



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18038 of 2011

M.P.No.1 of 2011

1.P.Tulasi Lakshmi

2.P.Nageswara Rao

3.P.Mallika Arjuna

... Petitioners

Vs.

1. The National Highways Authority of India,
by its Project Officer,
SPIC Building, Guindy, Chennai - 32.

2. The Special District Revenue Officer (Land
Acquitiion) - cum - Competent Authority,
(under National Highways Act),
Kancheepuram & Tiruvellur District,
having its Office at Tahsildar Office,
Poonamallee, Chennai - 600 056.

3.The Aribitrator (National Highways)
and District Collector,
Tiruvellur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in respect of his notice No.Na.Ka.287/2010/A/The.Ne.5/ dated 22.06.2011 and quash the same and also directing the respondents to determine and pay the compensation for the petitioner's land in Survey No.18/1B2B of Nallur Village, Ponneri Taluk, Tiruvellore District sought to be acquired under National Highways Act, 1956 by applying the principles made in common Judgment dated 04.03.2011 of this Court, passed in the batch cases in W.P.No.15699/2008 etc.,

For petitioners : Mr.K.Venkatasubba Raju

For Respondents : Mr.Richardson wilson
(for R.1 and R.2)
Mr.P.Sathish (for R.3)
Additional Government Pleader



ORDER

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in respect of his notice No.Na.Ka.287/2010/A/The.Ne.5/ dated 22.06.2011 and quash the same and also directing the respondents to determine and pay the compensation for the petitioner's land in Survey No.18/1B2B of Nallur Village, Ponneri Taluk, Tiruvellore District sought to be acquired under the National Highways Act, 1956, by applying the principles made in common Judgment dated 04.03.2011 of this Court in batch of writ petitions in W.P.No.15699/2008 etc.,

2. Mr.P.Sathish, learned Additional Government Pleader takes notice for the third respondent. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioners is that the petitioners are the owners of the properties comprised in Old Survey No.18/1, then Survey No.18/1B2, measuring an extent of 30 Cents, situated at Nallur village, Ponneri Taluk, Thiruvallur District. The above said properties were acquired by the first respondent for the purpose of formation of National Highways under Section 3-A and 3-G (3) & (4) of the National Highways Act. Thereafter, the competent authority/National Highways passed award. Challenging the award, for better compensation, the present Writ Petition has been filed by the petitioners.

4. Though very many grounds have been raised, learned counsel for the petitioners submitted that, during the pendency of the writ petition, Sec.3-J of the National Highways Act was challenged before different High Courts. Ultimately, the Hon'ble Apex Court in the case of Union of India and another Vs. Tarsem Singh and others, reported in (2019) 9 SCC 304, declared Section 3-J as ultra vires and petitioners are entitled to receive fair compensation along with Solatium and interest payable under Sections 23(1)(a), 23(2) and the proviso to Section 28 of the Land Acquisition Act, 1894. In view of the above, this Court may permit the petitioner to file appropriate application before the District Collector/Arbitrator and the District Collector may be directed to pass appropriate orders within a time frame that may be fixed by this Court.

5. The learned Standing Counsel appearing for the National Highways/ respondents 1 & 2 submitted that this Court may permit the National Highways Authority to raise all those contentions before the Arbitrator/District Collector.



6.The facts in the present case are not in dispute. Admittedly, the petitioner is the land loser, and they challenged the notice/award proceedings before this Court. During the pendency of this writ petition, the Hon'ble Apex Court declared Section 3-J of the National Highways Act, as ultra vires in the case of Union of India and another Vs. Tarsem Singh and others reported in (2019) 9 SCC 304. The relevant portion of the above said judgment is extracted hereunder:-

"52.There is no doubt that the learned Solicitor General, 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 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 Sections 23(1-1) 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 3-J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, appeal arising out of SLP (C) No.9599 of 2019 is dismissed."

7.In view of the aforesaid decision of the Hon'ble Apex Court, the petitioner is directed to file appropriate application before the Arbitrator/District Collector, in terms of Section 3G(v) of the National Highways Act, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, Arbitrator/District Collector is directed to pass appropriate orders within a period of twelve weeks, liberty is granted to the petitioner as well as the first and second respondents to raise all contentions before the third respondent/District Collector in accordance with law.

8. Accordingly, this writ petition is disposed of with the aforesaid direction. No costs. Consequently, connected



miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tri/nhs

To

1. The National Highways Authority of India,
Represented by its Project Officer,
SPIC Building, Guindy, Chennai - 32.
2. The Special District Revenue Officer (Land
Acquitiion) - cum - Competent Authority,
(under National Highways Act),
Kancheepuram & Tiruvellur District,
Office at Tahsildar Office,
Poonamallee, Chennai - 600 056.
3. The Aribitrator (National Highways)
and District Collector,
Tiruvellur .

+1cc to Mr.K.Venkatasubba Raju, Advocate, S.R.No.19685
+1cc to Ms.wilson, Associate Advocate, S.R.No.19474
+1cc to the Government Pleader, S.R.No.20388

W.P.No.18038 of 2011
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PM(CO)
CT 06/04/2022