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W.P.No.10583 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10583 of 2008

M. Ravi Shankar

... Petitioner

Vs.

1. Union of India
Rep. By its Secretary,
Ministry of Law,
New Delhi.
 2. National Highways Authority of India,
Rep. By its Project Director,
8th Floor, SPIC House,
88, Anna Salai, Guindy,
Chennai-600 032.
 3. The Special District Revenue Officer & Competent Authority,
Land Acquisition (National Highways)
Kanchipuram and Tiruvallur Districts
Kanchipuram.
- ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration or any other Writ or any appropriate order declaring that Section 3-J of the National Highways Act 1956 as amended by Act 16 of 1997 debarring the provision of Land Acquisition Act 1894 is illegal, discriminative and in violation of Article 14 of Constitution of India and is unconstitutional in as far as the petitioner is concerned and consequently direct the 3rd respondent to revise the Award dated 10.11.2006 passed by the 3rd respondent in the matter of determining compensation payable to the



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petitioner by adding solatium amount and the additional compensation.

For Petitioner : Mr.G.Nagarajan
For Respondent R3 : Mr.D.Tamilselvi,
Additional Government Pleader
For Respondents R1 & R2 : Mr.J.Madhana Gopal Rao

ORDER

The petitioner has filed the writ petition challenging the provisions under Section 3-J of the National Highways Act, 1956 as discriminatory, ultra vires and unconstitutional and consequently to direct the 3rd respondent to revise the award dated 10.11.2006 passed by the 3rd respondent.

2.The case of the petitioner is that he is the owner of the land in S.Nos.78/5 and 78/5B of Athipattu Village, Ambattur Taluk, Tiruvallur District measuring 410 sq. meters. The land of the petitioner and others were acquired under the National Highways Act, 1956 and proceedings were initiated for passing awards under Section 3-G of the Act to the land owners. Regarding the same, notices were issued inviting claims for compensation. The petitioner filed his claim before the 3rd respondent and the 3rd respondent passed an order dated 10.11.2006 fixing the market value of petitioner's land and others and not added solatium amount and the additional compensation payable to the land owners. Challenging the same,



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the Writ Petition has been filed.

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3.The learned counsel for the petitioner submitted that the land of the petitioner was acquired under Section 3-J of the National Highways Act, 1956 as amended by Act 16 of 1997 debarring the provision of Land Acquisition Act, 1894. The petitioner has not been paid with the solatium of 30% and additional compensation at the rate of 12%. He further submitted 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 by relieing upon the Judgement of the Hon'ble Supreme Court.

4. Heard the contentions of the learned counsel appearing for the respondents.

5. To consider the issue, useful reference can be had to the decision of the Hon'ble Supreme Court of India reported in **2019 (9) SCC 304 in the case of Union of India & Anr. Verses Tarsem Singh & Ors**, the relevant portion is extracted hereunder:

“52. There is no doubt that the learned Solicitor General,



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in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgements 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 judgements 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 © No.9599/2019 is dismissed.”

6. In view of the above, Section 3(J) of the National Highways Act, 1956 having been declared as unconstitutional, the relief sought for herein



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being identical, this Writ Petition is allowed challenging the above. It is open to the petitioner, if so aggrieved by the award, to file appropriate appeal before the competent authority under Section 3(G)(5).

7. Accordingly, this Writ Petition is allowed in the aforesaid terms with the aforesaid direction. No Costs.

15.02.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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