

WEB COPY

CMA Nos. 2496 and 3140 of 2



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	15.07.2026
PRONOUNCED ON :	

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**CMA Nos. 2496 and 3140 of 2021
and
C.M.P.Nos.14388 and 17747 of 2021**

M.Jothi, S/o.Murugesan

..Appellant in
CMA.No.2496 of 2021

Tmt.Ambika, W/o.Mayavan

... Appellant in
CMA.No.3140 of 2021

Vs

1. The Project Director,
National High Ways Authority of India,
Project Implementation Unit,
No.212-3/D3-1, Srinagar Colony,
Naranothipatti,
Salem – 636 004.

2. The Competent Authority,
And Special District Revenue Officer (LA)
No.414, 4th Floor,
District Collector Office,
Salem – 636 001.

3. The Arbitrator Cum District Collector,
District Collector's Office,
Villupuram, Villupuram District.

... Respondents in both
CMAs.



Prayer: Civil Miscellaneous Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, to set aside the order of the learned Principal District Judge, Villupuram made in Arbitration O.P.No.171 of 2018 and O.P.No.19 of 2019 dated 11.01.2021.

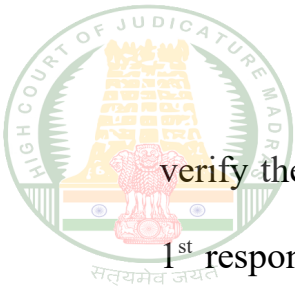
For Appellant : Mr. S.Ayyathurai
[in both CMAs]

For Respondents : Mr.Su.Srinivasan [R1]
[in both CMAs] Mr.V.Prasad,
Government Pleader [R2 & R3]

COMMON JUDGMENT

The present Civil Miscellaneous Appeals have been filed challenging the order dated 11.01.2021 made in Arbitration O.P.No.171 of 2018 and O.P.No.19 of 2019 by the learned Principal District Judge, Villupuram.

2. The learned counsel appearing for the appellant would submit that the arbitral award has been set aside solely on the ground that the 1st respondent was not a party to the arbitral proceedings and that the award would not be binding on it. The said finding was given on the reasoning that no notice was issued by the Arbitrator nor an opportunity was given to the 1st respondent. In that context, he would submit that the 3rd respondent had sent a notice of hearing to all the concerned including the 1st respondent. In spite of the notice, the 1st respondent suppressing the fact of receipt of notice and without any records being produced by the 1st respondent and nor the 3rd respondent was called for to



verify the fact of service of notice on the 1st respondent, if such contentions of 1st respondent was to be accepted, the Court ought to have remitted the matter back to the Arbitrator. He would submit that the arbitral award was passed enhancing the compensation awarded by the competent authority under the provisions of the National Highways Act, 1956 and setting aside the award without remitting the matter, denies the constitutional right enshrined under Article 300 A of the Constitution. In that regard, he would submit that, if the competent authority is directed to produce the relevant records, it would substantiate that the notice had been sent and received by the 1st respondent. Hence, he seeks indulgence of this Court.

3. Countering his argument, Mr. Su. Srinivasan, learned counsel appearing for the 1st respondent would submit that even in the notice relied upon by the appellant, no notice was addressed to the 1st respondent and only a copy of the same had been marked to the 1st respondent, this could not at any stretch of imagination be construed as notice of arbitration that had been despatched to the 1st respondent. In that context, he would submit that there is no infirmity in the order passed by Section 34 Court, which requires to be interfered with by this Court under Section 37 in the present appeals. Hence, he seeks dismissal of the appeals.



4. The learned Special Government Pleader placing the dispatch register evidencing notice sent to the 1st respondent would submit due notice has been served upon it and in that regard he prays this Court to pass appropriate orders.

5 I have considered the submissions made by the learned counsel appearing on either side and have perused the materials available on record.

6. The present appeals arise out of an order made under Section 34, which in turn arises of an award enhancing the compensation payable under the provisions of the National Highways Act, 1956 for the lands that had been acquired belonging to the applicant. In that context, the mandate of the constitution as provided under Article 300 A assumes important. As per the constitutional provision no person should be deprived of their property, otherwise by an authority of law. In the case, the appellant had been deprived of a land under the provisions of the National Highways Act on a request made by the 1st respondent to the Government, which had appointed the 2nd respondent for acquisition of the land in favour of the 1st respondent. Thereafter, the proceedings towards fixation of the compensation had been carried out by the competent authority and there is no denial of fact by the 1st respondent as regards to the compensation fixed by the competent authority. Further, it is the claim of the 1st respondent that no notice of proceedings of arbitration by the statutory Arbitrator under the provisions of the National Highways Act was



given, nor did it have any knowledge of the same.

WEB COPY

6. To defray the said submission, the appellant had produced a copy of the despatched register of the office of the Arbitrator reflected in the despatch register produced by the Special Government Pleader, which appellant evidences despatch of notice of the proceedings to the 1st respondent. It is the case of the 1st respondent that only a copy of the proceedings was marked to it but had not denied the receipt of such notice as despatched by the office of the Arbitrator. This would only mean that the 1st respondent had knowledge of the arbitral proceedings that had been initiated by the appellant seeking enhancement of compensation that has been awarded by the competent authority. Having knowledge of the said proceedings before the Arbitrator, taking a technical ground to deny the rights envisaged under Article 300 A that too by a public authority could not be appreciated. The 1st respondent had not explained as to why it has remained a lame duck after having knowledge of the proceedings. These aspects had not been looked into by the Court below and no evidences whatsoever had been placed in that regard. It has also to be noted that before Section 34 Court no documents have also been filed to appreciate the findings of the Court below that no notice has been issued to the 1st respondent much less an opportunity being given to it. The Court below had also not appreciated the notice sent by the Arbitrator even though marked as a copy to the 1st respondent. It is further to be noted that the Court below had also



returned findings against the 1st respondent on the merits of the issue, but had only set aside the award on the ground that no notice had been issued, however failing to appreciate that notice had been issued even though as a copy marked to the 1st respondent. In that regard, this Court is of the view that the impugned order made under Section 34 deserves to be set aside and accordingly, the instant appeals stand allowed and the award made by the Arbitrator stands affirmed. No costs. Connected miscellaneous petitions are closed.

-09-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

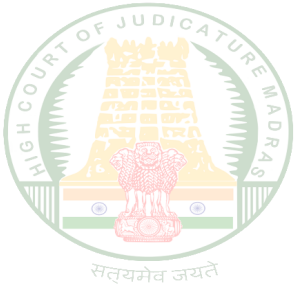
mp

To

1. The Competent Authority,
And Special District Revenue Officer (LA)
No.414, 4th Floor,
District Collector Office,
Salem – 636 001.

2. The Arbitrator Cum District Collector,
District Collector's Office,
Villupuram, Villupuram District.

3. The Principal District Judge, Villupuram.



WEB COPY

CMA Nos. 2496 and 3140 of 2



Order QR

K.KUMARESH BABU, J.

mp

CMA Nos. 2496 and 3140 of 2021

-09-2026