



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.12.2021

Delivered on : 15.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY

AND

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.Nos.2426,2475,2476,2642,2657 and 2814 of 2021
and

C.M.P.Nos.15537,15996,16000,17210,17287 and 18704 of 2021

1.Union of India

Rep. By its Secretary,
Ministry of Road Transports and Highways,
New Delhi - 110 001.

... Appellant 1 /Ist Respondent

2.The Chairman,

National Highways Authority of India,
G5 & 6, Sector - 10, Dwarka,
New Delhi - 110 075.

... Appellant 2 /2nd Respondent

3.The Project Director,

National Highways Authority of India,
(Project Implementation Unit),
Door No.212-3/D3-1, Srinagar Colony,
Narosodhipatty, Salem - 636 004.

... Appellant 3/ 3rd Respondent
in all writ appeals

vs

The Competent Authority cum

Special DRO (LA),
National Highways No.7, 47 and 46,
Ex-Serviceman Welfare Building, 1st Floor,
Salem-Krishnagiri Districts,
Krishnagiri - 635 001.

..1st Respondent in all writ appeals

V.Sivakumar

..2nd respondent in W.A.No.2426 of 2021

B.Prabhakar

..2nd respondent in W.A.No.2475 of 2021



S.Jagadeesan

..2nd respondent in W.A.No.2476 of 2021

V.Sankararaman

..2nd respondent in W.A.No.2642 of 2021

N.Rajasekaran

.. 2nd respondent in W.A.No.2657 of 2021

Thulasikala Rajasekaran

..3rd respondent in W.A.No.2657 of 2021

J.SathishKumaran

..2nd respondent in W.A.No.2814 of 2021

Prayer in W.A.No.2426 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 12.12.2020 made in W.P.No.18312 of 2020.

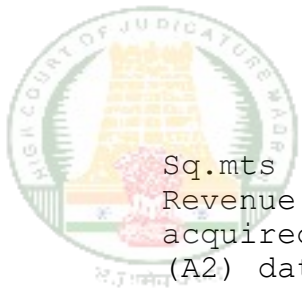
Prayer in W.P.No.18312 of 2020:

Writ of Mandamus, directing the respondents to disburse the statutory entitlements namely 30 percent Solatium and 12 percent Additional interest amount along with 15 percent interest till the date of payment on Rs.495 per Square feet being the market value as of now accepted by the respondents in pursuance of Award No.NH.No.47, Aa.Va.No.554/B2 dated 08.11.2012 passed by the Arbitral Tribunal Cum District Collector Salem in the light of the Judgment of the Honble Supreme Court of India in the matter of Union of India and Another-vs-TARSEM SINGH and others, in Civil Appeal No.7064 of 2019 for the petitioners property measuring an extent of 40 Sq.mts, 57.5 Sq.mts and 150 Sq.mts of land in S.No.47/1B1C, 47/113G1 and 47/113F of Annadhanapatty Revenue Village, Salem Corporation, Taluk and District acquired by the 4th respondent office in Award No.ROC.1299/2008 (A2) dated 27.06.2008.

Prayer in W.A.No.2475 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 12.12.2020 made in W.P.No.18234 of 2020.

Prayer in W.P.No.18234 of 2020:

Writ of Mandamus, directing the respondents to disburse the statutory entitlements namely 30 percentage solatium and 12 percentage Additional interest amount along with 15 percentage interest till the date of payment on Rs.495 per square feet being the market value as of now accepted by the respondents in pursuance of Award No. NH.No.47, Aa.Va.No.554/B2 dated 8.11.2012 passed by the Arbitral Tribunal cum District collector salem in the light of the Judgement of the Honourable court of India in the matter of Union of India and Another-vs-TARSEM SINGH and others, in Civil Appeal No.7064 of 2019 for the petitioners property measuring an extent of 64



Sq.mts land with building in S.No.47/1G2B of Annadhanapatty Revenue Village, Salem Corporation, Taluk and District acquired by the 4th respondent office in Award No.ROC.1299/2008 (A2) dated 27.06.2008.

Prayer in W.A.No.2476 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 11.12.2020 made in W.P.No.17994 of 2020.

Prayer in W.P.No.17994 of 2020:

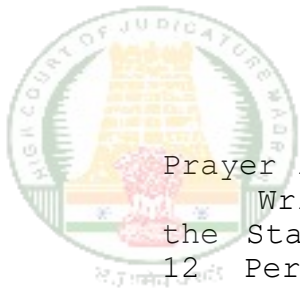
Writ of Mandamus, directing the respondents to disburse the statutory entitlements namely 30 percent Solatium and 12 percent Additional interest amount along with 15 percent interest till the date of payment on Rs..495 per Square feet being the market value as of now accepted by the respondents in pursuance of Award No. NH.No.47, Aa.Va.No.554/B2 dated 08.11.2012 passed by the Arbitral Tribunal Cum District Collector Salem in the light of the Judgement of the Honourable Supreme Court of India in the matter of UNION OF INDIA AND ANOTHER vs TARSEM SINGH AND OTHERS in Civil Appeal No. 7064 of 2019 for the petitioners property land measuring an extent of 1283 sq.mts of land in S.No.47/1B1C, 716 Sq.mts of land in S.No.47/1C and 240 Sq.mts of land in S.No.47/1B1C of Annadhanapatty Revenue Village, Salem Corporation, Taluk and District acquired by the 4th respondent office in Award No.ROC.1299/2008 (A2) dated 27.06.2008.

Prayer in W.A.No.2642 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 14.12.2020 made in W.P.No.18644 of 2020.

Prayer in W.P.No.18644 of 2020:

Writ of Mandamus, directing the respondents to disburse the statutory entitlements namely 30 percent solatium and 12 percent Additional interest amount along with 15 percent interest till the date of payment on Rs. 495 per Square feet being the market value as of now accepted by the respondents in pursuance of Award No. NH.No. 47, Aa.Va.No. 554/B2 dated 08.11.2012 passed by the Arbitral Tribunal Cum District Collector Salem in the light of the Judgement of the Honourable Supreme Court of India in the matter of UNION OF INDIA AND ANOTHER vs TARSEM SINGH AND OTHERS in Civil Appeal No. 7064 of 2019 for the petitioners property measuring an extent of 38 Sq.mts of land with building in S.No.47/1 G2B of Annadhanapatty Revenue Village, Salem Corporation, Taluk and District acquired by the 4th respondent office in Award No.ROC.1299/2008 (A2) dated 27.06.2008.

Prayer in W.A.No.2657 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 11.12.2020 made in W.P.No.18089 of 2020.



Prayer in W.P.No.18089 of 2020:

Writ of Mandamus, directing the Respondents to disburse the Statutory entitlements namely 30 percentage Solatium and 12 Percentage Additional Interest amount along with 15 percentage interest till the date of payment of Rs 495 per square feet being the market value as of now accepted by the respondents in pursuance of Award No NH NO 47 AA.VA.NO 554/B2 dated 8.11.2012 passed by the Arbitral Tribunal cum District collector Salem in the Light of the Jugement of the Honble Supreme court of India in the matter of Union of India and Another vs Tarsem Singh and Others in Civil Appeal No 7064/2019 for the Petitioners property measuring an extent of 137 square meteres 34 square meteres 192 square meteres 148 square meters of land with building in S.No.47/1B1C, 47/1C, 47/1D2C and 47/113G1 of Annadhanapatty Revenue Village, Salem Corporation, Taluk and District acquired by the 4th respondent office in Award No.ROC.1299/2008 (A2) dated 27.06.2008.

Prayer in W.A.No.2814 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 12.12.2020 made in W.P.No.18325 of 2020.

Prayer in W.P.No.18325 of 2020:

Writ of Mandamus, directing the respondents to disburse the statutory entitlements namely 30 percentage Solatium and 12 Percentage Additional interest amount along with 15 Percentage interest till the date of payment on Rs.495 per Square feet being the market value as of now accepted by the respondents in pursuance of Award No. NH. No.47 Aa. Va. No.554/ B2 dated 08.11.2012 passed by the Arbitral Tribunal Cum District Collector Salem in the light of the Judgment of the Honourable Supreme Court of India in the matter of UNION OF INDIA AND ANOTHER vs TARSEM SINGH AND OTHERS in civil Appeal No. 7064 of 2019 for the petitioners property land measuring an extent of 800 sq.mtrs of land in S. No. 47/ 1E2 of Annadhanapatty Revenue Village, Salem Corporation, Taluk and District acquired by the 4th respondent office in Award No.ROC.1299/2008 (A2) dated 27.06.2008.

For Appellants : Mr.Su.Srinivasan
(in all writ appeals)

For Respondents: Mr.C.Kathiravan,
Special Government Pleader
for R1
Mr.AR.L.Sundaresan, Senior Advocate
for Mr.P.Sivakumar
for R2
(in all writ appeals)



COMMON JUDGMENT

(Per: PARESH UPADHYAY, J.)

1. All these appeals arise from separate but identical orders passed by learned Single Judge on separate writ petitions, the details of which are noted hereunder:-

Writ Appeal	Writ Petition	Date of Order
2426/2021	18312/2020	12.12.2020
2475/2021	18234/2020	12.12.2020
2476/2021	17994/2020	11.12.2020
2642/2021	18644/2020	14.12.2020
2657/2021	18089/2020	11.12.2020
2814/2021	18325/2020	12.12.2020

2. The grievance of the writ petitioners was pertaining to their entitlements of solatium, interest and additional interest in line with the judgement of the Supreme Court of India in the case of Union of India vs Tarsem Singh and others reported in 2019 (9) SCC 304. After taking note of the said decision of the Supreme Court of India, including declaration qua Section 3J of National Highways Act, 1956 and subsequent orders of this Court, learned Single Judge relegated the writ petitioners to make fresh representation claiming those entitlements with the further direction to the concerned District Collector to inquire into it, after hearing all the stake holders and pass appropriate order in accordance with law. It is these orders, which are under challenge in this group of appeals.

3. Heard learned advocates.

4. Learned Senior Standing Counsel for the appellant authorities has submitted that the writ petitioners were not entitled to what is claimed by them. It is further submitted that the closed cases could not have been permitted to be re-opened and to that extent the impugned orders need to be interfered with. It is noted that learned advocate for the appellants has extensively taken this Court through the pleadings and number of decisions of this Court and the Supreme Court in support of his contentions. It is submitted that these appeals be entertained. It is noted that learned advocate for the appellants has referred to various authorities, but since relevant binding authorities are already referred to by learned Single Judge and are also being noted by us in this order, other authorities as relied by learned advocate for the appellants, not being relevant, are not referred to here.



5. On the other hand, learned Senior Advocate for the original writ petitioners has submitted that once the Supreme Court has declared Section 3J of the Act as unconstitutional, it is the judgment in rem and can not be said to be qua the parties before the Court. It is further submitted that learned Single Judge by the impugned orders has directed the State Authorities to take appropriate decision in accordance with law and the State should not be aggrieved by it. It is further submitted that on the face of the decision of the Supreme Court of India in the case of Tarsem Singh (supra), the citizen should not be even expected to come to Court and that relief should be granted by the State Authorities themselves, which they did not and under these circumstances when these directions are given, the same may not be interfered with. Attention of the Court is also invited to the decision of the Division Bench of this Court in the case of Gandhimathi vs District Collector and others in W.A.(MD) No.1680 of 2018 reported in 2019 SCC OnLine Mad 26900 and dismissal of S.L.P. arising therefrom being S.L.P.(C)No.3637 of 2021 (converted from S.L.P.(C) Diary No. 13577 of 2020). It is submitted that these appeals be dismissed.

6. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds that the impugned orders, as noted above, only direct the concerned District Collector(s) to inquire into the grievance of the writ petitioners pertaining to their entitlements of solatium, interest and additional interest in line with the judgement of the Supreme Court of India in the case of Tarsem Singh (supra) and pass appropriate order, after hearing all the stake holders. Such an order, by no stretch of imagination can be said to be erroneous in any manner, much less any error apparent on the face of record, which may call for any interference in intra-court appeals. These appeals therefore need to be dismissed.

7. It is also required to be noted that the Division Bench of this Court had, in the case of Gandhimathi (supra) gone further inter alia observing that the citizen should not be driven to the authorities but the National Highways Authority should voluntarily come forward to compute the solatium and interest and settle the same. The Bench ultimately gave direction to the National Highways Authorities to disburse the solatium and interest in accordance with law. Even the challenge to the said order is also dismissed as evident from the order of the Supreme Court of India dated 24.10.2019 recorded on S.L.P.(c)No.3637 of 2021 (converted from S.L.P.(C) Diary No. 13577 of 2020).

8. On conjoint consideration of the above, we arrive at the conclusion that we are bound by the decision of the co-ordinate Bench of this Court (which is referred above), with which we do not have any difference of opinion, coupled with the fact that even challenge thereto is rejected by the



Supreme Court. It is over and above, the conclusion at which we have independently arrived at that once the law is declared by the Supreme Court, citizen should not be asked to approach the authorities or the Courts.

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9. For the reasons recorded above, all these appeals need to be dismissed. At this stage, reference need to be made to various authorities referred to by learned advocate for the appellant authorities. We find that the relevant binding authorities are already referred to by learned Single Judge and also in this order above. Other authorities not being relevant are not discussed while recording this order.

10. For the above reasons, all these appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Ssm

To

- 1.The Competent Authority cum Special DRO (LA),
National Highways No.7, 47 and 46,
Ex-Serviceman Welfare Building, 1st Floor,
Salem-Krishnagiri Districts,
Krishnagiri - 635 001.
- 2.The Secretary,
Union of India
Ministry of Road Transports and Highways,
New Delhi - 110 001.
- 3.The Chairman,
National Highways Authority of India,
G5 & 6, Sector - 10, Dwarka,
New Delhi - 110 075.
- 4.The Project Director,
National Highways Authority of India,
(Project Implementation Unit),
Door No.212-3/D3-1, Srinagar Colony,
Narosodhipatty, Salem - 636 004.



+12cc to Mr.P.Sivakumar, Advocate SR. Nos.66992, 66993, 66994,
66995, 66996, 66997

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2642,2657 and 2814 of 2021

SR II (CO)
PR (27/12/2021)