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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.12.2021

Delivered on : 16.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
AND

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.Nos.2442, 2469, 2258, 2447 & 2454 of 2021
and
C.M.P.Nos.15652, 15933, 14389, 15685 15753 of 2021

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

.. Appellant
in all writ appeals

vs

C.Gnanavel

.. 1st Respondent
in W.A.No.2442 of 2021

K.Subramaniam

.. 1st Respondent
in W.A.No.2469 of 2021

R.Karthick

.. 1st Respondent
in W.A.No.2258 of 2021

M/s.Shree Laxmi Group
Rep. By its Managing Director,
R.Raja S/o.Ramasamy,
Pommaikuttaimedu,
Chellappampatti,
Namakkal.

.. 1st Respondent
in W.A.No.2447 of 2020

K.Periyasamy

.. 1st Respondent
in W.A.No.2454 of 2021



The Competent Authority and District
Revenue Officer, Namakkal (Land Acquisition),
For National Highways Namakkal,
Collectorate Campus,
Thummankurichi,
Namakkal.

.. 2nd Respondent
in all writ appeals

Prayer in W.A.No.2442 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 08.12.2020 made in W.P.No.17309 of 2020.

Prayer in W.A.No.2469 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 08.12.2020 made in W.P.No.17311 of 2020.

Prayer in W.A.No.2458 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 08.12.2020 made in W.P.No.17302 of 2020.

Prayer in W.A.No.2447 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 08.12.2020 made in W.P.No.17306 of 2020.

Prayer in W.A.No.2454 of 2021: Appeal preferred under Clause 15 of Letters Patent against the order dated 08.12.2020 made in W.P.No.17308 of 2020.

WP No.17309 of 2020

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus, directing the respondents herein to pay Solatium amount at 30 percentage as per section 23 (2) of the Land Acquisition Act, 1894 and an additional amount at 12 percentage per section 23 (1-A) of the said Act 1894, from the date of notification under section 3A(1) of National Highways Act, 1956 to the date of award for the compensation amount as enhanced by the arbitrator i.e. Rs 369.42 per sq.mtr together with interest at the rate 9 percentage per annum for one year from the date of possession and thereafter at 15 percentage per annum till the date of realization as per section 28 of the said Act, 1894 for the said enhanced compensation, solatium and Additional market value in respect of the petitioner's land, situated at Pappinaickenpatti Village, Namakkal Taluk and District, comprised in survey No.1/3A1A acquired for the purpose of widening four lane of National Highways No.7 in line with the Judgment of Hon'ble Supreme Court of India in the case of Union of India Vs. Tarsem Singh by considering the petitioner's representation dated 12.08.2020.



WP No.17311 of 2020

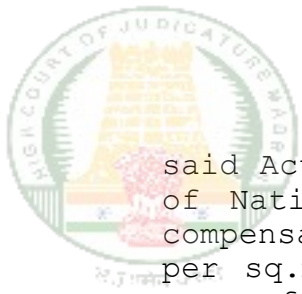
Writ petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus, directing the respondents herein to pay Solatium amount at 30 percentage as per section 23 (2) of the Land Acquisition Act, 1894 and an additional amount at 12 percentage per section 23 (1-A) of the said Act 1894, from the date of notification under section 3A(1) of National Highways Act, 1956 to the date of award for the compensation amount as enhanced by the arbitrator i.e. Rs.180.06 and Rs 369.42 per sq.mtr together with interest at the rate 9 percentage per annum for one year from the date of possession and thereafter at 15 percentage per annum till the date of realization as per section 28 of the said Act, 1894 for the said enhanced compensation, solatium and Additional market value in respect of the petitioner's land, situated at Pappinaickenpatti Village, Namakkal Taluk and District, comprised in survey No.20/2, 20/3B, 20/4, 20/5A and 130/3F acquired for the purpose of widening four lane of National Highways No.7 in line with the Judgment of Hon'ble Supreme Court of India in the case of Union of India Vs. Tarsem Singh by considering the petitioner's representation dated 18.08.2020.

WP No.17302 of 2020

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus, directing the respondents herein to pay Solatium amount at 30 percentage as per section 23 (2) of the Land Acquisition Act, 1894 and an additional amount at 12 percentage per section 23 (1-A) of the said Act 1894, from the date of notification under section 3A(1) of National Highways Act, 1956 to the date of award for the compensation amount as enhanced by the arbitrator i.e. Rs 180.06 per sq.mtr together with interest at the rate 9 percentage per annum for one year from the date of possession and thereafter at 15 percentage per annum till the date of realization as per section 28 of the said Act, 1894 for the said enhanced compensation, solatium and Additional market value in respect of the petitioner's land, situated at Pappinaickenpatti Village, Namakkal Taluk and District, comprised in survey No.20/1, acquired for the purpose of widening four lane of National Highways No.7 in line with the Judgment of Hon'ble Supreme Court of India in the case of Union of India Vs. Tarsem Singh by considering the petitioner's representation dated 18.08.2020.

WP No.17306 of 2020

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus, directing the respondents herein to pay Solatium amount at 30 percentage as per section 23 (2) of the Land Acquisition Act, 1894 and an additional amount at 12 percentage per section 23 (1-A) of the



said Act 1894, from the date of notification under section 3A(1) of National Highways Act, 1956 to the date of award for the compensation amount as enhanced by the arbitrator i.e. Rs 180.06 per sq.mtr together with interest at the rate 9 percentage per annum for one year from the date of possession and thereafter at 15 percentage per annum till the date of realization as per section 28 of the said Act, 1894 for the said enhanced compensation, solatium and Additional market value in respect of the petitioner's land, situated at Pappinaickenpatti Village, Namakkal Taluk and District, comprised in survey No.19/2A, acquired for the purpose of widening four lane of National Highways No.7 in line with the Judgment of Hon'ble Supreme Court of India in the case of Union of India Vs. Tarsem Singh by considering the petitioner's representation dated 18.08.2020.

WP No.17308 of 2020

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus, directing the respondents herein to pay Solatium amount at 30 percentage as per section 23 (2) of the Land Acquisition Act, 1894 and an additional amount at 12 percentage per section 23 (1-A) of the said Act 1894, from the date of notification under section 3A(1) of National Highways Act, 1956 to the date of award for the compensation amount as enhanced by the arbitrator i.e. Rs 369.42 per sq.mtr together with interest at the rate 9 percentage per annum for one year from the date of possession and thereafter at 15 percentage per annum till the date of realization as per section 28 of the said Act, 1894 for the said enhanced compensation, solatium and Additional market value in respect of the petitioner's land, situated at Pappinaickenpatti Village, Namakkal Taluk and District, comprised in survey No.22/2B and 22/2C, acquired for the purpose of widening four lane of National Highways No.7 in line with the Judgment of Hon'ble Supreme Court of India in the case of Union of India Vs. Tarsem Singh by considering the petitioner's representation dated 18.08.2020.

For Appellant	:	Mr.Su.Srinivasan (in all writ appeals)
For Respondents	:	Mr.M.Premkumar for Mr.S.Senthil for R1 (in all writ appeals) Mrs.Tamizh Selvi Additional Government Pleader for R2 (in all writ appeals)



COMMON JUDGMENT

(Per: PARESH UPADHYAY, J.)

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1. All these appeals arise from separate but identical orders passed by learned Single Judge, all dated 08.12.2020, on separate writ petitions, the details of which are noted hereunder:-

Writ Appeal	Writ Petition	Date of Order
2442/2021	17309/2020	08.12.2020
2469/2021	17311/2020	08.12.2020
2447/2021	17306/2020	08.12.2020
2454/2021	17308/2020	08.12.2020
2258/2021	17302/2020	08.12.2020

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 and subsequent orders of this Court, learned Single Judge relegated the petitioner 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 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. Specific grievance was made on behalf of the appellants that the writ petitioners are fence sitters, they had suppressed material fact in the writ petition and their petitions were required to be dismissed. It is noted that learned advocate for the appellants has extensively taken this Court through the pleadings. It is submitted that these appeals be entertained. It is noted that learned advocate for the appellants has referred to various authorities :- (1) Chakrapani & Ors v. Union of India reported in 2011 (7) MLJ 858, (2) Gurpreet Singh v Union of



India reported in (2006) 8 SCC 457, (3) Sunita Mehra v. Union of India reported in (2019) 17 SCC 672, (4) Union of India v. Tarsem Singh reported in (2019) 9 SCC 304, (5) Dalip Singh v. State of Uttar Pradesh reported in (2010) 2 SCC 14, (6) Daryao v. State of Uttar Pradesh and others reported in 1962 SCR (1) 574, (7) Prakash Singh v. Union of India and others reported in 2016 (231) DLT 641, (8) Bhailal Bhai & others v. State of Madhya Pradesh reported in 1964 SCR (6) 261, (9) Tilokchand Motichand and others v. H.B.Munshi and another reported in 1980 AIR 898, (10) Mafatlal Industries v. Union of India reported in 1997 (5) SCC 536, (11) State of Maharashtra v. Digambar reported in (1995) 4 SCC 683, (12) Assistant Collector of Central Excise v. Dunlop India Ltd reported in (1985) 1 SCC 260, (13) Authorised Officer, State Bank of Travancore v. Mathew K.C. Reported in (2018) 3 SCC 85, (14) Genpact India Pvt Ltd., v. Deputy Commissioner of Income Tax reported in (2019) 16 SCC 667, (15) The Assistant Commissioner of State Tax vs. M/s.Commercial Steel Ltd., reported in 2021 (1) CTC 844, (16) Hasmukhraj V Nada v. Commissioner of Income Tax and others reported in SCA/14055/2011 Guj HC (DB), (17) Phool Singh v. National Highways Authority of India and others made in CWP No.29431 of 2017 P&H High Court, (18) Sukhram v. National Highways Authority of India and others in CWP No.6406 of 2018, (19) Sungammal v. State of Madhya Pradesh reported in AIR 1965 SC 1740, (20) K.Ayyavu v. The District Collector cum Sole Arbitrator and others made in W.A.No.4309 of 2019, (21) Sadasivam v. The District Collector cum Sole Arbitrator and Others made in W.P.No.9445 of 2020, (22) Assistant Commissioner (Ct) Ltu, Kakinada & Others v. M/s.Galxo Smith Kline Consumer Health Care Limited reported in 2020 (4) MLJ 652, (23) State of Uttaranchal v. Shivcharan Singh Bhandari reported in (2013) 12 SCC 179, (24) Union of India v. Chaman Rana reported in (2010) 2 SCC 59, (25) Chairman/Managing Director, UPPC Ltd. v. Ram Gopal made in C.A.No.852 of 2018 dated 30.01.2020 and (26) The Executive Engineer, Nimna Dudhna Project v. The State of Maharashtra reported in AIR 2020 SC 717, 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 referred but not discussed in the order.

5. On the other hand, learned 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. Responding to the allegations against the petitioners, it is submitted that it is the Appellant authorities themselves who should be held guilty of suppressing material fact from the Court below, since it was their case before the Collector that their S.L.P. against the decision of this Court in the case of T.Chakkarapani vs Union of India was pending before the Supreme Court and therefore though, what is declared by the Supreme Court in the case of Tarsem Singh (supra) was already the law so far the State of Tamil Nadu, the same was objected to be followed and when the said S.L.P was dismissed vide order dated 21 July 2016, it was incumbent upon the State Authorities to put it to the notice of the Court below, which they had not. It is submitted that this factor should not only not weigh against the writ petitioners but should weigh against the appellant authorities. 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 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.

9. For the reasons recorded above, all these appeals need to be dismissed. At this stage, reference need to be made to the 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. At this stage, reference also needs to be made to the further submission on behalf of the appellant authorities that the writ petitioners were guilty of suppression of material facts. We find that, the record shows otherwise. It is the appellant authorities who should be held guilty of suppressing material fact from the Court below. We record this for the reason that, learned advocate for the original writ petitioner is right in his contention that it was the case of the authorities themselves before the Collector that their S.L.P. against the decision of this Court in the case of T.Chakkarapani vs Union of India was pending before the Supreme Court and therefore though, what is declared by the Supreme Court in the case of Tarsem Singh (supra) was already the law so far the State of Tamil Nadu, the same was objected to be followed and when the said S.L.P was dismissed on 21 July 2016 (Civil Appeals No(s).129-159 of 2014), it was incumbent upon the State Authorities to put it to the notice of the Court below where the proceedings were pending at the relevant time, which they had not. Since we have already held that these appeals need to be dismissed on merits, this additional factor against the appellant authorities is not of much consequence.

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

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The Competent Authority and District
Revenue Officer, Namakkal (Land Acquisition),
For National Highways Namakkal,
Collectorate Campus,
Thummankurichi,
Namkkal.

+5ccs to Mr.S.Senthil, Advocate, S.R.No.67735 to 67739
+1cc to the Government Pleader, S.R.No.68347

W.A.Nos.2442, 2469,
2258, 2447 & 2454 of 2021

NRL[co]
NSK 29/12/2021