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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.784 of 2022

Palanisamy

.... Petitioner

Vs

1. The Competent Authority cum
Special District Revenue Officer,
(Land Acquisition)
National Highways - 47 & 67,
No.3, Savarimuthu Chettiar Street,
Red Fields, Coimbatore - 641 045.

2. The Project Officer,
National Highways Authority of India - 47 & 67,
Coimbatore.

.... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents 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 petitioner's representation dated 20.10.2021 within time framed manner.

For Petitioner : Mr.K.Sudhakar

For R1 : Mr.G.Ameedius
Government Advocate

For R2 : Mr.Su.Srinivasan

ORDER

This Writ Petition is filed to issue a Writ of Mandamus to direct the respondents 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 case of Union of India and Another Vs Tarsem Singh and others reported in 2019 (9) SCC 304 by considering petitioner's representation dated 20.10.2021 within time framed manner.



2. The petitioner owned the land in S.No.218/4, situated at Mavuthampathy Village was acquired by the respondents under the National Highways Act, 1956. After an award enquiry, the award was 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.

3. 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 petitioner made his representation seeking solatium and interest for their respective lands, which were acquired by the respondents.

4. 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.

5. Therefore, the petitioner is entitled for solatium and interest for their respect lands, which were acquired by the respondents under the National Highways Act.

6. In view of the above, the Competent Authority-cum-Special District Revenue Officer, (Land Acquisition) National Highways - 47 & 67 viz., the first respondent is directed to consider the petitioner's representation, after giving an opportunity of hearing to the petitioner 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, reported in 2019 (9) SCC 304, within a period of eight weeks from the date of receipt of a copy of this order.



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7. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

kv

To

1. The Competent Authority cum
Special District Revenue Officer,
(Land Acquisition)
National Highways - 47 & 67,
No.3, Savarimuthu Chettiar Street,
Red Fields, Coimbatore - 641 045.
2. The Project Officer,
National Highways Authority of India - 47 & 67,
Coimbatore.

+lcc to Mr.K.Sudhakar, Advocate SR.No.4068

W.P.No.784 of 2022

MT (CO)
GMY (08/03/2022)