as follows:-

At the outset, it should be pointed out that by virtue of section 3G(6) of the Act, the provisions of the Arbitration and Conciliation Act, 1996 apply

to the arbitration proceedings before the District Collector. Therefore, the only method by which the petitioner can challenge the Award passed by

the District Collector u/s 3G(5) of the Act, is to file an original petition u/s 34 of the Arbitration and Conciliation Act, 1996.

3. A similar view was taken by the High Court of Andhra Pradesh in W.P. No. 25406 of 2005 wherein it has been held follows:-

It is also brought to the notice of this court by the learned Assistant Government Pleader for Revenue (Land Acquisition) that as per Section 3J of

the Act the provisions of Land Acquisition Act, 1894, shall not apply for the acquisition under the Act, and therefore, Section 3G of the Act alone

is a comprehensive provision. If any person is aggrieved by the compensation determined or redetermined by the authorities u/s 3G(3) of the Act

or 3G(5) of the Act, a remedy lies under Arbitration Act, an in a writ petition this question cannot be adjudicated. It is settled law that when statute

provides for depriving a citizen of his/her rights and also provides the necessary procedure to be followed for redressal of such grievance, the same

procedure should be followed. Therefore, the writ petition cannot be entertained.

Though the learned counsel for the petitioner made submissions for some time, having regard to the clear provisions of the Act as contained in

Section 3G(6) of the Act, he seeks permission to withdraw the writ petition with a liberty to file an appropriate application u/s 34 of the Arbitration

Act before the civil court.

The writ petition, with the above observation, is dismissed as withdrawn with a liberty to file an appropriate application u/s 34 of the Arbitration

Act before the civil court. No costs.

4. A Division Bench of Patna High Court, in *The Project Director National Highway Authority of India, Darbhanga v. Shaital Prasad & Others*

(L.P.A. No. 1815 of 2012), after considering the scope and ambit of section 34(2) of the Arbitration and Conciliation Act, has held in the

following manner:-

Section 3G of the Act provides for determination of the amount of compensation. Sub section (5) thereof empowers either of the parties, if aggrieved by the amount of compensation, to seek reference to the arbitrator. Sub section (6) thereof provides (Patna High Court LPA No. 1815 of 2012 dated 29.4.2013) that such arbitration shall be governed by the Act of 1996. Once the arbitral award is governed by the Act of 1996, the parties to the arbitration are obliged to seek recourse to the provisions contained in the Act of 1996. Section 34 of the Act of 1996 provides for challenge to the arbitral award before the civil court. Section 36 of the Act of 1996 provides for execution and enforcement of the arbitral award under the Code of Civil Procedure.

In the light of the pronouncements of law referred to above, the order impugned is set aside and the learned District Judge, Villupuram is directed to entertain the petition to be filed by the petitioner and decide the same on merits. The petitioner is directed to re-present the petition within a period of four weeks from the date of receipt of copy of this order. It is made clear that as soon as the petition is numbered, the learned District Judge, Villupuram directed to expedite the hearing and dispose of the same expeditiously. The civil revision petition is allowed. No costs. The connected miscellaneous petition is closed.