



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **26.03.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **M.SATHYANARAYANAN**
and
THE HONOURABLE MRS.JUSTICE **R.HEMALATHA**

W.A(MD)Nos.402, 403 and 431 of 2016
and
C.M.P(MD)Nos.2736, 2739 & 2740 of 2016

W.A(MD)Nos.402 & 403 of 2016:

V.Alfred ... Appellant in W.A(MD)No.402 of 2016/
Writ Petitioner

G.Dominic Babu Appellant in W.A(MD)No.403 of 2016/
Writ Petitioner

vs.

1. The Secretary,
Ministry of Transport and Highways,
Government of India,
New Delhi.
2. The Special District Revenue Officer(Land Acquisition),
National Highways,
299/A1 A2-3rd Middle Street,
Thiyagarajar Nagar,
Tirunelveli - 11.
3. The Project Director,
National Highways Authority of India,
Tirunelveli. ... Respondents in both Writ Appeals/
Respondents

COMMON PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent to allow the writ appeal by setting aside the order passed in W.P(MD)Nos.17896 of 2013 and 12251 of 2014 dated 20.11.2015 and allow the writ petition.

Prayer in WP(MD). 17896/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the notification passed by the respondents under Sub-section (1) of Section 3D of

National Highways Act 1956 (48 of 1956) in No.S.O.438 (E) dated 25th February, 2011 and Quash the same.

Prayer in WP(MD). 12251/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the notification passed by the respondents under Sub Section (1) of Section 3D of National Highways Act 1956 (48 of 1956) in No.S.O. 438 (E) dated 25th February 2011 and quash the same and pass such further or other orders.

(In both Writ Appeals)

For Appellant	: Mr.K.K.Kannan
For R-2	: Mr.Mr.A.Muthukaruppan, Additional Government Pleader
For R-3	: Mr.C.Arul Vadivel @ Sekar

W.A(MD)No.431 of 2016:

Aseema Begam
Rep. By her Power Holder,
A.Yehaiah

.. Appellant/Petitioner

Vs.

1. The Union of India,
Rep. By the Secretary,
Ministry of Transport and Highways,
Government of India,
New Delhi.

2. The District Revenue Officer,
(Land Acquisition),
No.299/A1A2-3D, Middle Street,
Dhinagar Nagar,
Tirunelveli.

3. The Project Director,
National Highways Authority of India,
Tirunelveli.

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 20.11.2015 made in W.P(MD) No.8788 of 2014 on the file of this Court and allow this Writ



Prayer in WP(MD). 8788/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ, or order or direction, in the nature of writ, calling for the records relating to the notification passed and published by the respondents 1 and 2 under Section 3D(1) of National Highways Act 1956 (48 of 1956) in No. S.O.No. 438 E dated 25.02.2011 and quash the same as illegal, ultra vires and unconstitutional and for consequential orders.

For Appellant	: Mr.T.Selvakumaran
For R-2	: Mr.Mr.A.Muthukaruppan, Additional Government Pleader
For R-3	: Mr.C.Arul Vadivel @ Sekar

COMMON JUDGMENT

[Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**]

By consent, all the Writ Appeals, are taken up for final disposal and disposed of by this common judgment.

2. The facts leading to the filing of the present litigation have been narrated in detail and in extension in the impugned common order dated 20.11.2015 made in W.P(MD)No.2922 of 2013(Batch) and therefore, it is unnecessary to restate the facts once again.

3. It is brought to the knowledge of this Court that challenging the order of dismissal made in W.P(MD)Nos.7285 and 9792 of 2014, Writ Appeals have been preferred in ***W.A(MD)Nos.929 and 930 of 2016(M.Kamila and G.S.F.Shaik Ahamed Kabeer v. The Government of India, rep. By its Secretary, Ministry of Road Transport and Highways, New Delhi)*** and the Honourable First Bench, vide common judgment dated 10.06.2016, had dismissed both the Writ Appeals.

4. Similarly, ***W.A(MD)No.1045 of 2016(S.Santhi and six others v. the Government of India, represented by its Secretary, Ministry of Transport and Highways, New Delhi)***, was preferred against the order of dismissal in W.P(MD)No.10991 of 2014 and following the common judgment dated 10.06.2016 made in W.A(MD) No.929 and 930 of 2016, the said Writ Appeal was also dismissed on 06.07.2016.

5. The present set of Writ Appeals are preferred against the common order dated 20.11.2015 made in W.P(MD)Nos.17896 of 2013 and 12251 and 8733 of 2014 respectively.



6. In the light of the common judgment dated 10.06.2016 made in W.A(MD)Nos.929 and 930 of 2016 and the judgement dated 06.07.2016 made in W.A(MD)No.1045 of 2016, the present Writ Appeals are also deserve dismissal.

WEB COPY

7. It is brought to the knowledge of this Court by the learned standing counsel appearing for the third respondent that in the form of counter affidavit that the award was passed on 28.12.2015.

8. The learned counsel appearing for the appellants would submit that Section 3(J) of the National Highways Act, 1956, was declared to be unconstitutional and as such, no proceedings under the National Highways Act, would take place.

9. However, it is the submission of the learned standing counsel appearing for the third respondent that the said order has been put to challenge in a Writ Appeal and interim orders were granted and the said orders are still in operation.

10. The Honourable Supreme Court of India in the common judgment in **Civil Appeal No.10553 of 2011(Sunita Mehra & Another v. Union of India and others and Civil Appeal Nos.8874 to 8883 and 8884 of 2013**, had taken into consideration its earlier decision reported in (2006) 8 SCC 457 (**Gupreet Singh vs. Union of India**), the judgment reported in (2001) 7 SCC 211 (**Sunder vs. Union of India**) and the judgment dated 28.03.2008 made in **Golder Iron & Steel Forgings v. Union of India and others**, has observed that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into force on 01.01.2014, has been made applicable to acquisitions under the National Highways At, 1956, by virtue of notification/order issued under the provisions of above cited central Act and also observed that the award of solatium and interest on solatium should be made effective only to the proceedings pending on the date of the judgment passed in **Golden Iron & Steel Forgings v. Union of India and others**.

11. Admittedly, the award came to be passed only on 28.12.2015 and therefore, the appellants are entitled to the benevolent provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, etc., and the subsequent notification and the subsequent notification. Insofar as the award of compensation is concerned, if the appellants are aggrieved by inadequacy of award of compensation, they are at liberty to approach the Appellate Forum, subject to the law of limitation.

<https://hcservices.ecourts.gov.in/hcservices/>

12. In the result, these Writ Appeals are dismissed,



subject to above observations. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Ministry of Transport and Highways,
Government of India,
New Delhi.
2. The District Revenue Officer,
(Land Acquisition),
No.299/A1A2-3D, Middle Street,
Dhinagar Nagar,
Tirunelveli.
3. The Project Director,
National Highways Authority of India,
Tirunelveli.

+ 1 cc TO Mr.K.K.Kannan , Advocate in SR No. 57783

pm

AE/JC/SAR1/07.05.2018/5P/5C

JUDGMENT MADE IN
W.A(MD) Nos.402, 403 and 431 of 2016
26.03.2018