IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.28631 OF 2020(D)

PETITIONER:

C.U.THOMAS
S/O. UTHUPPU, CHIRAPPURATH HOUSE,
VETTICKAL, MANNUTHY P. O., THRISSUR, PIN - 680 651.

BY ADV. SRI.GEORGE MECHERIL

RESPONDENTS:

1 **THE ARBITRATOR (N.H) AND DISTRICT COLLECTOR**
THRISSUR - 688 001.

2 **THE DEPUTY COLLECTOR SLAO AND CALA**
NHDP, THRISSUR - 688 001.

3 **THE PROJECT DIRECTOR**
SLAO AND CALA, NHDP, PALAKKAD - 679 001.

SRI KP HARISH, SR GP
SRI MATHEWS K PHILIP, SR GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The property owned by the petitioner herein situated in Ollukara Village was acquired for the purpose of widening the Mannuthy- Wadakkumcherry section of the National Highway invoking the provisions of the National Highways Act, 1956. Aggrieved by the amount of compensation fixed by the Land Acquisition Officer, the petitioner challenged the same before the Arbitrator. Though the amount of compensation was modified, no sum was granted towards solatium and interest on solatium.

2. The petitioner contends that the Hon'ble Supreme Court in **Union of India and Another v. Tarsem Singh and Others** [(2019) 9 SCC 304] had declared that Section 3J of the National Highways Act insofar as it deprives the landowner of solatium and interest in Section 23(1A) and (2) and interest payable in terms of the proviso to Section 28 is unconstitutional and that those benevolent provisions would apply to acquisitions made under the National Highways Act as well.

3. It is the case of the petitioner that since the entitlement of the landowners for solatium and interest having been declared by the Apex Court, the petitioner cannot be denied such benefits. Reliance is also placed on the judgment

of this Court in **Special Deputy Collector, Thrissur, and Another v. Vinodkumar and Another [2020 (2) KLT 399]** to bring home his point that the petitioner is also entitled to solatium and interest. Raising all these contentions, the petitioner submitted Ext.P4 representation before the 2nd respondent. His prayer in this Writ Petition is to direct the 2nd respondent to consider Ext.P4 representation and pass orders within a time frame.

4. I have heard Sri. George Mecheril,the learned counsel for the petitioner, Sri Mathews K Philip, the learned Standing Counsel appearing for the 3rd respondent and the learned Senior Government Pleader.

5. It is submitted by the learned Government Pleader that there is no impediment in considering the representations. However, it is submitted that the 2nd respondent is flooded with representations and he be granted some time to dispose of the same after considering the individual merits of the matter. He also submitted that in the event of the 2nd respondent holding that the concerned claimant is entitled to enhanced compensation, it is for the NHAI to allot the amount to the respective claimant. The standing counsel appearing for the NHAI submitted that those are matters which would arise for consideration only after disposal of the representation by the 2nd respondent. He assured that the allotment of funds to settle the claims shall be done as per procedure, expeditiously and in accordance with law.

6. I have considered the submissions advanced. The Hon'ble Supreme Court had occasion to hold as follows in **Union of India and another v. Tarsem Singh case** (Supra);

> "We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Section 23(1A) and (2) and interest payable in terms of section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3J is, to this extent, violative of Article 14 of the Constitution of India and therefore, declared to be unconstitutional".

7. In **Special Deputy Collector, Thrissur and Another v. Vinodkumar and Another** [2020 (2) KLT 399], it was held thus:

> 7. In the light of the aforesaid judgment of the Hon'ble Apex Court which struck down Section 3-J of the Act and the judgment of the Madras High Court, the provisions of the Land Acquisition Act, 1894 relating to the payment of solatium and interest will apply to the acquisitions made under the Act. In so far as the directions in the impugned judgment to make payment of solatium and interest are concerned, we observe that the statutory authorities are bound to compute the compensation in terms of Section 3-G of the Act and grant all benefits provided under the Land Acquisition Act, 1894. The benefits shall be given within a period of two months from the date of receipt of a copy of this judgment.

8. In the light of the precedents above, I am of the opinion that

necessary directions can be issued to the 2nd respondent to consider Ext.P4 representation filed by the petitioner. Before passing orders, the petitioner, as well as the 3rd respondent or a person authorized by the said authority, shall be heard. In view of the submission of the learned counsel that the 2nd respondent is flooded with representations, I direct the said respondent to take up the matter according to its seniority and pass orders expeditiously, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

This Writ Petition is disposed of.

Sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

IAP

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT IN LAC NO.245/2009.
EXHIBIT P2	TRUE COPY OF THE ARBITRATION AWARD NO.260/2012 IN LAC NO.245/2009 DATED 22.11.2012.
EXHIBIT P3	TRUE COPY OF THE JUDGMENT DATED 25.08.2020 IN W.P.(C) NO.17044/2020.
EXHIBIT P4	TRUE COPY OF THE PETITION DATED 09.09.2020 FILED BY THE PETITIONER BEFORE THE RESPONDENTS.
EXHIBIT P5	TRUE COPY OF THE COMMUNICATION FORWARDED TO KUTTAPPAN ACHARI.
EXHIBIT P6	TRUE COPY OF THE JUDGMENT DATED 18.02.2020 IN W.A.NO.1442/2019.
EXHIBIT P7	TRUE COPY OF THE PROCEEDINGS/ORDER NO.LAC NO.783/2009 DATED 22.02.2020.

RESPONDENTS EXHIBITS: NIL

//TRUE COPY//

P.A TO JUDGE