



W.P.(MD) No.991 of 2020 etc., batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.991, 1014, 1016, 1018, 1019, 1024, 1025,
1033, 1036, 1038, 1068, 1073, 1075 and 2942 of 2020

W.P.(MD) No.991 of 2020:

S.Palraj

.. Petitioner

Vs.

1. Authorized Officer/Special District Revenue
Officer (L.A) NH-210 & 67,
Collector's Office, Pudukkottai-622 005.

2. National Highways Authority of India,
Rep., by its Project Director, Karaikudi,
No.1, Second Floor, Subramaniapuram 3rd Street,
Karaikudi-630 002.

3. Union of India,
Rep., by its Secretary,
Ministry of Road,
Transport and Highways,
Transport Bhawan, 1, Parliament Street,
New Delhi-110 001.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Declaration, (i) To declare that the



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rejection order dt.31-07-2019 of the 1st Respondent is against the law. (ii) to declare that the rejection order dt.01-08-2019 of the 2nd Respondent is against the law, (iii) to declare that the petitioner is entitled to Statutory benefits as per provisions of Sections 23(1-A), 23(2) and 28 of the Land Acquisition Act 1894, in conformity with the judgement of the Supreme Court in Civil Appeal Nos.129-159 of 2014, dt.21-07-2016, consequently issue an order of a direction, directing the 1st Respondent to pass an order of supplementary Award to grant the petitioner, Statutory benefits in terms of the Land Acquisition Act, 1894, 12% Additional Market Value U/s 23(1), Solatium 30% U/s 23(2) and interest U/s 28 of the Land Acquisition Act, 1894, as appropriate calculation detailed in his representation dt. 14-7-2019, which were earlier omitted in Award No.36/2011-2012, dt. 14-11-2011, vide Notification dt. 6-7-2010, and Award No.45/2013-2014, dt. 17-10-2014, vide Notification dt. 19-1-2013 with respect to his lands: Tiruchi District, Tiruverumbur Taluk, Thuvakudi Village, S.F.No.57/5, measuring 810 sq. mt., and 75 sq. mt., acquired for the 2nd respondent.

For Petitioner (In all cases)	:	Mr.T.Maruthamuthu
For R1 (In all cases)	:	Mr.D.Ghandiraj Special Government Pleader
For R2 (In all cases)	:	Mr.S.Sankarapandian for M/s.C.Arulvadivel Associates



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For R3 : Mr.S.Jeyasingh,
Senior Panel Counsel
(In W.P.(MD) Nos.991, 1014,1068, 1073 and 1075 of 2020)

For R3 : Mr.K.R.Laxman
Senior Panel Counsel
(In W.P.(MD) Nos.1016, 1018, 1019, 1024, 1025,
1033, 1036, 1038 and 2942 of 2020)

COMMON ORDER

These writ petitions arise from and out of the land acquisition proceedings initiated under the National Highways Act, 1956, wherein the lands of the petitioners had been acquired for building (widening/two-laning with paved shoulders etc.,) maintenance, management and operation of National Highways No.210 and 67 for the stretch of land in Trichy – Karaikudi Section from Km.10/000 to Km.94/000 of NH No.210 including Trichy Bypass from Km.109/558 to Km.135/ 930 in NH No.67 in Trichirappalli District in the State of Tamil Nadu.

2. It appears that the lands have been acquired and awards had been passed in respect of the said acquisition. Given below is the chart for easy reference:



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Sl. No.	Writ Petition (MD) No.	Name of the Petitioner	Survey No.	Total Compensation Amount	Award Date
1	991/2020	S.Palraj	57/5 (Main Award)	441045	14.11.2011
			57/5 (Addl Award)	106672	17.10.2014
2	1014/2020	R.Murugesan	42/5	981189	14.11.2011
3	1016/2020	T.Palanisamy	171/2A	614647	11.06.2012
4	1018/2020	V.Ponnusamy Doraiyar	94/3B2	1195194	11.06.2012
5	1019/2020	V.L.Thangaraj	162/26	2122120	11.06.2012
6	1024/2020	K.Sakthivel	106/5	160160	11.06.2012
			19/5	930006	14.11.2011
7	1025/2020	S.Indirani	94/3 & 94/6	1650517	14.11.2011
8	1033/2020	S.Tamilmani	54/3 (Main Award)	100732	14.11.2011
			54/3 (Main Award)	9958	17.10.2014
9	1036/2020	K.Rajeswari	159/3B & 160/3	1066675	14.11.2011
10	1038/2020	A.Devendran Mekkondar	159/1	544500	14.11.2011
11	1068/2020	V.L.Thangaraj	94/5 (Main Award)	328878	14.11.2011
			94/5 (Addl Award)	243213	17.10.2014
12	1073/2020	P.Kamu	94/3B	1195194	11.06.2012
13	1075/2020	P.Ramamurthy	107/6A	108108	11.06.2012
			109/6A	380380	11.06.2012
			110/5	420420	11.06.2012
14	2942/2020	S.Chellammal	10	1127066	28.09.2012



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The above chart would give details of the respective writ petitions, date of passing of the award and the proceedings initiated thereon.

3. The petitioners are aggrieved by the fact that they have not been awarded solatium and interest, which they are entitled to as per the judgment of the Hon'ble Supreme Court in ***Union of India and another Vs. Tarsem Singh & Ors.*** reported in ***(2019) 9 SCC 304***, in which the Hon'ble Supreme Court, which was considering similar acquisition under the National Highways Act, where solatium and interest had not been granted, ultimately observed as follows:

“We therefore declare that the provisions of the Land Acquisition Act relating to solatium and interest contained in Section 23(1A) 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 3J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, Appeal @ SLP (C) No.9599/2019 is dismissed.”



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4. Mr.D.Ghandiraj, learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for respondents 2 and 3 would submit that some of the petitioners have not exhausted the remedy available to them under the National Highways Act and have approached this Court with a great delay. The procedure under the National Highways Act, 1956 (hereinafter referred to as “the Act”) contemplates a time bound disposal of the claims and the appeals thereon.

5. The main defence raised by the respondents is with reference to the delay. This issue has been considered by a Division Bench of this Court in the case of *The Project Director, Project Implementation Unit, NHAI, Vs. K.Periyasamy and others* reported in *2018 SCC OnLine Mad 13839* wherein the question that required the attention of the Division Bench was whether the provisions of the Limitation Act, 1963, particularly Article 137 would apply to an application seeking Arbitration under Section 3-G(5) of the National Highways Act, 1956.



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6. The Bench, after discussing the scheme of the Act particularly with reference to Section 3-G of the National Highways Act and Sections 21 and 43 of the Arbitration and Conciliation Act, 1996 and the various judgments in relation to the statutory arbitrations, had ultimately held that the provisions of the Limitation Act more particularly Article 137 would not apply to a reference to Section 3-G of the Act. The provision of the Limitation Act would not apply to statutory arbitrations more particularly arbitration under Section 3-G(5) of the Act. Therefore, the petitions before this Court cannot be non-suited on the ground of limitation.

7. All the parties have now consented to this Court for passing the following order:

(i) It is informed that with reference to the writ petitions in W.P.(MD) Nos.991 and 1033 of 2020 (Sl.Nos.1 and 8 in the chart), the petitioners are dead and their legal representatives have not come forward to contact the counsel for bringing them on records. Therefore, W.P.(MD) Nos.991 and 1033 of 2020 are dismissed as abated;



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(ii) As regards W.P.(MD) Nos.1024, 1068, 1075 and 2942 of 2020 (Sl.Nos.6, 11, 13 and 14 in the chart), the learned counsel for the petitioners submits that claim petitions filed before the respective District Collectors had been disposed of and the parties have filed application under Section 34 of the Arbitration Act, before the concerned Principal District Judge and the matter is now pending before the District Court; and

(iii) As regards the petitioners in W.P.(MD) Nos.1014, 1016, 1018, 1019, 1025, 1036, 1038 and 1073 of 2020 (Sl.Nos.2, 3, 4, 5, 7, 9, 10 and 12), some of them have filed application, while the others are yet to file application. However, taking into account the fact that the petitioners are entitled to solatium and interest by virtue of the judgment referred above and since the same has not been granted to them, the petitioners shall file claim petition before the respective District Collectors within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respective District Collectors shall pass orders. The entire process shall be completed within a period of three months from the date of receipt of a copy of this order. Accordingly, W.P.(MD) Nos.1014,



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1016, 1018, 1019, 1024, 1025, 1036, 1038, 1068, 1073, 1075 and 2942 of 2020 are disposed of.

8. In nutshell,

(a) W.P.(MD) Nos.991 and 1033 of 2020 are dismissed as abated;

(b) W.P.(MD) Nos.1014, 1016, 1018, 1019, 1024, 1025, 1036, 1038, 1068, 1073, 1075 and 2942 of 2020 are disposed of with the above direction; and

(c) There shall be no order as to costs.

17.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.TheAuthorized Officer/Special District Revenue
Officer (L.A) NH-210 & 67,
Collector's Office, Pudukkottai-622 005.

2.The Project Director, Karaikudi,
National Highways Authority of India,
No.1, Second Floor, Subramaniapuram 3rd Street,
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3.The Secretary, Union of India,
Ministry of Road,
Transport and Highways,
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1019, 1024, 1025, 1033, 1036, 1038,
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