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W.A.No.2358 to 2388 of 2011 and W.P.No.19883 of 2010
and W.P.(MD) Nos.9768 of 2007, 5833 of 2008, 6039 of 2008,
and W.P.(MD) No.131 and 6250 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE Mr.JUSTICE KUMARESH BABU

W.A.No.2358 to 2388 of 2011

and

W.P.No.19883 of 2010

and

W.P.(MD) Nos.9768 of 2007, 5833 of 2008, 6039 of 2008,

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and

M.P.Nos.1 to 1 of 2011 in W.A.Nos.2358 to 2388 of 2011

M.P.Nos.2 to 2 of 2011 in W.A.Nos.2359 to 2388 of 2011

M.P.No.1 of 2010, M.P.No.1 of 2011 in W.P.No.19883 of 2010

M.P.(MD)No.2 of 2007 in W.P.(MD) No.9768 of 2007,

M.P.(MD) No.1 of 2008 in W.P.(MD) No.5833 of 2008,

In W.A.No.2358 of 2011 :

National Highways Authority of India

Rep by its Project Director

No.1/54-28 Butt Road

St.Thomas Mount

Chennai - 600 016.

.... Appellant in WA.No.2358 of 2011

Vs



W.A.No.2358 to 2388 of 2011 and W.P.No.19883 of 2010
and W.P.(MD) Nos.9768 of 2007, 5833 of 2008, 6039 of 2008,
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- 1.T.Chakrapani
- 2.T.Govindaraja Naidu
- 3.Elumalai Achari
- 4.V.Chithambaram
- 5.K.Velayutham
- 6.K.Saravanan
- 7.Ranganayagi

- 8.Union of India
Rep by Secretary
National Highways Department
New Delhi.

- 9.The Secretary to Government
Government of India
Ministry of Shipping
(Road Transport & Highways)
New Delhi.

- 10.The District Collector
(Arbitrator Tiruvallur District)
Tamil Nadu.

- 11.The Competent Authority (LA)
NH-4 Via Nerkundram Village
Poonamallee
Tiruvallur District
Chennai - 56.

- 12.The Special Tahsildar (LA)
NH-4 Poonamallee
Tiruvallur District
Chennai - 56.

.... Respondents 1 to 10 in WA.No.2358 of 2011



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In W.P.(MD) No.9768 of 2007 :

- 1.V.Thirumeninathan
- 2.V.Ramasamy
- 3.R.Subramanian
- 4.S.Radha Krishnan
- 5.Saraswathi
- 6.Rajendran
- 7.Senthil Kumar
- 8.Kannan
- 9.Manikandan
- 10.T.Jayaparvathy
- 11.T.Jothiram
- 12.Hema

.... Petitioners in W.P.(MD) No.9768 of 2007

[Petitioners P5 to P9 substituted as LR's of deceased
third petitioner vide order dated 10.11.2022 made
in WMP.No.26740 of 2017 in WP(MD) No.9768 of 2007]

[Petitioners P10 to P12 substituted as LR's of deceased
first petitioner vide order dated 10.11.2022 made
in WMP.No.19381 of 2022 in WP(MD) No.9768 of 2007]
.... Petitioners 1 to 4 in W.P.No.9768 of 2007

Vs

- 1.The Union of India
Rep by Secretary to Government
Ministry of Shipping Surface Transport
and Highways Department
New Delhi.
- 2.The Competent Authority cum
Special District Revenue Officer (Land Acquisition)
National Highways, Virudhunagar.



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3.The Project Officer
National Highways Authority of India
Madurai.

4.The District Collector cum Arbitrator
under National Highways Act
Virudhunagar District
Virudhunagar.

...Respondents in W.P.(MD) No.9768 of 2007

Prayer in W.A.No.2358 of 2011 : Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order of the learned Judge made in W.P.No.15699 of 2008 dated 04.03.2011.

Prayer in W.P.(MD) No.9768 of 2007 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration to declare the provisions of Sections 3E, 3G, 3H and 3J of the National Highways Act, 1956 as amended as arbitrary, invalid, unconstitutional and hit by Articles 14 and 19 of the Constitution of India.

In W.A.No.2358 of 2011

For Appellant : Mr.Richardson Wilson
for M/s.P.Wilson Associates

For Respondents : Mr.David Thyagarajan for RR1 to 7
Mr.Vadivelu Deenadayalan
Additional Government Pleader for RR10 to 12
RR8 & 9 - No appearance



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In W.P.(MD) No.9768 of 2007

For Petitioners : Mr.A.Sivaji

For Respondents : Mr.Richardson Wilson for
M/s.P.Wilson Associates for R3
Mr.Vadivelu Deenadayalan
Additional Government Pleader for RR2 to 4
R1 - No appearance

COMMON JUDGMENT

[Order of the Court was made by R.SUBRAMANIAN.J]

The writ appeals arise out of writ petitions in which vires of Section 3J of the National Highways Act, 1956 was challenged. The writ petitions were allowed by the writ Court. In the above writ petitions also, the same provision namely Section 3J and other provisions of the National Highways Act are under challenge.

2. Mr.Richardson Wilson of M/s.Wilson Associates, learned counsel appearing for National Highways Authority would fairly submit that the Hon'ble Supreme Court in *Union of India and another vs. Tarsem Singh and Others* [(2019) 9 SCC 304], upheld the view of the writ Court and held that the Section



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3J of National Highways Act is ultra vires of the Constitution and the compensation should be paid in accordance with the provisions of the Land Acquisition Act, 1894 (Act No.1/1984).

3. In view of the said pronouncements, all the writ appeals will stand dismissed and the writ petitions will stand allowed only in respect of Section 3J of the National Highways Act, alone, and the other provisions of the National Highways Act, which are under challenge in these writ petitions are upheld. Consequently, connected miscellaneous petitions are closed.

[RSMJ] [KBJ]
10.11.2022

Index : Yes / No
Speaking order / Non-speaking order
ds



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R.SUBRAMANIAN. J.,
and
KUMARESH BABU.J.,

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