



WEB COPY



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

S.Manickam

... Petitioner in W.P.No.2989 of 2019

1. A.Ravi
2. T.Varatharajan
3. C.Kumar
4. A.Gnanasekaran
5. Sampath
6. Madeshwaran
7. Rajamani
8. V.Parvathy
9. V.Ezhumalai

... Petitioners in W.P.No.24477 of 2022

1. V.Radhakrishnan
2. E.Poongothai
3. P.Valliyammal
4. K.Senkootuvel
5. P.S.Udayakumar
6. G.Kailasam
7. Rajmohan
8. G.Ramakrishnan
9. A.Varadharajaperumal
10. A.Navaneetham
11. Rajamanickam
12. Ramasami
13. S.Govindarajan

... Petitioners in W.P.No.24512 of 2022

1/12



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

WEB COPY

1. R.Palanivel
2. P.Muthukrishnan
3. G.Duraisamy
4. K.Shanmugam
5. P.M.Palanimuthu
6. K.Arumugam
7. K.Govindharajalu
8. A.Chinnathambi
9. P.Govindhan
10. P.Mani
11. Vijaya

... Petitioners in W.P.No.24719 of 2022

Versus

1. Union of India,
Rep. by Secretary to Government,
Ministry of Shipping, Road Transport and Highways,
Transport Bhavan, 1. Parliamentary Street,
New Delhi 110 001.
2. The Competent Authority and
Special District Revenue Officer, (LA) (NH.7, 46, 47 & 66),
Salem-Krishnagiri Districts,
Krishnagiri.
3. The Project Director, NH.7, 47 & 68,
N.H.A.I. 221-Sri Nagar Colony,
Narasothipatty, Salem.
4. The Regional Officer, N.H.A.I., Shri Tower,
IIIrd Floor, D.P.34 (SP). Industrial Estate,
Guindy, Chennai 600 032.

...Respondents in W.P.No.2989 of 2019

1. The Special District Revenue Officer,

2/12



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

(Land Acquisition),
The Competent Authority Land Acquisition,
National Highways-68, Room No.414,
4th Floor, Collector Office Building,
Salem 636 001.

2. The Project Officer,
National Highways Authority of India-68,
Salem.

...Respondents in W.P.Nos.24477,
24512 & 24719 of 2022

Prayer in W.P.No.2989 of 2019: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus against the respondents calling for the records/proceedings of the second respondent culminating in his Memo-ROC 645/2017(B1) dated 20.09.2017 quash the same and to direct the second respondent to pay the additional market value under Sec.23(1) (a), solatium under Sec.23(2) and interest under Sec.28 of the Land Acquisition Act, 1894 to the petitioner herein (about Rs.1282910/-) together with accrued interest, etc. within a reasonable period that may be stipulated by this Court.

Prayer in 24477, 24512 & 24719 of 2022: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

directing the respondent first 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 petitioners representation dated 25.07.2022 within time framed manner.

Appearance of Counsels in W.P.No.2989 of 2019

For Petitioner : Mr.P.P.Shanmugasundaram
For R1 : Mr.S.Janarthanam
Senior Panel Counsel
For R2 : Mr.B.Vijay
Additional Government Pleader
For R3 & R4 : Mr.Su.Srinivasan,
Standing Counsel

Appearance of Counsels in 24477, 24512 & 24719 of 2022

For Petitioners : Mr.K.Sudhakar
For R1 : Mr.B.Vijay
Additional Government Pleader
For R2 : Mr.Su.Srinivasan,
Standing Counsel

COMMON ORDER

Since the issue involved and the relief sought for in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

2. All the petitioners filed these writ petitions for a direction to the respondents to compute and pay the compensation to petitioners for their respective lands which were acquired by the respondents for the purpose of implementing the National Highways Project under National Highways Act, 1956 and grant benefits under Section 23(1A), 23(2) and the proviso of Section 28 of Land Acquisition Act, 1894.

3. The case of the petitioners is that they owned their respective lands and the subject lands were acquired by the respondents under the National Highways Act, 1956. After an award enquiry, the awards were 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.

4. Further, the petitioner came to know the law laid down by the Hon'ble Apex Court reported in **(2019) 9 SCC 304** in the case of ***Union of India and another Vs. Tarsem Singh and others***, in order to avail such



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

benefit, the similarly situated persons filed batch of writ petitions before this Court in W.P.No.697 of 2021 etc, batch case and this Court vide order dated 04.10.2021, followed the Supreme Court decision and granted benefit under Section 23 1 (A), 23(2) and the proviso to Section 28 of Land Acquisition Act. Thereafter, once again, the other co-ordinate Bench in W.P.Nos.28491 of 2021 and batch cases, has also followed the same. In order to avail such benefits, the present writ petitions have been filed by the petitioners.

5. Though very many grounds have been raised, the learned counsel for the petitioners submits that the very same prayer was considered by this Court in W.P.No.28276 of 2021 etc batch cases, and this Court vide order dated 19.01.2022, disposed the writ petition by extending the benefit to the similarly situated persons. The relevant portion of the above said order is extracted hereunder:

"5. Therefore, all the petitioners are entitled for solatium and interest for their respective lands, which were acquired by the respondents under the National Highways Act.

6. In view of the above, the Competent Authority and Special District Revenue Officer, National Highways Act - 68 viz., the first respondent in W.P.Nos.28491 & 28494 of 2021 and the sixth



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

respondent in W.P.Nos.28276 & 28279 of 2021 is directed to consider their representation, after giving an opportunity of hearing to the petitioners 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, within a period of eight weeks from the date of receipt of a copy of this order."

6. The learned Standing Counsel for National Highways submitted that, once settled issue cannot be re-opened after long period, however, the Hon'ble Apex Court in the above said decision, declared 3-J as ultra vires and extended the benefit of awarding solatium and interest to the land losers. However, these lands were acquired in the year 2010 and the entire acquisition proceedings were completed in the year 2012, which cannot be re-opened after a decade. Further in order to clarify the decision rendered by the Hon'ble Apex Court stated supra, the respondents filed a clarification petition before the Hon'ble Apex Court in Miscellaneous Application C.M.A.No.24435 of 2021 in C.A.No.7064 of 2019. When such clarification is pending, extending the said benefit to the petitioners is not sustainable. Accordingly, he prayed for dismissal of these writ petitions.

7. The facts in the present case are not in a dispute. Admittedly, the



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

very same prayer which was sought in these Writ petitions was considered by this Court in W.P.No.28276 of 2021 etc batch cases, and this Court by order dated 19.01.2022, extended the benefits and further the issue raised in the present case is settled by 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. The relevant portion of the above said order 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."



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

WEB COPY

8. Further, in order to avail such benefit, the similarly situated persons filed writ petitions before this Court, and this Court discussed the entire issue elaborately and rendered its findings, as against which a Writ Appeal was filed in W.A.No.2426 of 2021 and the same was dismissed on 15.12.2021. The contention of the counsel that payment has been received and the matter stood concluded and, therefore, it cannot be reopened does not merit acceptance. This Court has to maintain judicial discipline and has to necessarily follow the decision rendered by the co-ordinate Bench. Accordingly, all the writ petitions are allowed and the petitioners are entitled for solatium and interest for compensation for their respective lands which were acquired by the respondents under the National Highways Act.

9. Taking into consideration the facts and circumstances of the case, the Competent Authority and Special District Revenue Officer viz., second respondent in W.P.No.2989 of 2019 and the first respondent in W.P.Nos.24477, 24512 & 24719 of 2022, is directed to pay the benefits under Sections 23(1A), 23(2) and the proviso to Section 28 of Land Acquisition Act, to the petitioners by extending the benefit which was granted by the Hon'ble Apex Court in the case of *Union of India and*



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

another Vs. Tarsem Singh and others reported in **(2019) 9 SCC 304**, within

a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above observations and direction, these writ petitions are
disposed of. No costs.

14.10.2022

Index : Yes / No

Speaking Order : Yes / No

jd

To

1. The Secretary to Government
Union of India,
Ministry of Shipping, Road Transport and Highways,
Transport Bhavan, 1. Parliamentary Street,
New Delhi 110 001.
2. The Competent Authority and
Special District Revenue Officer, (LA) (NH.7, 46, 47 & 66),
Salem-Krishnagiri Districts,
Krishnagiri.
3. The Project Director, NH.7, 47 & 68,
N.H.A.I. 221-Sri Nagar Colony,
Narasothipatty, Salem.

10/12



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

4. The Regional Officer, N.H.A.I., Shri Tower,
IIIrd Floor, D.P.34 (SP). Industrial Estate,
Guindy, Chennai 600 032.

5. The Special District Revenue Officer,
(Land Acquisition),
The Competent Authority Land Acquisition,
National Highways-68, Room No.414,
4th Floor, Collector Office Building,
Salem 636 001.

6. The Project Officer,
National Highways Authority of India-68,
Salem.



WEB COPY



W.P.Nos.2989 of 2019, 24477, 24512 & 24719 of 2022

M.DHANDAPANI, J.

jd

W.P.Nos.2989 of 2019, 24477,
24512 & 24719 of 2022

14.10.2022