



W.A.(MD) Nos.640 to 643, 646, 647, 649 to 651 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE Mr.JUSTICE KUMARESH BABU

W.A.(MD) Nos.640 to 643, 646, 647, 649 to 651 of 2009

1.K.Dhanasethu
2.J.Renukadevi
3.V.C.A.Mahendran

... Appellant in W.A.(MD) No.640 of 2009

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.

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

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

.... Respondents



W.A.(MD) Nos.640 to 643, 646, 647, 649 to 651 of 2009

Prayer : Writ Appeal filed under Clause 15 of Letters of Patent against the order dated 08.09.2008 in W.P.No.9774 of 2007 on the file of this Court.

For Appellants : Mr.A.Sivaji

For Respondents : No appearance

COMMON JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN.JI]

These writ appeals have been filed by the appellants challenging the dismissal of their writ petitions wherein the provisions of the National Highways Act, 1956 providing for acquisition of lands for the purpose of Highways Project were challenged.

2. The validity of the said provisions was tested by the Hon'ble Supreme Court in *Union of India and another vs. Tarsem Singh and Others* [(2019) 9 SCC 304]. The Hon'ble Supreme Court had held that the provisions of Section 3J alone are invalid while upholding the other provisions. Hence, writ appeals are partly allowed. The order of the Writ Court dismissing the writ petitions in their entirety is set aside. The writ petitions will stand allowed partially concluding that the provisions of Section 3J are ultra vires to the Constitution. The other provisions are upheld.



W.A.(MD) Nos.640 to 643, 646, 647, 649 to 651 of 2009

3. Mr.A.Sivaji, learned counsel appearing for the appellants would submit that in many cases, awards have been passed in conformity with the provisions of 3J and hence, he would seek time to initiate arbitration under sub-section 5 of 3G of National Highways Act, 1956.

4. Considering the pendency of writ petitions and writ appeals, we deem it fit to permit the appellants to challenge the awards since they are admittedly contrary to the provisions of the Land Acquisition Act, 1894. The Hon'ble Supreme Court has infact held that the persons whose lands were acquired under the National Highways Act are also entitled to compensation as per the provisions of the Land Acquisition Act, 1894. The appellants shall seek arbitration within a period of eight weeks from the date of receipt of a copy of this order. No costs.

[RSMJ] [KBJ]
14.11.2022

Index : No
Speaking order
ds



W.A.(MD) Nos.640 to 643, 646, 647, 649 to 651 of 2009

WEB COPY

To:

- 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.
- 3.The Project Officer
National Highways Authority of India
Madurai.
- 4.The District Collector cum Arbitrator
under National Highways Act
Virudhunagar District, Virudhunagar.



WEB COPY



W.A.(MD) Nos.640 to 643, 646, 647, 649 to 651 of 2009

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

ds

W.A.(MD)Nos.640 to 643, 646, 647, 649 to 651 of 2009

14.11.2022