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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.16227, 16229 AND 16231 OF 2011
AND M.P.NO.1 OF 2011 (IN ALL THREE PETITIONS)

R.Pandurangan ...Petitioner in W.P.Nos.16227 &
16229/2011

P.Prema ...Petitioner in W.P.No.16231 of 2011

Vs.

1.The Union of India,
Rep.by its Secretary,
Ministry of Home, Transport and Highways,
New Delhi.

2.The Authorised Officer cum Special District,
Revenue Officer,
National Highways No.5 (Acquisition),
Kancheepuram and Thiruvallur District,
Camp Office, Thasildar Office,
Poonamallee,

3.The Project Director and Deputy General Manager (Technic),
National Highway Authority of India,
8th Floor, Spic House,
Guindy, Chennai 600 032.

4.The Project Manager,
Larsen and Turbo Pvt. Ltd.,
Pudhuvaial,
Thiruvallur District

...Respondents in all petitions

Common Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the provisions of section 3(A) to 3 (J) of the National Highways Act 1956 as amended by Central Act 16 of 1977 is ultravires the Constitution being violative of Article 14 of Constitution of India or in the alternative declare section 3 (G) and 3 (J) of the National Highways Act 1956 as amended by Central Act 16 of 1977 is ultravires the constitution being violative of Article 14 of Constitution of India.



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For Petitioner in all W.Ps : Mr.J.Sivanandaraaj

For RR1 in all W.Ps : Mr.S.R.Sundaram,
Senior Counsel

For RR2 in all W.Ps : Mr.Yogesh Kannadasan
Special Government Pleader

For RR4 in all W.Ps : Mr.G.Adithyaraj
for M/s.Wilson Associates

Common Order

The petitioners have filed these writ petitions seeking issuance of Writ of Declaration declaring that the provisions of section 3(A) to 3 (J) of the National Highways Act, 1956, as amended by Central Act 16 of 1977, is ultravires the Constitution being violative of Article 14 of Constitution of India or in the alternative declare section 3 (G) and 3 (J) of the National Highways Act , 1956 as amended by Central Act 16 of 1977 is ultravires the constitution being violative of Article 14 of Constitution of India.

2. The case of the petitioners is that the petitioners are the owners of the property and their lands were acquired under the National Highways Act, 1956. The grievance of the petitioners is that the provisions of Section 3(A) to 3(J) of the National Highways Act, 1956 as amended by Central Act 16 of 1977 is ultravires the constitution and violative of Article 14 of the Constitution of India. Challenging the same, these writ petitions are filed.

3. The learned counsel appearing for the respondents submitted that the very same issue was came up before the Hon'ble Apex Court in the decision reported in 2019 (9) SCC 304 (Union of India and another V. Tarsem Singh and others), wherein it was held that the provision of Section 3-J is violative of Article 14 of the Constitution of India and therefore, declared to be unconstitutional and the respective land owners were ordered to be entitled to receive compensation in terms of Section 23(1-A) and (2) and interest payable in terms of Section 28 proviso and therefore, this Court may allow these Writ Petitions.

4. This Court has carefully gone through the materials placed on record. It is relevant to extract Paragraph 52 of the above said judgment:

'41. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has



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conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of justice we decline to interfere with such orders, given our discretionary jurisdiction under Article 136 of the Constitution of India. We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Section 23(1A) and (2) and interest payable in terms of section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, Appeal @ SLP (C) No. 9599/2019 is dismissed.''

5. In view of the above said decision, the part of the prayer sought in these Writ Petitions, challenging Section 3-J of the National Highways Act, 1956, is answered and therefore, this Writ Petition is allowed insofar as the prayer relates to Section 3(J) of the National Highways Act and dismissed with respect of other provisions. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Secretary,
Union of India,
Ministry of Home, Transport and Highways,
New Delhi.



2.The Authorised Officer cum Special District,
Revenue Officer,
National Highways No.5 (Acquisition),
Kancheepuram and Thiruvallur District,
Camp Office, Thasildar Office,
Poonamallee,

3.The Project Director and Deputy General Manager (Technic),
National Highway Authority of India,
8th Floor, Spic House,
Guindy, Chennai 600 032.

+1cc to Mr.J.Sivanandaraaj, Advocate, Sr.No.19354

+1cc to the Government Pleader, Sr.No.19918

W.P.No.16227, 16229 and 16231 of 2011

MT(CO)
RVM(08/04/2022)