

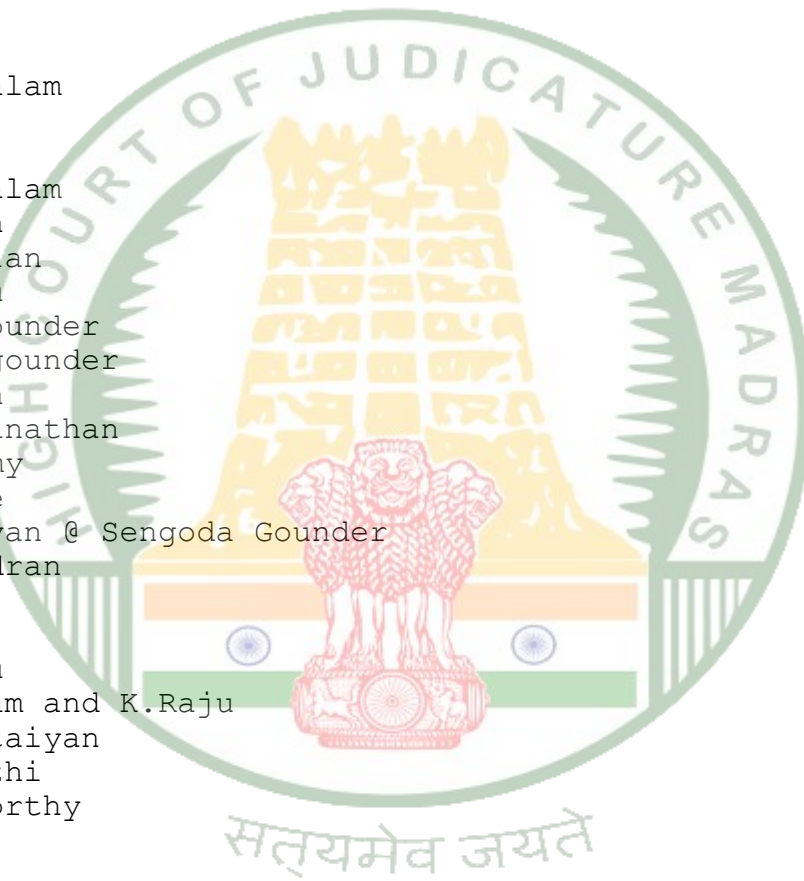
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.34153 of 2017

- 1.K.Raju
- 2.K.Ayyavu
- 3.Rani
- 4.Ramaswamy
- 5.Ponmalai
- 6.Venkatachalam
- 7.Rasappan
- 8.Palanivel
- 9.Venkatachalam
- 10.Elangovan
- 11.Subramanian
- 12.Kalimuthu
- 13.Sengodagounder
- 14.Nallaiyagounder
- 15.Jayaraman
- 16.Sri Ranganathan
- 17.Periyasamy
- 18.Perumayee
- 19.Ponnupaiyan @ Sengoda Gounder
- 20.Ravichandran
- 21.Sekar
- 22.Kumar
- 23.Manimuthu
- 24.K.Manickam and K.Raju
- 25.A.Sengottaiyan
- 26.S.Thenmozhi
- 27.S.Ramamoorthy
- 28.R.Selvam
- 29.S.Santhi
- 30.Selvam
- 31.Saravanan
- 32.Chitra
- 33.T.Chandira
- 34.Chandira
- 35.Kavitha
- 36.Janaki
37. President, Society Congregation
Sister's St.Joseph Cluny
Fatima Convent, Line Medu
Gugai, Salem - 636 006.
- 38.Thangarajan
- 39.D.Venkatesan
- 40.Jayamani Kamaraj
- 41.K.Raju
- 42.Valarmathi



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43.Sri Muruganandha Sathu Sabai Madalayam
Sri Dakshinamoorthy Thirukoil
Iraipani Mandra Committee
Sri Dakshinamoorthy Temple
Seelanaickenpatty Post
Salem - 636 201.

44.K.Raju (HUF)

... Petitioners

Vs

1.The Competent Authority and Special
District Revenue Officer (LA) (NH68)
3-B/8, Ram Nagar, 2nd Gate, Swarnapuri
Salem - 636 004.

2.The Competent Authority and Special
District Revenue Officer (LA) (NH7 & NH47)
Krishnagiri District.

3.The Project Director, NHAI (NH 68)
212.3/D-3.1, Srininagar Colony
Narasothipatty, Salem - 636 004. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned proceedings under Ref.Na.Ka.No.239 of 2009 dated 26.09.2009 and that of the second respondent pertaining to the proceedings under Ref.NHAI/PIU-SLM/NH-68/2017/837 dated 05.09.2017 and quash the same directing the respondents herein to pay solatium, compensation at additional market value and interest as per the Land Acquisition Act on par with the writ petitioners/appellants covered by the orders of Hon'ble Supreme Court of India dated 21.07.2016 in Civil Appeal Nos.129-159 of 2014.

For Petitioners: Mr.P.B.Sampathkumar

For Respondent : Mr.Akhil Akbar Ali
Government Advocate [R1 & R2]
Mrs.S.R.Sumathy [R3]

ORDER

The petitioners herein owned separate parcels of land in Salem-Ulundurpet Road, and that the respondents have acquired the lands from various land owners, including the petitioners herein for the purpose of widening the National Highway under the provisions of the National Highways Act, 1956, and

separate awards too were passed by the concerned Competent Authority and Special District Revenue Officer (LA), quantifying the compensation payable. Seeking additional compensation and other statutory benefits that they are entitled to, the petitioners herein have filed separate representations to the respondents.

2. The grievance expressed by the petitioners is that while calculating the land value of their property, they were denied statutory benefits such as solatium 30%, additional market value 12% and interest 15%, however those benefits were granted to others who are similarly placed like them. Hence, they approached the respondents with a request to pay the additional compensation and other benefits which they too are entitled to. But the first respondent Vide proceedings in Na.Ka.No.239/2009 dated 26.09.2017, on instructions of the National Highways Authority of India

Vide letter No.NHAI/PIU-SLM/NH-68/2017/837 dated 05.09.2017, has denied to grant the benefits to the petitioners stating that the request of certain petitioners who had approached the Supreme Court by filing an appeal alone were considered exclusively, and orders were passed by the Supreme Court to pay solatium and interest only to those who have filed the Civil appeals before it in SLP.No.129-159 of 2015, and since the petitioners have not filed any appeal seeking additional compensation, solatium, interest etc., the benefits they seek cannot be parted to them. Aggrieved by the impugned proceedings of the first respondent, the petitioners are before this Court in this writ petition seeking additional market price, solatium and interest as per the Land acquisition Act, 1894, on par with the petitioners/appellants covered by the order of the Hon'ble Supreme Court dated 21.07.2016 in Civil Appeal Nos.129-159 of 2014.

3. 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 a 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 bit by 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 in W.P.Nos.15699 of 2008 & batch etc., the Union of India had preferred Special Leave Petition in C.A.Nos.Nos.129-159 of 2014. The Supreme Court, however confirmed the Order of this Court holding that Section 3-J 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.

4. Aggrieved by the inadequacy of compensation awarded to the petitioners, as stated in the earlier paragraphs, they presented their claims before the respondents through individual representations, all dated 27.06.2016. But the said representations were not considered by

the respondents, contending that the benefits of solatium and interest would be entitled to only those who alone had approached the Supreme Court by way of appeal. Since the petitioners were denied of said benefits, they are before this Court in this writ petition.

5. Heard Mr.Akhil Akbar Ali, learned Government Advocate enters appearance for the respondents 1 and 2 and Mrs.S.R.Sumathy, learned counsel enters appearance for the second respondent.

6. The petitioner's contention is that since there was a direction by the Hon'ble Supreme Court Vide its order dated 11.07.2016 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.

7. There is no denying the fact that Sec.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.

8. This petition is therefore allowed 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 Sec.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.

ds

Sd/--

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Competent Authority and Special
District Revenue Officer (LA) (NH68)
3-B/8, Ram Nagar, 2nd Gate, Swarnapuri
Salem - 636 004.
- 2.The Competent Authority and Special
District Revenue Officer (LA) (NH7 & NH47)
Krishnagiri District.
- 3.The Project Director, NHAI (NH 68)
212.3/D-3.1, Srininagar Colony
Narasothipatty, Salem - 636 004.

+1cc to Mr.P.B.Sampathkumar, Advocate Sr.No.10391

SKS (CO)
sm:31.5.2018

W.P.No.34153 of 2017

सत्यमेव जयते

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