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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1232 of 2022
and
W.M.P.No.1318 of 2022

1. Govindan
2. Subarmani
3. Shajakan
4. Duraisamy
5. Thangaval
6. Sarasu

... Petitioners

-Vs-

1. The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
National Highways - 68,
Villupuram.
Holding Additional Charge of,
The Competent Authority,
and Special District Revenue Officer,
(Land Acquisition),
National Highways - 68,
Salem.

2. The Project Officer,
National Highways Authority of India - 68,
Salem.
- ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to disburse the statutory entitlement namely 30% solatium with interest till the day of payment, in the light of judgment of Hon'ble 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 by considering petitioners representation dated 27.10.2021 within time framed manner and pass further or other order as this Hon'ble Court may



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deems fit and proper in the circumstances of the case.

For Petitioners : Mr.K.Sudhakar

For R1 : Mr.G.Ameedius
Government Advocate

For R2 : Mr.Su.Srinivasan

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondent to disburse the statutory entitlement namely 30% solatium with interest till the day of payment, in the light of judgment of Hon'ble 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 by considering petitioners representation dated 27.10.2021 within time framed manner and pass further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2.Heard Mr.K.Sudhakar, learned counsel appearing for the petitioners, Mr.G.Ameedius, learned Government Advocate appearing for the first respondent and Mr.Su.Srinivasan, learned counsel appearing for the second respondent.

3.All the petitioners owned their respective lands and the subject lands were acquired by the respondents under the National Highways Act, 1956. After an award enquiry, the awards were passed and they were paid compensation. However, they were not paid any solatium additional amount with interest as contemplated under Section 23(1A) of the Land Acquisition Act, 1894 for delayed payment of solatium as contemplated under Section 23(2) of the Land Acquisition Act and interest under Section 28 proviso of the said Act.

4. This issue has to be settled by the Hon'ble Supreme Court of India in the case of Union of India and Another Vs Tarsem Singh and others reported in 2019 (9) SCC 304. Accordingly, the land owners are entitled for solatium for the land acquired under National Highways Act between 1997 and 2015. Therefore, the petitioners made their representation seeking solatium and interest for their respective lands, which were acquired by the respondents.

5.The Hon'ble Supreme Court of India held that the



Government itself is of the view that solatium with interest should be granted even in cases that arise between 1997 and 2015. In the interest of justice, the Hon'ble Supreme Court declared that the provisions of the Land Acquisition Act relating to solatium and interest contained in Sections 23(1A) and 23(2) and interest payable in terms of Section 28 proviso will apply to acquisition made in the National Highways Act. Consequently, the provision of Section 3-J is, to this extent, violative of Article 14 of the Constitution of India and therefore, declared to be unconstitutional.

6. Therefore, all the petitioners are entitled for solatium and interest for their respect lands, which were acquired by the respondents under the National Highways Act.

7. In view of the above, the first respondent is directed to consider their representation, after giving an opportunity of hearing to the petitioners and pass orders to pay solatium and interest in the light of the order passed by the Hon'ble Supreme Court of India in the case of Union of India and Another Vs Tarsem Singh and others, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Mn

To

1. The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
National Highways - 68,
Villupuram.
Holding Additional Charge of,
The Competent Authority,
and Special District Revenue Officer,
(Land Acquisition),
National Highways - 68,
Salem.



2. The Project Officer,
National Highways Authority of India - 68,
Salem.

+1cc to Mr.K.Sudhakar, Advocate SR.No.5853
+1cc to the Government Pleader SR.No.6833

W.P.No.1232 of 2022
and W.M.P.No.1318 of 2022

PA (CO)
GN (24/02/2022)