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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-09-2026

CORAM

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

C.M.A.No. 86 of 2024 and
C.M.P.No.672 of 2024

CNR: {HCMA011482772023}
Case QR

Competent Authority and Special District Revenue
Officer (LA), National Highways No 45A,
Cuddalore.

..Appellant

Vs

1. The Arbitrator cum District Collector, Cuddalore.

2. S.Balaji, S/o.Sivarama Krishnan,
   31, Temple Car Street, Thirupathiripuliyur,
   Cuddalore District.

3. Project Director And DGM
   National Highways Authority of India,
   Project Implementation Unit,
   No.28 and 29, 1st Cross, Ganapaty Nagar,
   Arumparthapuram, Puducherry - 605 110.

   (R3 impleaded as respondent vide order of court
   dated 31/07/2026 made in C.M.P.No.18719/2026 in
   C.M.A.No.86/2024

..Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 37 of the Arbitration and Conciliation Act, 1996 (as amended) seeking to set aside the order of the learned Principal District Judge, Cuddalore, in the Arbitration

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O.P.No.60 of 2021 dated 10.4.2023 and remit the case to the Arbitrator cum District Collector, Cuddalore.

For Appellant: Mrs.S.R.Sumathy

For Respondents: Mr.Karthik Selvaraj,
Additional Government Pleader for R1
Mr.P.Thiyagarajan for R2
No Appearance for R3

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JUDGMENT

(Judgment of the Court was delivered by P.Velmurugan J.)

The second respondent is the owner of the property bearing Survey No.22/3 of Pathirikuppam Village, Cuddalore District. The appellant had acquired a portion of the second respondent's land to an extent of 700 square meter (0.49.0 ars) bearing patta No.1820 for the purpose of laying bypass road in National Highways No.45-A Villupuram-Puducherry-Cuddalore-Nagapattinam division under Section 3A(1) of National Highways Land Acquisition Act, 1956 (48 of 1956). After following due procedures, the appellant passed an order on 17.07.2017 fixing an amount of Rs.224.63 per sq.mtr and the total amount of compensation amount arrived for 700 sq.mtr was Rs.3,55,166/-. Being not satisfied with the quantum of compensation, the second respondent initiated arbitration proceedings and the learned Arbitrator passed an Award on 20.03.2020 by fixing the amount as Rs.449.26/- per sq.mtr.

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2 Aggrieved over the order of the learned Arbitrator, the second respondent invoked Section 34 of the Arbitration and Conciliation Act, 1996, and the learned Principal District Judge, Cuddalore, by an order dated 10.04.2023, allowed the Arbitration Original Petition and enhanced the compensation to Rs.3,769.50 per sq.mtr, against which, the appellant is before us with the present Civil Miscellaneous Appeal.

3 Learned counsel for the appellant would submit that the second respondent's land to an extent of 700 square meter (0.49.0 ars) bearing patta No.1820 had been acquired for the purpose of laying bypass road in National Highways No.45-A. After following due procedures and with the available documents, the appellant fixed the compensation at Rs.224.63 per sq.mtr and being not satisfied with the same, the land owner invoked the provision of Arbitration and Conciliation Act. The learned Arbitrator, considering the classification of land acquired and the sample sale deeds, passed an Award on 20.03.2020 by fixing the amount as Rs.449.26/- per sq.mtr, enhanced 100%. Again not satisfied with the same, the land owner approached the Section 34 Court, which, without power and exceeding its jurisdiction, enhanced the compensation to Rs.3,769.50 per sq.mtr.

3.1 Learned counsel would further submitted that the Section 34 Court cannot modify the Arbitral Award, unless it finds any typographical error

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apparent. The Arbitrator is a Master of facts and evidence and the Section 34 Court cannot interfere with the findings of the Arbitrator with regard to factual aspects and if at all it finds any illegality in the Award, at the best the Section 34 Court can only remit the matter to the Arbitrator. The learned counsel for the appellant, to supporto her contentions, relied on the decision of the *Hon'ble Supreme Court* reported in *2021 (9) SCC 1* in the case of *Project Director vs. Hakeem* clearly held that the Section 34 Court should not interfere with the Arbitral Award, in any manner such as to modify enhance or revise the Award and they can only remit the matter to the Arbitrator, if it finds any infirmity. Even though land was acquired under the National Highways Act, compensation was fixed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The second respondent/land owner also received the enhanced compensation as per the Arbitral Award.

3.2 Subsequent to the decision of the Hon'ble Supreme Court cited *supra*, the ***Hon'ble Constitution Bench of the Apex Court*** in the case of ***Gayatri Balasamy v. M/s ISG Novasoft Technologies Ltd*** held that the Section 34 Court has no power to modify the Arbitral Award and it can only either set aside or remit the matter to the Arbitrator, if it finds the Award is opposed to public policy or any error. Following the said decisions, this Court also in *catena* of cases had not interfered with the Arbitral Award. But in the present

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case, the Section 34 Court without properly appreciating the facts and circumstances and the settled provision of law, exceeding its jurisdiction, modified the Arbitral Award by enhancing the same, which is against the decision of the Hon'ble Supreme Court and the same is liable to be set aside.

4 The learned counsel appearing for the second respondent would submit that the competent authority, while fixing the compensation, had failed to consider the sale deeds produced by the land owner. Further for the land, which is situated under the same Survey Number and only 15 feet away from the second respondent's land, the appellant had fixed higher compensation at Rs.4,821/- per sq.mtr whereas, for the second respondent's land fixed very meagre compensation of Rs.224.63 per sq.mtr, which is not correct. Therefore the second respondent approached the Arbitrator and the learned Arbitrator also without considering the above facts fixed only Rs.449.26 per sq.mtr. Hence the second respondent invoked Section 34 of the Arbitration and Conciliation Act. The section 34 Court can modify the Award to some extent and it is not wholly restricted to do so. In the present case, the Section 34 Court, considering the classification of the acquired land and the higher amount fixed by the appellant for the nearby lands, which was classified as "Punja Manai", rightly enhanced the compensation, which needs no interference of this court.

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5 Heard the learned counsel on either side and perused the materials available on record.

6 As against the modification of the Arbitral Award by the Section 34 Court, the appellant, who is the competent authority, is before us with the appeal under Section 37 of the Arbitration and Conciliation Act.

7 The competent authority viz. the appellant had fixed Rs.224.63 per sqr.mtr for the land acquired from the second respondent to an extent of 700 sq.mtr. The second respondent/land owner approached the Arbitrator, who enhanced the compensation @ 100% by fixing the compensation at Rs.449.26, again not satisfied with the same the land owner invoked Section 34 of the Arbitration and Conciliation Act. The Section 34 Court, enhanced the Arbitral Award to Rs.3769.50 per sq.mtr and granted interest at 9% from the date of handing over of the land to till the date of payment and thereafter at the rate of 12% p.a.

8 It is settled proposition of law that the scope and object of Section 34 of the Arbitration and Conciliation Act is very limited and while exercising the power under the said Act, the Court cannot sit in the armchair of the appellant court and Section 34 is not an appeal. The Section 34 Court cannot re-

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evaluate the merits of the dispute or fix errors made by the arbitrator.

9 It is the main contention of the learned counsel for the second respondent/land owner that for the land in the same survey number situated only 15 feet away from the second respondent's land, higher compensation has been fixed at Rs.410/- per sq.ft, i.e. Rs.4,821/- per sq.mtr whereas, for the second respondent's land fixed only Rs.224.63 per sq.mtr. It is to be noted that as contended by the learned counsel for the appellant that the land referred by the second respondent is classified as Punjai Manai, whereas, the second respondent's land has been classified as Punjai. Therefore the learned Arbitrator, being the master of facts and evidence, by appreciating the available oral and documentary evidence, awarded Rs.449.26 per sq.mtr.

10 The Court's authority under Section 34 is strictly supervisory only and it can either **set aside** an award or **remit** the matter back to the arbitral tribunal, but it cannot alter or substitute the award with its own views. If an arbitral award suffers from a patent illegality or violates fundamental policy, the Section 34 Court shall set aside the Award, leaving the parties free to start fresh arbitration proceedings if they choose. Modifying the payout or terms directly under Section 34 would amount to travel beyond the scope and object of the Section 34 of the Arbitration and Conciliation Act.

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11 The Hon'ble Constitution Bench of the Apex Court in the case of ***Gayatri Balasamy v. M/s ISG Novasoft Technologies Ltd reported in (2025) 7 SCC 1*** re-examined this boundary and held that the Courts possess a limited and narrow power to modify or vary an arbitral award under Section 34 and 37 of the Arbitration and Conciliation Act.

12 In view of the above facts and legal propositions, we hold that the Section 34 Court travelled beyond the scope and object of the Section 34 of the Arbitration and Conciliation Act and hence we are inclined to set aside the impugned order.

13 Accordingly This Civil Miscellaneous Appeal is allowed and the order passed by the learned Principal District Judge, Cuddalore, in the Arbitration O.P.No.60 of 2021 dated 10.4.2023, is hereby set aside. Consequently connected miscellaneous petitions stands closed. No costs.

(P.V.,J.) (G.K.M.,J.)
30-09-2026

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

The Arbitrator cum District Collector, Cuddalore.

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