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W.P.No.8408 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8408 of 2008

1. V.R.Arunachalam
2. K.Jaganathan
3. K.Sengoda Gounder .. Petitioners

VS

1. Union of India
rep. by Secretary to Government
Ministry of Shipping, Road Transport
and Highways
Shastri Bhavan, R.P.Road, New Delhi.
2. The Competent Authority
Special District Revenue Officer
(LA), National Highways 7
Collectorate, Namakkal. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring Section 3(A) of the National Highways Act, 1956 as discriminatory, ultra vires and unconstitutional.

For Petitioner : Mr.C.V.Vijayakumar
for Mr.T.R.Rajaraman

For Respondents : Mr.J.Madanagopal Rao
Senior Panel Counsel
for R1

Mr.T.Arun Kumar
Additional Government Pleader
for R2



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ORDER

The relief sought for in the present writ petition is to declare Section 3(J) of the National Highways Act, 1956 as discriminatory, *ultra vires* and unconstitutional.

2. The learned Senior Panel Counsel appearing on behalf of the first respondent brought to the notice of this Court that the issues raised in the present writ petition are no more *res integra* and the Hon'ble Supreme Court of India in ***Union of India & Anr. Vs Tarsem Singh & Ors. [2019 9 SCC 304]*** declared Section 3(J) of the National Highways Act as *ultra vires* and unconstitutional. Paragraph 52 of the judgment cited *supra* reads as under:

"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



WEB COPY



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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."

3. In view of the facts and circumstances, this writ petition stands allowed. There will be no order as to costs.

Index : Yes/No
Neutral Citation : Yes/No

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To:

1. The Secretary to Government
Union of India
Ministry of Shipping, Road Transport
and Highways
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S.M. SUBRAMANIAM, J.

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