

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.192 of 2025
(arising out of SLP (C) NO. 23342/2022)**

S. JAYALAKSHMI

Appellant(s)

VERSUS

THE SPECIAL DISTRICT REVENUE OFFICER & ORS.

Respondent(s)

with

**CIVIL APPEAL NO.193 of 2025
(@ SLP(C) No. 23355/2022)**

O R D E R

1. Leave granted.

2. These appeals are against the judgment of the High Court of Judicature at Madras in C.M.A Nos. 2267 and 2266 of 2019 dated 28.09.2021, by which the High Court allowed the Section 37 appeal(s) under the Arbitration and Conciliation Act 1996¹ arising out of the order of the Principal District Judge, Vellore under Section 34 of the Act, modifying the arbitral award dated 19.11.2009 under the National Highways Act, 1956².

3. The short facts, to the extent that they are relevant for disposing these appeals are that the Appellant's lands were acquired under the Highways Act under a notification issued under Section 3A(1) of the Act on 05.04.2022. The acquisition proceedings led to passing of an award dated 06.06.2005 as per which compensation at the rate of Rs. 355.21 per sq.mtr was granted. In the proceedings initiated by the appellant under Section 3G(5) of the Highways Act, the arbitrator enhanced the compensation and

¹ Hereinafter referred to as the 'Act'.

² Hereinafter referred to as the 'Highways Act'.

granted an amount of Rs. 495 per sq.mtr by award dated 19.11.2009. The Appellant challenged the award by filing an application under Section 34 of the Act which came to be allowed by modifying the award and enhancing the compensation to Rs. 4500 per sq.mtr, along with interest at the rate of 9% p.a.

4. Questioning the order passed by the District Judge under Section 34, the Special District Revenue Officer, the competent authority filed an appeal under Section 37 of the Act before the High Court.

5. During the pendency of the appeal on 20.07.2021, this Court delivered its judgment in the case of *"Project Director, National Highways No. 45 E and 220, National Highways Authority of India vs. M. Hakeem & Another"*³ holding that the jurisdiction of the Courts under Sections 34 and 37 will not extend to modifying an arbitral award.

6. By the order impugned before us, following the judgment of the Supreme Court in the above referred *M. Hakeem's case* (supra), High Court allowed the Section 37 appeal and set aside the order passed by the Principal District Judge, Vellore under Section 34.

7. This is how the appellant(s) are before us.

8. It is true that this Court in *M. Hakeem's case* (supra) has held that **while exercising jurisdiction under Section 34 and 37, courts cannot modify an arbitral award.** However, while allowing the appeal, in the following paragraphs, this court exercised its discretion under Article 136 of the Constitution in not interfering with the grant of compensation in favour of the Respondents. The

relevant portion of the order passed by this Court is as under;

"59. Given the fact that the NH Laws (Amendment) Act, 1997 has not been challenged before us, we refrain from saying anything more. Suffice it is say that, as has been held in "Taherakhatoon v. Salambin Mohammad" (at para 20), even after we declare the law and set aside the High Court judgment on law, we need not interfere with the judgment on facts, if the justice of the case does not require interference under Article 136 of the Constitution of India.

60. Given the fact that in several similar cases, the NHAI has allowed similarly situated persons to receive compensation at a much higher rate than awarded, and given the law laid down in Nagpur Improvement Trust, we decline to exercise our jurisdiction under Article 136 in favour of the appellants on the facts of these cases. Also, given the fact thatt most of the awards in these cases were made 7-10 years ago, it would not, at this distance in time, be fair to send back these cases for a de novo start before the very arbitrator or some other arbitrator not consensually appointed, but appointed by the Central Government, The appeals are, therefore, dismissed on facts with no order as to costs."

9. There is no doubt about the fact that the acquisition with which we are concerned in the present proceedings and the acquisition that fell for consideration in *M. Hakeem's case* (supra) is one and the same. While this Court laid down the law by holding that an arbitral award cannot be modified, the High Court had to naturally follow the decision of this court. At the same time, the High Court could not have exercised the discretion which the Supreme Court exercised in granting the same compensation to the Appellant as was granted to the Respondents in *M. Hakeem's case* (supra). To this extent, the High Court is correct in following the judgment of this Court in *M. Hakeem's case* (supra).

10. However, in order to maintain parity and grant to the Appellant(s) the same benefits as were extended to similarly placed claimants in *M. Hakeem's case* (supra), we deem it appropriate to

exercise our power under Article 142 of the Constitution of India to direct that the Appellant(s) shall be paid the same compensation as was granted by the Principal District Judge, Vellore.

11. For the reasons stated above, we allow the appeals and in modification of the order passed by the High Court, direct that the Appellant(s) shall be granted the compensation as determined by the Principal District Judge, Vellore in A.O.P. Nos. 03 and 02 of 2010 with all consequential benefits.

12. Pending applications, if any, shall stand disposed of.

.....J
(PAMIDIGHANTAM SRI NARASIMHA)

.....J
(MANOJ MISRA)

NEW DELHI
JANUARY, 07, 2025

ITEM NO.20

COURT NO.12

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 23342/2022

[Arising out of impugned final judgment and order dated 28-09-2021 in CMA No. 2267/2019 passed by the High Court of Judicature at Madras]

S. JAYALAKSHMI

Petitioner(s)

VERSUS

THE SPECIAL DISTRICT REVENUE OFFICER & ORS.

Respondent(s)

WITH

SLP(C) No. 23355/2022 (XII)

Date : 07-01-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Senthil Jagadeesan, Sr. Adv.
Mr. K. S. Mahadevan, Adv.
Ms. Swati Bansal, Adv.
Mr. R. Rangarajan, Adv.
Mr. Aravind Gopinathan, Adv.
Mr. Punit Manoj Agarwal, Adv.
Ms. Kirti Leela Ratnam, Adv.
Mr. Rajesh Kumar, AOR

For Respondent(s) Mr. K Radhakrishnan, Sr. Adv.
Mr. D.kumanan, AOR
Ms. Deepa S, Adv.
Mr. Sheikh F Kalia, Adv.
Mr. Veshal Tyagi, Adv.
Mr. Chinmay Anand Panigrahi, Adv.

Mr. Sandeep S. Ladda, Adv.
Mr. Apoorv Shukla, AOR
Mr. Prabhleen A. Shukla, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.

2. The Civil Appeals are allowed, in terms of the signed order.
3. Pending applications, if any, shall stand disposed of.

(KANCHAN CHOUHAN)
SENIOR PERSONAL ASSISTANT

(NIDHI WASON)
COURT MASTER (NSH)

[Original Signed Order is placed on the file.]