



W.A.Nos.1179 of 2021 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.Nos.1179, 2298, 2299, 2348, 2371 and 2068 of 2021

and

W.P.No.16520 of 2021

W.A.No.1179 of 2021:

S.Venu

.. Appellant

Vs.

- 1.Union of India,
rep. by Secretary,
National Highways Department,
New Delhi.
- 2.The Chairman,
National Highways Authority of India,
G-5 and 6 Sector, 10, Dwarka,
New Delhi-110 015.
- 3.National Highways Authority of India,
rep. by its Regional Officer,
PIU Sri Tower 3rd Floor,
DP.34 (SP) Industrial Estate,
Guindy, Chennai-600 032.



W.A.Nos.1179 of 2021 etc.

4.National Highways Authority of India,
rep. by its Project Director,
Project Implementation Unit – Kanchipuram,
No.7/16, Govindarajan Street,
Tambaram West – 600 045.

5.The District Collector,
Collector Office,
Vellore District.

6.The Competent Authority &
The Special District Revenue Officer (LANH),
Sathuvachari,
Vellore-9, Vellore District.

7.The Competent Authority &
The Special District Revenue Officer (LA),
National Highways,
Kancheepuram District.

.. Respondents

W.A.No.2298 of 2021:

D.Nanthakumar

.. Appellant

Vs.

1.Union of India,
rep. by its Secretary,
National Highways Authority of India,
New Delhi.

2.The Chairman,
The National Highways Authority of India,
G-5 and 6 Sector, 10, Dwarka,
New Delhi-110 015.



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3.The National Highways Authority of India,
rep. by its Regional Officer,
Sri Tower 3rd Floor,
DP,34 (SP) Industrial Estate,
Guindy, Chennai-600 032.

4.The Project Director (NH 4),
National Highways Authority of India,
PIU Sri Tower 3rd Floor,
DP.34 (SP) Industrial Estate,
Guindy, Chennai-600 032.

5.S.Venu

6.The District Collector,
Collector Office,
Vellore District.

6.The Competent Authority &
The Special District Revenue Officer (LA-NH),
Collector office Complex,
Vellore-9, Vellore District.

7.The Competent Authority &
The Special District Revenue Officer (LA),
National Highways,
Kancheepuram.

.. Respondents

W.A.No.2299 of 2021:

D.Nanthakumar

.. Appellant

Vs.



W.A.Nos.1179 of 2021 etc.

- 1.The Project Director,
Project Implementation Unit,
Kancheepuram
National Highways Authority of India,
No.7/16, Govindarajan Street,
Tambaram West – 600 045,
Chengalpattu District.
- 2.The Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai-9.
- 3.The Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Chennai-9.
- 4.The District Collector,
Vellore District,
Vellore.
- 5.The District Collector,
Ranipet District,
Ranipet.
- 6.The Competent Authority &
The Special District Revenue Officer (LA-NH),
Collector office Complex,
Vellore-9, Vellore District.
- 7.R.Ashokan
- 8.S.Venu
- 9.N.Kasi
- 10.C.K.Munisamy
- 11.N.Sankar
- 12.U.Gunasekaran
- 13.T.Kumarasamy
- 14.R.Gulasekaran



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- 15.T.Vasudevan
16.Angu
17.P.Valliyammal
18.J.Kavitha
19.P.G.Kanniyappan
20.K.Nagappan
21.A.Ravi
22.K.Samu
23.G.Arul
24.M.Karunakaran
25.M.Rex Amulraj
26.V.Perumal
27.Rose
28.E.Selvakumar
29.Suguna Kumari
30.A.Murali
31.M.Sujatha
32.D.Nagaraj
33.P.Jaisankar
34.P.Anbazhagan
35.C.S.Balaji
36.K.Gunasekaran
37.R.Prakasam
38.V.Perumalsamy
39.K.Balakrishnan
40.Subramani
41.S.Kanimozhi
42.D.Perumal
43.P.G.Gopal
44.M.Rajakumari
45.P.Sakunthala
46.S.Raji C.S.Seshadhri
47.V.Manoharan
48.R.Jagadeesan
49.K.Kamalakannan
50.P.Gangabai
51.S.Santha
52.P.Chinnpaiyan



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53.G.Pitchandi
54.Sekar
55.P.Velu
56.D.Sumathi
57.M.Masilamani
58.Abdul Kaleel
59.M.Pushpa
60.M.Baby
61.T.Backialakshmi

.. Respondents

W.A.No.2348 of 2021:

P.G.Gopal

.. Appellant

Vs.

- 1.Union of India,
rep. by its Secretary,
National Highways Authority of India,
New Delhi.
- 2.The Chairman,
The National Highways Authority of India,
G-5 & 6 Sector, 10 Dwarka,
New Delhi-110 015.
- 3.The National Highways Authority of India,
rep. by its Regional Officer,
PIU Sri Tower 3rd Floor,
DP.34 (SP) Industrial Estate,
Guindy, Chennai-600 032.
- 4.The Project Director,
Project Implementation Unit-Kancheepuram
National Highways Authority of India,
No.7/16, Govindarajan Street,
Tambaram West – 600 045,
Chengalpattu District.



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5.S.Venu

6.The District Collector,
Vellore District, Vellore.

7.The Competent Authority and
The Special District Revenue Officer (LA-NH),
Collector Office Complex,
Vellore-9, Vellore District.

8.The Competent Authority &
The Special District Revenue Officer (LA),
National Highways,
Kancheepuram.

.. Respondents

W.A.No.2371 of 2021:

P.G.Gopal

.. Appellant

Vs.

1.The Project Director,
Project Implementation Unit-Kancheepuram
National Highways Authority of India,
No.7/16, Govindarajan Street,
Tambaram West – 600 045,
Chengalpattu District.

2.The Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai-600 009.

3.The Principal Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai-600 009.



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4.The District Collector,
Vellore District,
Vellore.

5.The District Collector,
Ranipet District,
Ranipet.

6.The Competent Authority &
The Special District Revenue Officer (LA-NH),
Collector Office Complex,
Vellore-9, Vellore District.

- 7.R.Ashokan
- 8.S.Venu
- 9.N.Kasi
- 10.D.Nanthakumar
- 11.C.K.Munisamy
- 12.N.Sankar
- 13.U.Gunasekaran
- 14.T.Kumarasamy
- 15.R.Gulasekaran
- 16.T.Vasudevan
- 17.Angu
- 18.P.Valliyammal
- 19.J.Kavitha
- 20.P.G.Kanniyappan
- 21.K.Nagappan
- 22.A.Ravi
- 23.K.Samu
- 24.G.Arul
- 25.M.Karunakaran
- 26.M.Rex Amulraj
- 27.V.Perumal
- 28.Rose
- 29.E.Selvakumar
- 30.Sugunakumari
- 31.A.Murali



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32.M.Sujatha
33.D.Nagaraj
34.P.Jaisankar
35.P.Anbazhagan
36.C.S.Balaji
37.K.Gunasekaran
38.R.Prakasam
39.V.Perumalsamy
40.K.Balakrishnan
41.S.Kanimozhi
42.S.Kanimozhi
43.D.Perumal
44.M.Rajakumari
45.P.Sakunthala
46.S.Raji C.S.Seshadhri
47.V.Manoharan
48.R.Jagadeesan
49.K.Kamalakannan
50.P.Gangabai
51.S.Santha
52.P.Chinnpaiyan
53.G.Pitchandi
54.Sekar
55.P.Velu
56.D.Sumathi
57.M.Masilamani
58.Abdul Kaleel
59.M.Pushpa
60.M.Baby
61.T.Backialakshmi

.. Respondents

W.A.No.2068 of 2021:

M.Rex Amulraj

.. Appellant

Vs.



W.A.Nos.1179 of 2021 etc.

- 1.The Project Director,
Project Implementation Unit-Kancheepuram
National Highways Authority of India,
No.7/16, Govindarajan Street,
Tambaram West – 600 045,
Chengalpattu District.
- 2.The Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai-600 009.
- 3.The Principal Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai-600 009.
- 4.The District Collector,
Vellore District,
Vellore.
- 5.The District Collector,
Ranipet District,
Ranipet.
- 6.The Competent Authority &
The Special District Revenue Officer (LA-NH),
Collector Office Complex,
Vellore-9, Vellore District.
- 7.R.Ashokan
8.S.Venu
9.N.Kasi
10.D.Nanthakumar
11.C.K.Munisamy
12.N.Sankar
13.U.Gunasekaran
14.T.Kumarasamy
15.R.Gulasekaran
16.T.Vasudevan
17.Angu



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- 18.P.Valliyammal
- 19.J.Kavitha
- 20.P.G.Kanniyappan
- 21.K.Nagappan
- 22.A.Ravi
- 23.K.Samu
- 24.G.Arul
- 25.M.Karunakaran
- 26.V.Perumal
- 27.Rose
- 28.E.Selvakumar
- 29.Sugunakumari
- 30.A.Murali
- 31.M.Sujatha
- 32.D.Nagaraj
- 33.P.Jaisankar
- 34.P.Anbazhagan
- 35.C.S.Balaji
- 36.K.Gunasekaran
- 37.R.Prakasam
- 38.V.Perumalsamy
- 39.K.Balakrishnan
- 40.S.Kanimozhi
- 41.S.Kanimozhi
- 42.D.Perumal
- 43.P.G.Gopal
- 44.M.Rajakumari
- 45.P.Sakunthala
- 46.S.Raji
- 47.V.Manoharan
- 48.R.Jagadeesan
- 49.K.Kamalakannan
- 50.P.Gangabai
- 51.S.Santha
- 52.P.Chinnpaiyan
- 53.G.Pitchandi
- 54.Sekar
- 55.P.Velu
- 56.D.Sumathi



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57.M.Masilamani
58.Abdul Kaleel
59.M.Pushpa
60.M.Baby
61.T.Backialakshmi

.. Respondents

W.P.No.16520 of 2021:

K.S.Suresh

.. Petitioner

Vs.

- 1.Union of India,
rep. by its Secretary,
National Highway Authority of India,
New Delhi.
- 2.The Chairman,
The National Highway Authority of India,
G-5 and 6 Sector, 10, Dwarka,
New Delhi-110 015.
- 3.The National Highway Authority of India,
rep. by its Regional Officer,
Sri Tower 3rd Floor,
DP. 34 (SP), Industrial Estate,
Guindy, Chennai – 600 032.
- 4.The Project Director (NH-46),
National Highway Authority of India,
Salem Main Road,
Krishnagiri-635 001.
- 5.The District Collector,
Collector Office,
Vellore District.



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6. The Competent Authority &
The Special District Revenue Officer (LANH)
Collector Office Complex,
Vellore-9, Vellore District.

7. The Competent Authority &
The Special District Revenue Officer (LA),
National Highways,
Kancheepuram.

.. Respondents

Prayer: W.A.Nos.1179, 2298 and 2348 of 2021 filed under Clause 15 of the Letters Patent against the order dated 25.03.2021 passed in Review Application No.56 of 2020 in W.P.No.35530 of 2019.

W.A.Nos.2299, 2371 and 2068 of 2021 filed under Clause 15 of the Letters Patent to set aside the order dated 25.03.2021 passed in W.P.No.9385 of 2020.

W.P.No.16520 of 2021 filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to pay the compensation due and payable to petitioner in pursuant to the award passed by the 6th respondent vide his proceedings in Rc.G4/2/2016 dated 23.04.2019 in respect of wet lands situated in New Survey No.53/5 Chennasamudram Village, Walaja Taluk, Ranipet District having extent of 350 sq. mt.



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W.A.No.1179 of 2021:

For the Appellant : Mr.N.L.Rajah
Senior Counsel
for Mr.S.Sivashanmugam

For the Respondents : Mr.G.Karthikeyan
Senior Counsel
assisted by
Ms.K.R.Vinodhinee
for respondents 1 to 4

Mrs.R.Anitha
Spl. Government Pleader
for respondents 5 to 7

W.A.Nos.2298 and 2299 of 2021:

For the Appellant : Mr.N.Manoharan

For the Respondents : Mr.G.Karthikeyan
Senior Counsel
assisted by
Ms.K.R.Vinodhinee
for respondents 1 to 4



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W.A.Nos.2348 and 2371 of 2021:

For the Appellants : Mrs.V.Srimathi

For the Respondents : Mr.G.Karthikeyan
Senior Counsel
assisted by
Ms.K.R.Vinodhinee
for respondent No.1

Mrs.R.Anitha
Spl. Government Pleader
for respondents 6 to 8
in W.A.No.2348/2021 and
respondents 2 to 8
in W.A.No.2371/2021

No Appearance
for respondents 2, 3 to 5
in W.A.No.2348/2021

W.A.No.2068 of 2021:

For the Appellant : Mr.K.Balu

For the Respondents : Mr.G.Karthikeyan
Senior Counsel
assisted by
Ms.K.R.Vinodhinee
for respondent No.1



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Mr.D.Ravichandran
for respondents 2 to 6

Mr.Abdul Saleem
for Mr.M.Vijayamehanath
for respondent No.7

No appearance
for respondent Nos.8 to 33,
35 to 41 and 42

W.P.No.16520 of 2021:

For the Petitioner : Mr.T.P.Prabakaran

For the Respondents : Mr.G.Karthikeyan
Senior Counsel
assisted by
Ms.K.R.Vinodhinee
for respondent No.1

Mr.Su.Srinivasan
for respondents 2 to 4



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W.A.Nos.1179 of 2021 etc.

COMMON JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

W.A.Nos.1179, 2298 and 2348 of 2021 have been filed against the common order of the learned Single Judge dated 25.3.2021 passed in Review Application No.56 of 2020 in W.P.No.35530 of 2019. W.A.Nos.2299, 2371 and 2068 of 2021 have been filed against the common order dated 25.03.2021 made in W.P.No.9385 of 2020.

2. W.P.No.16520 of 2021 has been filed by the petitioner for issuance of a writ of mandamus directing the respondents to pay the compensation due and payable to the petitioner pursuant to the award passed by the sixth respondent vide proceedings in Rc.G4/2/2016 dated 23.4.2019 in respect of wet lands situated in New Survey No.53/5, Chennasamudram Village, Walaja Taluk, Ranipet District having an extent of 350 sq. mt.

3. Mr.N.L.Rajah, learned senior counsel appearing for the appellant in W.A.No.1179 of 2021, submitted that, while disposing



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of the Review Application No.56 of 2020, the learned Single Judge has withdrawn the order dated 10.3.2020 passed in W.P.No.35530 of 2019 in view of the subsequent developments that have taken place in this case and the said finding arrived at by the learned Single Judge is not legally sustainable as the lands in question belonging to the appellant were acquired for establishing a Toll Plaza by the National Highways Authority of India. He would submit that the competent authority before passing the award conducted a detailed enquiry and the name of the appellant was also found in the enquiry notice and after hearing the parties, the competent authority has determined the compensation payable to each of the land owners.

4. Learned senior counsel further submitted that after acquiring the lands based on the award enquiry and after passing of the award and determination of the compensation payable to the land owners, the lands in question cannot remain un-utilized, denying the benefit to use the land by the land owners for a period of six long years, inasmuch as when the lands in question were



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acquired by issuance of notification under Section 3D of the National Highways Act, 1956, till date the owners of the lands have been deprived of utilizing the lands. As a result, the land owners have been subjected to huge prejudice, therefore, as per Section 93(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "*the Act of 2013*"), the respondent authorities should be directed to determine the amount of compensation due for damages suffered by the land owners in consequence of not allowing them to use the lands.

5. Arguing further, learned senior counsel contended that after a passage of six long years from the date of vesting of the lands, filing an affidavit dated 20.4.2023 by the Project Director, National Highways Authority of India before this Court expressing their willingness to return the lands to the land owners in view of the fraudulent activities involved in this case cannot be accepted at all. In fact, the affidavit filed by the Project Director to return the lands to the land owners is running contrary to Section 93(2) of the



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Act of 2013. Therefore, the affidavit dated 20.4.2023 filed by the Project Director is liable to be rejected and the respondent authorities are to be directed to pay compensation to the land owners as per Section 93(2) of the Act of 2013.

6. By referring to Section 48-B of the Land Acquisition Act, 1894 (for short, "*the Act of 1894*"), Mr.N.L.Rajah, learned senior counsel, emphatically argued that the law makers were clear in their wisdom that if for any reason the lands acquired from the land owners are going to be returned, the Collector shall determine the amount of compensation due to the damage suffered by the owners in consequence of the notice or of any proceedings thereunder and shall pay such amount to the persons interested together with all costs reasonably incurred by them in the prosecution of the proceedings under the Act of 1894. Therefore, when Section 48-B of the Act of 1894 and Section 93(2) of the Act of 2013 stipulate payment of compensation due to the damage suffered by the owner of the land, the affidavit now filed by the Project Director has to be rejected outright and a direction may be issued to refer the matter



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to the Arbitrator.

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7. The learned counsel appearing for the appellants in W.A.Nos.2298, 2299, 2068 and 2348 of 2021 have adopted the arguments made learned senior counsel for the appellant in W.A.No.1179 of 2021. The learned counsel for the appellants in W.A.Nos.2298, 2299, 2068 and 2348 of 2021 and the writ petitioner in W.P.No.16520 of 2021 have made a prayer to refer the matter to the Arbitrator for determination of the compensation due to the damage suffered by the land owners.

8. On the other hand, Mr.G.Karthikeyan, learned senior counsel appearing for the Union of India and the National Highways Authority of India, submitted that the contention of the learned senior counsel Mr.N.L.Rajah that under Section 48-B of the Act of 1894 and Section 93(2) of the Act of 2013 the land owners should be compensated for the damages suffered by them is misconceived, inasmuch as the lands in question sought to be acquired though were notified, till date, the respondent authorities have not taken



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physical possession of the lands and the possession of the lands vests with the land owners only. Therefore, the question of determination of compensation for the period from the date of issuance of notification under Section 3D of the Act till date does not arise.

9. Arguing further, Mr.G.Karthikeyan, learned senior counsel submitted that the officers working in the respondent department have manipulated the draft award as though it is a final award, when the fact remains that it was neither signed and approved nor finalised by the competent authority. When the award has not been finalized by the competent authority in the manner known to law and secondly the lands in question have not been taken over by the authorities and no amount of compensation deposited in the name of land owners, the respondent authorities, particularly, the Project Director has filed the affidavit dated 20.04.2023 expressing their willingness to return the lands in view of the fraudulent activities involved in this case. Therefore, the appellants cannot compel the respondent authorities to take over the lands in question when the



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respondent authorities are not willing to utilize the said lands. Finally, the learned senior counsel submitted that since the appellants are demanding more compensation for the lands in question, they are free to sell away the lands for higher price.

10. We find some force in the submission made by learned senior counsel appearing for the respondent National Highways Authority of India. When the competent authority, namely the Project Director of the National Highways Authority of India, has filed an affidavit dated 20.04.2023 conveying their willingness to return the lands to the land owners in view of the fraudulent activities involved in this case, the said authority cannot be compelled to take over the lands. Since the lands in question have not been taken over physically by the respondent authorities, we are unable to accept the submission made by Mr.N.L.Rajah, learned senior counsel that the land owners should be suitably compensated for the loss suffered by them and for which the matter has to be referred to the Arbitrator. In our considered view, Section 48-B of the Act of 1894 and Section 93(2) of the Act of 2013 cannot be



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applied to the present case, as there are allegations of fraud based on which the learned Single Judge had allowed the Review Application. When it is alleged by the National Highways Authority of India that guideline value records were manipulated to fictitiously show the value ten times higher thereby costing roughly about Rs.500 crore for establishment of the Toll Plaza and when the appellants/land owners are contending that their properties are really worth such huge amount, the above is the best course which will render justice to the parties in the peculiar facts of the case. In this regard, the affidavit filed on behalf of the National Highways Authority of India is recorded and paragraphs (4) and (5) of the affidavit are extracted hereunder for ready reference:

"4. I further submit that the Competent Authority of NHAI, New Delhi has conveyed its willingness to return the land to the land owners in view of the alleged fraudulent activities involved in this case and in the facts and special circumstances of this case.

5. I submit that, I place my submission before this Hon'ble Court to state that, NHAI has no objection to quash the Notification under Section 3D (1) dated



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05.06.2018 and 18.07.2018 of the National Highways Act, 1956.”

11. In the result, W.A.Nos.1179, 2298, 2299, 2348, 2371 and 2068 of 2021 and W.P.No.16520 of 2021 are disposed of on the following terms:

- (i) The notifications issued under Section 3D (1) of the National Highways Act, 1956 dated 05.06.2018 and 18.07.2018 shall stand quashed.
- (ii) It is made clear that the land owners are entitled to make use of the lands in question and mutation of revenue records, if any, made in the name of the respondent authorities shall forthwith be restored back in the name of the appellants/original owners of the lands, in any event, not later than two weeks from the date of receipt of a copy of this judgment.
- (iii) Needless to mention that the disposal of the writ appeals and the writ petition will not come in



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the way of the Government of Tamil Nadu for proceeding further with the disciplinary enquiry/other proceedings against the erring officials.

(iv) There will be no order as to costs.

(v) Consequently, C.M.P.Nos.13089, 15136, 7490 and 14612 of 2021 are closed.

(T.R., ACJ.) (D.B.C., J.)
24.04.2023

Index : Yes/No
Neutral Citation : Yes/No
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W.A.Nos.1179 of 2021 etc.

To

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- 1.The Secretary,
Union of India,
National Highways Department,
New Delhi.
- 2.The Chairman,
National Highways Authority of India,
G-5 and 6 Sector, 10, Dwarka,
New Delhi-110 015.
- 3.The Regional Officer,
National Highways Authority of India,
PIU Sri Tower 3rd Floor, DP.34 (SP) Industrial Estate,
Guindy, Chennai-600 032.
- 4.The Project Director,
National Highways Authority of India,
Project Implementation Unit – Kanchipuram,
No.7/16, Govindarajan Street,
Tambaram West – 600 045.
- 5.The District Collector,
Collector Office,
Vellore District.
- 6.The Competent Authority &
The Special District Revenue Officer (LANH),
Sathuvachari,
Vellore-9, Vellore District.
- 7.The Competent Authority &
The Special District Revenue Officer (LA),
National Highways,
Kancheepuram District.



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8.The Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai-9.

9.The Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Chennai-9.

10.The District Collector,
Ranipet District,
Ranipet.



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W.A.Nos.1179 of 2021 etc.

T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

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W.A.Nos.1179, 2298, 2299, 2348 2371 and
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24.04.2023