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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.30494, 30495, 31538, 32533 & 32635 of 2007
and

M.P.Nos.1 & 1 of 2007

W.P.Nos.30494, 30495, 31538 of 2007

R. Selvaraj Petitioner in
W.P.No.30494 of 2007

P. Shenbahavalli Petitioner in
W.P.No.30495 of 2007

1.K.Ravikumar
2.R.RevathiPetitioners in
W.P.No.31538 of 2007

Vs

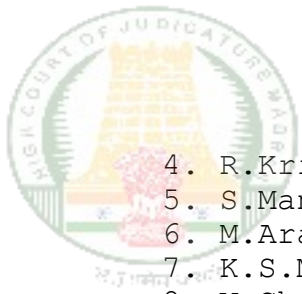
1. Union of India,
rep by its Secretary,
Ministry of Law,
New Delhi.

2. National Highways Authority of India,
Rep. by its Project Director,
8th Floor, SPIC House,
88, Anna Salai, Guindy,
Chennai - 600 032.

3. The Special District Revenue Officer &
Competent Authority,
Land Acquisition (National Highways),
Kanchipuram and Tiruvallur Districts,
Kanchipuram. Respondents in all W.Ps

W.P.No.32533 of 2007

1. K.M.Ramasamy
2. P.Sengodan
3. R.Marimuthu



4. R.Krishnan
5. S.Mani
6. M.Arasu
7. K.S.Mahalakshmi
8. V.Chellamuthu
9. K.Thangavel
10.N.Kandasamy
11.N.Subramaniam
12.S.Kolandagounder

..... Petitioners

Vs

1. Union of India,
rep. by Secretary to Government,
Ministry of Shipping, Road Transport,
and Highways, Shastri Bhavan,
R.P.Road, New Delhi.

2. The Competent Authority/Special
District Revenue Officer (LA)
National Highways 7 & 46,
Salem and Dharmapuri District @ Krishnagiri,
No.26, Co-operative Colony,
Near Manimegalai Hospital,
Krishnagiri- 635 001.

.... Respondents

W.P.No 32635 of 2007:

Singaram Pillai Matriculation Higher
Secondary School,
Rep. by its Correpondent N.P.Kailash,
M.T.H. Road, Villivakkam,
Chennai - 600 049.

.... Petitioner

Vs

1. Union of India,
rep by its Secretary,
Ministry of Law,
New Delhi.

2. National Highways Authority of India,
Rep. by its Project Director,
8th Floor, SPIC House,
88, Anna Salai, Guindy,
Chennai - 600 032.



3. The Special District Revenue Officer &
Competent Authority,
Land Acquisition (National Highways),
Kanchipuram and Tiruvallur Districts,
Kanchipuram.

.... Respondents

Prayer in W.P.Nos.30494, 30495, 31538 of 2007: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring that Section 3(J) of the National Highways Act 1956 as amended by Act 16 of 1997 debarring the provision of Land Acquisition Act 1894 is illegal, discriminative and is violative of Article 14 of Constitution of India in so far as the petitioner is concerned and consequence direct the third respondent to revise the Award dated 10.11.2006 passed by the third in the matter of determining compensation payable to the petitioner by adding solatium amount and the additional compensation.

Prayer in W.P.No.32533 of 2007: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring Section 3(J) of the National Highways Act 1956 as discriminatory, ultra vires and unconstitutional.

Prayer in W.P.No. 32635 of 2007: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring that Section 3(J) of the National Highways Act 1956 as amended by Act 16 of 1997 debarring the provision of Land Acquisition Act 1894 is illegal, discriminative and is violative of Article 14 of Constitution of India and is unconstitutional in so far as the petitioner is concerned and consequence direct the third respondent to revise the Award dated 10.06.2006 R.C.No.16/2005/A/NH/TVR passed by the third respondent in the matter of determining compensation payable to the petitioner by adding solatium amount and the additional compensation.

In W.P.Nos.30494, 30495, 31538 & 32635 of 2007

For Petitioners: Mr.G.Nagarajan

For R1 : Mr.Su.Srinivasan, SCGSC

For R2 : Mr.Meiyyappan
for M/s.P.Wilson Associates

For R3 : Mr.Richardson Wilson
Government Advocate



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In W.P.No. 32533 of 2007

For Petitioners: Mr.M.Rajasekar

For R1 : Mr.Su.Srinivasan, SCGSC

For R2 : Mr.Richardson Wilson
Government Advocate

O R D E R

In all the Writ Petitions challenging the provisions under Section 3(J) of the National Highways Act, 1956 as discriminatory, ultra vires and unconstitutional and consequently, they are entitled for solatium and interest.

2. The petitioners' lands were acquired under the National Highways Act 1956. In their objections, submitted that because of the acquisition of lands under National Highways Act, they are deprived of the benefits provided under the Land Acquisition Act, 1894 as amended by Central Act LXVIII of 1984, thereby they will not be paid with solatium of 30% of the land value as provided under Section 23(2) and additional compensation at the rate of 12% as provided under Section 23(1A), interest at the rates of 9% and 15% as the case may be under Sections 28 and 34 of the Land Acquisition Act, 1894. Therefore, the provisions of the National Highways Act, 1956 are discriminatory and ultra vires.

3. In this regard, the learned counsel for the petitioners relied upon the Judgment of the Hon'ble Supreme Court of India reported in 2019 (9) SCC 304 in the case of Union of India & Anr. Versus Tarsem Singh & Ors, the relevant portion is extracted hereunder :

"52. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of



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justice we decline to interfere with such orders, given our discretionary jurisdiction under Article 136 of the Constitution of India. 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. Accordingly, Appeal @ SLP (C) No. 9599/2019 is dismissed."

4. Accordingly, the Hon'ble Supreme Court of India held that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of justice. Therefore declared 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. Thereby the provisions of Section 3(J) is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional.

5. In view of the above, the provisions under Section 3(J) of the National Highways Act 1956 is declared as discriminatory, ultra vires and unconstitutional. However, if the petitioners filed an appeal before the Arbitrator, if the Arbitration proceedings pending as against in pursuant to the acquisition proceedings with regard to compensation, the Arbitrator is directed to consider their appeal in view of the order passed by the Hon'ble Supreme Court of India.

6. With the above direction, all the Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



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To

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1. The Secretary,
Union of India,
Ministry of Law,
New Delhi.
2. The Project Director,
National Highways Authority of India,
8th Floor, SPIC House,
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Chennai - 600 032.
3. The Special District Revenue Officer &
Competent Authority,
Land Acquisition (National Highways),
Kanchipuram and Tiruvallur Districts,
Kanchipuram.
4. The Secretary to Government,
Union of India,
Ministry of Shipping, Road Transport,
and Highways, Shastri Bhavan,
R.P.Road, New Delhi.
5. The Competent Authority/Special
District Revenue Officer (LA)
National Highways 7 & 46,
Salem and Dharmapuri District @ Krishnagiri,
No.26, Co-operative Colony,
Near Manimegalai Hospital,
Krishnagiri - 635 001.

+1cc to the Government Pleader Sr.39453
+2cc to Mr.P.Wilson Associates, Advocate Sr.39160 and 39158
+1cc to Mr.S.Silambu Selvan, Advocate Sr.39271
+1cc to M/s.T.R.Rajaraman, Advocate Sr.38683

W.P.Nos.30494, 30495, 31538,
32533 & 32635 of 2007
and
M.P.Nos.1 & 1 of 2007

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srg 25/10/2021