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W.P.Nos.8757 and 8758 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2023

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**W.P.Nos.8757 and 8758 of 2019 and
W.M.P.Nos.9326 & 9327 of 2019**

Amsarani .. Petitioner in W.P.No.8757/19

Sinthamani .. Petitioner in W.P.No.8758/19

Versus

1. The Union of India
Represented 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-68),
Salem-Villupuram Districts (Incharge) Villupuram.
 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



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Prayer in both the WPs: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records/proceedings of the third respondent in his letter NHAI/PIU-SLM/NH.68/2017-837 Dated 05.09.2017 and consequential order of the second respondent in his Memo-Na.Ka.No.239/2009 (N.H.68) dated 26.09.2017 respectively and quash the same and to direct the second and third respondents to pay the additional market value under Sec.23(1) (a), solatium under Sec.23(2) and interest under Sec.28 of Land Acquisition Act, 1984 to the petitioner herein (about Rs.6,81,319/- and Rs.14,42,260/- respectively) together with accrued interest, etc. within a reasonable period that may be stipulated by this Court.

For Petitioner : Mr.B.Singaravelu in both WPs

For Respondents : Mr.N.Ramesh,
Senior Panel Counsel for R1

Mr.Kumaresan,
Additional Advocate General
assisted by Mr.D.Ravichandran,
Special Government Pleader for R2

Mr.Su.Srinivasan,
Standing Counsel for R3 and R4



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COMMON ORDER

These writ petitions have been filed seeking to quash the proceedings of the third respondent in his letter NHAI/PIU-SLM/NH.68/2017-837 Dated 05.09.2017 and consequential order of the second respondent in his Memo-Na.Ka.No.239/2009 (N.H.68) dated 26.09.2017 respectively and to direct the second and third respondents to pay the additional market value under Sec.23(1) (a), solatium under Sec.23(2) and interest under Sec.28 of Land Acquisition Act, 1984, to the petitioners herein.

2 Learned counsel appearing for the writ petitioners submitted that the issue involved in these writ petitions has already been decided by the Hon'ble Supreme Court, which was reported in **(2019) 9 SCC 304**, wherein benefits under Section 23(1)(A), 23(2) and the proviso to Section 28 of Land Acquisition Act has been granted. Subsequently, to avail such benefits, the similarly situated persons filed writ petitions and the Division Bench of this Court disposed of all the writ petitions extending the benefits to them.

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3 Learned Additional Advocate General appearing for the

second respondent would submit that once the Special District Revenue Officer passed the award, he has become *functus officio* and hence the matter cannot be re-opened. The petitioners have already initiated arbitration proceedings, which is pending for consideration. Therefore the petitioners cannot go for parallel proceedings one before the Arbitrator and another under Article 226 of the Constitution of India. At the best the petitioners can approach the District Collector/Arbitrator for their prayer sought for.

4 Heard the both sides and perused the materials.

5 Admittedly the petitioners initiated arbitration proceedings, which is pending for passing final orders. In the citations referred to by the learned counsel for the petitioners, already the proceedings attained finality and hence the Hon'ble Supreme Court has given directions, whereas in this case, the arbitration proceedings is pending with the Arbitrator.



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In view of the above fact, the writ petitions are disposed of on the following terms:

1. The petitioners are directed to approach the Arbitrator, where arbitration proceedings is pending and make all their submissions and submit all the relevant documents providing details of subsequent developments and can make additional grounds.
2. The learned Arbitrator is directed to dispose of the matter after considering all the grounds and subsequent developments in law and the judgments of Hon'ble Supreme Court and this Court within a period of three months from the date of receipt of a copy of this order.

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Consequently connected miscellaneous petitions are closed. No costs.

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Copy to:

The District Collector,
Salem District.



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P.VELMURUGAN, J.,

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