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*W.P.Nos.7800 of 2023, 174 of 2022, 28435 of 2021,
27413 of 2021 and 8219 of 2020*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.7800 of 2023, 174 of 2022, 28435 of 2021,
27413 of 2021 and 8219 of 2020

and

W.M.P.Nos.8014 & 11946 of 2023, 208 of 2022,
30037 of 2021, 28935 of 2021, 9810 and 9812 of 2020
and 8529 of 2023

W.P.No.7800 of 2023

1.U.Shamima

2.A.Umar

...Petitioners

-Vs-

1.The Secretary to Government,
Ministry of Shipping Surface Transport
and Highways, Transport Bhawan,
New Delhi – 110 001.

2.The National Highways Authority of India,
Rep. by its Project Director, Senthomas Mount,
Near Kathipara Junction, Chennai – 16.

3.National Highways Authority of India,
Rep. by DGM and Project Director,
Sri Tower, 3rd Floor, DP34(SP),
Industrial Estate, Guindy, Chennai – 32.



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4.The Special Tahsildar [LA] Unit II,
National Highways, Tiruvallur District,
Kancheepuram.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the Notification No.S.O.232(E) issued by the 1st respondent on 21.02.2006 under Section 3D of the National Highways Act, as having lapsed in respect of the lands belonging to the petitioners in Survey No.22/1, 22/B, 34/1, 25, 26, 27/2B & 29/1D totally measuring 152.27 cents located in the village of Adayalampattu, presently in Poonamallee Taluk, Tiruvallur District and quash the same.

For Petitioners	:	Mr.N.Sivaprakash
For R1	:	Mr.B.Rabu Manohar Senior Central Govt. Standing Counsel
For R2 & R3	:	Mr.D.Ravichander Special Government Pleader
For R4	:	Ms.S.R.Sumathy

W.P.No.174 of 2022

1.Mohamed Ibrahim
2.A.Mohamed Yunus

...Petitioners

-Vs-



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1.The National Highways Authority of India,

Rep. by its Project Director,
Sri Tower, 3rd Floor,
DP-34, SP Industrial Estate,
Guindy, Chennai – 600 032.

2.Competent Authority &
Special District Revenue Officer (LA),
National Highways,
Kancheepuram & Tiruvallur Districts
at Kancheepuram.

3.M/s.Rajparis Civil Constructions Ltd.,
Rep. by its Director,
Mr.R.Satchidanandam,
Old No.162-B, New No.30,
Greens Lane, Thousand Lights,
Chennai – 600 006.

4.U.Shamima

5.A.Umar

...Respondents

[R4 & R5 impleaded vide dated 17.07.2023
made in W.M.P.No.2811 of 2023]

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned award bearing Rc.No.137/2006/NH/TVR dated 31.08.2018 passed by the 2nd respondent in respect to the petitioners' property situated at Survey Nos.16/2B, 17, 18/1A2, 18/2A, 21/1B, 22/1, 22/2B, 22/3B, 23/2, 24/1, 25, 26, 27/1, 27/2B2, 28/1, 28/2, 29/1B2, 29/1C, 29/1D, 30/2, 32/1 (Previously Nos.16/2, 17, 18/1A2, 18/2A, 21/1B, 22/1,



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22/2B, 22/3B, 23/2, 24/1, 25, 26, 27/1, 27/2B Pt, 28/1, 28/2, 29/1B, 29/1C,
29/1D, 30/2, 32/1) and quash the same and further direct the 3rd respondent.

For Petitioners : Mr.Gowthaman, Senior Counsel
for Mr.B.Deepak Narayanan

For R1 : Ms.S.R.Sumathy

For R2 : Mr.D.Ravichander
Special Government Pleader

For R3 : Mr.A.Sathyaseelan

For R4 & R5 : Mr.N.Sivaprakash

W.P.No.28435 of 2021

1.K.Pathimuthu
2.Dhilsad Banu
3.A.Jamila Banu

...Petitioners

-Vs-

1.Union of India,
Rep. by The Secretary,
Ministry of Road, Transport and Highways
Transport Bhawan, No.1, Parliament Street,
New Delhi – 110 001.

2.The Competent Authority and
Special District Revenue Officer (LA),
National Highways – 4 and 5
No.3/4, Lal Bahadur Shastri Street,
Periyakuppam, Near Thulasi Theatre,
Thiruvallur – 602 001.



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3.DGM (T) cum Project Director PIU Chennai,
National Highways Authority of India,
No.34 DP(SP) Sri Tower,
Guindy Industrial Estate,
Guindy, Chennai – 32.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to consider the petitioners representation dated 27.11.2021 to act upon the representation to either pay the compensation equaling to the present market value or cancel the Award No.137/2006/NH/TVR, award dated 31.08.2018 for the acquisition of petitioners lands at Survey No.26, 27/1, 27/2B2, 28/1, 28/2, 29/B2, 29/1C, 29/1D, 30/2, 32/1 total extent of 25,400 sq.mt. Or 627.64 cents lands situated at Adyalampattu Village, Thiruvallur District which has not been utilized by the Authority concern.

For Petitioners	:	Mr.G.V.Sridharan
For R1	:	No appearance
For R2	:	Mr.D.Ravichander Special Government Pleader
For R3	:	Ms.S.R.Sumathy

W.P.No.27413 of 2021

1.K.Pathimuthu
2.Dhilsad Banu
3.A.Jamila Banu

...Petitioners



*W.P.Nos.7800 of 2023, 174 of 2022, 28435 of 2021,
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-Vs-

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1.Union of India,
Rep. by The Secretary,
Ministry of Road, Transport and Highways
Transport Bhawan, No.1, Parliament Street,
New Delhi – 110 001.

2.The Competent Authority and
Special District Revenue Officer (LA),
National Highways – 4 and 5
No.3/4, Lal Bahadur Shastri Street,
Periyakuppam, Near Thulasi Theatre,
Thiruvallur – 602 001.

3.DGM (T) cum Project Director PIU Chennai,
National Highways Authority of India,
No.34 DP(SP) Sri Tower,
Guindy Industrial Estate,
Guindy, Chennai – 32.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to consider the representation either to pay the compensation equaling to the present market value or cancel the Award No.137/2006/NH/TVR, dated 31.08.2018 for the acquisition of petitioners lands at Survey No.16/2B, 17, 18/1A2, 18/2A, 21/1B, 22/1, 22/2B, 22/3B, 23/2, 24/1, 25 total extent of 18,850 sq.mt. Or 627.64 cents lands situated at Adyalampattu Village, Thiruvallur District which has not been utilized by the Authority concern.



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For Petitioners : Mr.G.V.Sridharan
For R1 : Mr.S.N.Parthasarathy
Senior Panel Counsel
For R2 : Mr.D.Ravichander
Special Government Pleader
For R3 : Ms.S.R.Sumathy

W.P.No.8219 of 2020

1.M.K.Jasmine Sharmila
2.A.Mohammed Ali
3.Mohammed Shafi

...Petitioners

-Vs-

- 1.The Secretary to Government,
Ministry of Shipping Surface Transport
and Highways, Transport Bhawan,
New Delhi – 110 001.
- 2.The National Highways Authority of India,
Rep. by its Project Director,
SPIC House, 8th Floor,
Guindy, Chennai – 600 032.
- 3.The Special Tahsildar [LA] Unit II,
National Highways, Tiruvallur District,
Ist Floor, Taluk Office,
Poonamallee – 600 056.
- 4.U.Shamima



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5.A.Umar

...Respondents

[R4 & R5 impleaded vide dated 17.07.2023
made in W.M.P.No.2834 of 2023]

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the Notification No.S.O.232(E) issued by the 1st respondent on 21.02.2006 under Section 3D of the National Highways Act, 1950 as having lapsed in respect of the lands belonging to the petitioners in Survey No.16/2, 17, 18/1A2, 27/1, 18/1A1, 27/2B, 18/2A, 24/1, 27/1, 27/2B, 25, 26, 21/1B, 22/2B, 23/2 (Previously S.Nos.16, 17, 18/1, 18/2, 21/1, 22/1, 22/2, 22/3, 24, 23, 25, 26, 27/1, 27/2, 28/1, 29, 30, 32 and 28/2) measuring to an extent of 4 Acres and 62 cents located in the village of Adayalampattu, presently in Poonamallee Taluk, Tiruvallur District.

For Petitioners	:	Mr.R.Sreedhar
For R1	:	Mr.K.B.Arul ACGSC
For R2	:	Ms.S.R.Sumathy
For R3	:	Mr.D.Ravichander Special Government Pleader
For R4 & R5	:	Mr.N.Sivaprakash



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COMMON ORDER

The writ petitions are filed challenging the land acquisition notification issued in the year 2006 and in some writ petitions award has been challenged. The award was passed on 31.08.2018 by the competent authority and Special District Revenue Officer [Land Acquisition], National Highways.

2.The learned senior counsel appearing on behalf of the petitioner mainly contended that there was an enormous delay in passing the award in land acquisition proceedings. That apart, the authorities have not utilized the land for several years, not developed the same and possession also remains with the owners. Therefore, the authorities were not be able to establish that there is a need for public project as far as the land belonging to the writ petitioners are concerned. Thus, the acquisition proceedings are to be dropped. The award was passed only after passing garnishee order by the High Court in the Original Side with reference to the dispute between the owners and the third respondent.



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3.The learned senior counsel further contended that the need for acquisition has not been established by the respondent National Highways Authority and the delay in concluding the proceedings also remains unexplained. Thus the award itself is perverse and to be set aside. In support of the said contention, the learned senior counsel relied on the judgment of the Division Bench of this Court in the case of ***Albert Emmanuel vs. The Union of India and others [W.A.No.174 of 2023 and batch dated 11.04.2023]***, wherein the Division Bench made the following observations:

“8.13 Further practically also, the lands of the petitioners are not needed for the public purpose as the project is complete in all respects and is commercially operational from 2011. There was an interim order of status quo granted pending the writ petitions and the petitioners continue to possess their lands. Even now, pin pointedly it is not pleaded before this court that the lands have to be taken and put to use for a particular purpose. Therefore, when the project is declared to be fully complete and operational, it is clear that the lands are



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not needed for public purpose. It is also not in the public interest to allow the authorities / officers to cling on to their mistakes and to cause a financial burden to the Government of India and to the National Highways Authority of India itself by unnecessarily taking lands which are not imminently necessary for the public purpose in question. As a matter of fact, even though these questions were specifically raised and considered at the initial/interim order stages by appointment of Advocate Commissioners, directing the Project Officer to file a report etc., while disposing of the writ petition, the Learned Single Judge went only on the maintainability after receipt of the compensation and did not consider the peculiar facts and circumstances of this case, which compels us to interfere in the matter.”

4.The learned Special Government Pleader raised an objection by stating that acquisition process has been concluded, award passed and compensation deposited. The writ petitions are filed after passing an award and the petitioners have not explained the delay. That apart, the petitioners if aggrieved have to approach the Arbitrator under Section 3(g)(5) of the



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National Highways Act and thus the writ petitions are liable to be rejected.

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5.The learned Special Government Pleader further contended that the lands acquired by the Government if not utilized for the purpose to which it was acquired the Government was at liberty to utilize the land for any public purpose even in future. Therefore, the contention raised on behalf of the petitioners that there is no necessity for land acquisition is untenable. In order to substantiate the said ground, the learned Special Government Pleader relied on the judgment of the Division Bench of this Court in the case of ***D.Birlla David vs. Government of India rep. by its Secretary, Ministry of Shipping Road Transport and Highways and others*** reported in ***2022 SCC Online Madras 860***, wherein it was held as follows:

“7.The provisions of National Highways Act, 1956 are not similar or pari materia to the provisions of the Land Acquisition Act, 1894 (for short, “the Act of 1894”). Rather, with the issuance of notification for acquisition, followed by a notification under Section 3(D) of the Act of 1956, the land vests in the Central Government free from all encumbrance.



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8.The aforesaid aspect has been taken into consideration by the learned Single Judge while dealing with the issues and it was held that the land was to be acquired for widening of the road, however, finding that certain lands of the Board are also to be acquired, thus, a meeting of the High-Level Committee was held. It was resolved to allot alternate land to the Board and thereby use their land for the road. On the aforesaid arrangement, the land in question was acquired so that with the exchange of land with the Board, the widening of the road can be carried out. The aforesaid has been mentioned in the award. Otherwise, it could have been arranged subsequent to the passing of the award. Thus, acquisition of the land was for the purpose of widening of the road. Therefore, ipso facto, we cannot agree with learned counsel for the appellants that the acquisition of the land was beyond the scope and ambit of the provisions of the Act of 1956.”

6.A perusal of the order impugned reveals that the award was passed on 31.08.2018 and the Land Acquisition Officer categorically recorded the facts which would explain the delay for passing the award. Undoubtedly the



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acquisition proceedings were initiated in the year 2006 and the land owners originally not attended the enquiry and it was postponed. Meanwhile one Mr.V.N.Devadass filed a writ petition in W.P.No.9961 of 2006 against the Union of India and five others challenging the acquisition proceedings. An interim stay was granted and the petitioner filed a civil suit in the Fast Track Court, Poonamallee in this regard. The writ petition was dismissed on 14.09.2012 on the ground that the issues are to be decided by the Civil Court. Further, P.M.R. Educational Trust filed another writ petition in W.P.No.34964 of 2006 seeking exemption of their lands from acquisition proceedings. The said writ petition was dismissed by the High Court on 21.03.2011 as infructuous. The writ appeal filed by the said Trust was entertained and an interim stay was granted in the writ appeal. In view of the interim order granted in W.A.No.214/2014, the authorities were not in a position to pass award. That award, the 6th respondent Garnishee was directed to deposit the compensation amount for the acquired land to the credit of C.S.No.478 of 2007 within two months. At that outset, it is contended that several litigations were instituted and interim orders were in force during the interregnum period and the Land Acquisition Officers was



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not in a position to pass award. However, pursuant to the garnishee order, the award amount has already been deposited by the second respondent.

7. Thus the delay in passing the award cannot be a reason to quash the award now under challenge in the present writ petitions. Compensation determined was deposited and the dispute exists between the parties. The Parties are at liberty to resolve the disputes in the manner known to law. As far as the award is concerned, the petitioners are at liberty to approach the Arbitrator under Section 3(G)(5) of the National Highways Act for the purpose of redressing their grievance, if any exist.

8. The learned senior counsel appearing on behalf of the petitioners made a submission that at the time of initial assessment for acquiring the subject lands, the technical team found that the lands are not fit for public projects. However, the said submission has been disputed by the learned Special Government Pleader appearing for the respondent by stating that the lands are to be utilized for truck bay which is of paramount importance as far as the particular locality is concerned and thus, the submission is



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incorrect. However, these technical aspects cannot be gone into by the High Court in a writ proceedings and it is for the authorities to make an assessment and act accordingly and the lands acquired

9.As rightly pointed by the learned Special Government Pleader, the land acquired can be utilized for any other public purpose and re-conveyance is a policy to be taken by the Government and the High Court cannot pass any orders to re-convey the land with reference to the relief as such sought for in the present writ petition. Thus, the writ petitioners are at liberty to work out their remedy for enhancement of compensation or otherwise in the manner contemplated under the Act.

10.With these liberty, all the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No
cse



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To

- 1.The Secretary to Government,
Ministry of Shipping Surface Transport
and Highways, Transport Bhawan,
New Delhi – 110 001.
- 2.The National Highways Authority of India,
Rep. by its Project Director, Senthomas Mount,
Near Kathipara Junction, Chennai – 16.
- 3.National Highways Authority of India,
Rep. by DGM and Project Director,
Sri Tower, 3rd Floor, DP34(SP),
Industrial Estate, Guindy, Chennai – 32.
- 4.The Special Tahsildar [LA] Unit II,
National Highways, Tiruvallur District,
Kancheepuram.
- 5.The Secretary,
Union of India,
Ministry of Road, Transport and Highways
Transport Bhawan, No.1, Parliament Street,
New Delhi – 110 001.
- 6.The Competent Authority and
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