

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.Nos.6387 & 6389 of 2018

and

W.M.P.No.7919 of 2018

1. M.Langalingam ...petitioner in W.P.No.6387 of 2018
2. S.Umangani
3. S.R.Subangani ...petitioners in W.P.No.6389 of 2018

Versus

1. Union of India,
Rep. by Secretary,
National Highways Department,
New Delhi.
2. The Project Director,
National Highways Authority of India,
'SRI TOWER' 3rd Floor,
DP - 34(SP) Industrial Estate,
Guindy, Chennai - 600 0032.
3. The District Collector,
Tiruvallur District,
Tiruvallur.
4. The Competent Authority and Special,
Special D.R.O. (Land Acquisition),
National Highways 205,
Tiruvallur.

...Respondents in both the W.Ps

Prayer in W.P.No.6387 of 2018:

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Mandamus directing the fourth respondent to grant compensation under the repealed Land Acquisition Act, 1894 as amended under Sections 23(1-A), 23(2), 28 and other provisions of the said Act as declared in Civil Appeal Nos.129 to 159 of 2014 by the Apex Court dated 21.07.2016 in Union of India and Others Vs. T.Chakrapani and others pertaining to the petitioners' lands in Old Survey No.106B/3A New Survey No.106B/3A1 measuring an extent of Sq.mts 2448, at Karanodai Village, Ponneri Taluk, Tiruvallur District.

Prayer in W.P.No.6389 of 2018:

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Mandamus directing the fourth respondent to grant compensation under the repealed Land Acquisition Act, 1894 as amended under Sections 23(1-A), 23(2),

28 and other provisions of the said Act as declared in Civil Appeal Nos.129 to 159 of 2014 by the Apex Court dated 21.07.2016 in Union of India and Others Vs. T.Chakrapani and others pertaining to the petitioners' lands in Survey No.106B/3 measuring an extent 150 sq.mts and in Survey Nos.106B/1A, 112/1A and 113/1 measuring an extent of sq.mts 4391, 576 and 1717 respectively at Karanodai Village, Ponneri Taluk, Tiruvallur District.

For petitioners in both WPs: Mr.David Tyagaraj

For Respondent - 1 : Mr.J.Madhanagopal Rao,
Central Govt. Standing Counsel

Respondent - 2 : Mrs.S.R.Sumathy

Respondents - 3 & 4 : Mr.M.Karthikeyan,
Additional Government Pleader

COMMON ORDER

By consent of the parties, these Writ Petitions are taken up for final disposal.

2. The petitioners herein possessed properties in various Survey Nos. situated at Karanodai Village, Ponneri Taluk, Thiruvallur District and these properties were acquired for the expansion of National Highways 5 (NH5) and separate awards were passed on separate dates by the fourth respondent which are as follows:

Sl. No.	W.P.Nos	Name of the petitioners	Survey Nos. of the petitioners property	Extent of the property	Date of the Awards
1	W.P.No.6387 of 2018	M.Langalingam	Old Survey No.106B/3A New Survey No.106B/3A1	2448 sq.mtrs	18.03.2011
2	W.P.No.6389 of 2018	S.Umangani & S.R.Subangani	106B/3, 106B/1A, 112/1A and 113/1	150, 4391, 576 and 1717 sq.mtrs	11.03.2004 & 18.03.2011

3.1. The learned counsel for the petitioners has brought to the notice of this Court that in a similar case in W.P.Nos.15699 of 2008 & batch etc. where certain Chakrapani and few others had moved this Court challenging the Constitutional validity of Section 3J of the National Highways Act, 1956. This Court, Vide its order dated 04.03.2011 has allowed the said writ petition and its connected batch of cases in [Chakrapani & others Vs Union of India and others, (2011 Writ L.R.193)] and has held that Section 3J of the National Highways Act, 1956 is unconstitutional and in paragraph No.36 of its order, it is declared as under :

"36. Consequently, all the writ petitions are allowed, while upholding other provisions of the Act, Section 3-J of the Highways Act is held to be unconstitutional, being in excess of Article 14 of the Constitution of India, being in excess of legislative competence. The petitioners, therefore, are held entitled to the compensation of additional market value under Section 23(1)(a), a solatium under Section 23(2) and interest as provided under the Land Acquisition Act."

3.2. Challenging the said order of this Court dated 04.03.2011, W.P.Nos.15699 of 2008 & batch etc., the Union of India had preferred Special Leave Petition in C.A.Nos.129 to 159 of 2014. The Supreme Court, however confirmed the Order of this Court holding that Section 3J is unconstitutional and directed that the "respondents - writ petitioners be paid solatium as due in terms of the impugned order(s) along with interest thereon". Consequently, the petitioners became entitled to be treated in par with those owners who fall within the ambit of Land Acquisition Act, 1894, and also entitled to solatium and interest payable in terms of the said Act. Aggrieved by the inadequacy of compensation awarded to the petitioners, they are before this Court with these Writ Petitions.

4. Heard Mr.J.Madhanagopal Rao, the learned Central Government Standing Counsel for the first respondent, Mrs.S.R.Sumathy, learned counsel for the second respondent and Mr.M.Karthikeyan, the learned Additional Government Pleader for the respondents 3 & 4. No counter affidavit has been filed in this case.

5. The petitioners' contention is that since there was a direction by the Hon'ble Supreme Court Vide its order dated 21.07.2016 in Civil Appeal Nos.129 to 159 of 2014, to grant compensation to the land owners under the repealed Land Acquisition Act, 1894, the same parity may be shown to them, as their property, the subject matter of the present case, is also involved in the acquisition proceedings initiated by the National Highways Authority.

6. There is no denying the fact that Section 3J of the National Highways Act, 1956 has been declared unconstitutional. Necessarily, those who were denied benefit earlier would be entitled to the benefit now.

7. These Writ Petitions are therefore disposed of with a direction to the respondents concerned to grant the petitioners the benefits such as solatium and the interest that were denied to the petitioners contrary to the decision of this Court and

the Hon'ble Supreme Court holding that Section 3J of the National Act, 1956, as unconstitutional, within a period of twelve weeks from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

mrr

To

1. The Secretary,
National Highways Department,
New Delhi.
2. The Project Director,
National Highways Authority of India,
'SRI TOWER' 3rd Floor,
DP - 34(SP) Industrial Estate,
Guindy, Chennai - 600 0032.
3. The District Collector,
Tiruvallur District,
Tiruvallur.
4. The Competent Authority and Special,
Special D.R.O. (Land Acquisition),
National Highways 205,
Tiruvallur.

+ 4 ccs to Mr. David Thiyygaraj, Advocate Sr.21234
+ 2 ccs to Mr.S.R. Sumathy, Advocate Sr.21365
+ 2 ccs to Mr. Government Pleader Sr.22360

W.P.Nos.6387 & 6389 of 2018

SR(CO)
EU(11/07/2018)

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