



WP(MD)No.20252 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.12.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.20252 of 2021

- 1.V.R.Ravi
- 2.Sethurethinam
- 3.Rajagopal
- 4.Lakshmi Narayanan
- 5.Rameshbabu
- 6.Selvaraj @ Selvam
- 7.Balachandran
- 8.A.Lakshmanan
- 9.Rajasekaran

...Petitioners

/Vs./

- 1.The District Collector cum Arbitrator,
(As Per N.H.A.I. Act),
National Highways-67,
Thiruchirappalli.
- 2.The District Revenue Officer,
Competent Authority of Land Acquisition (CALA),
National Highways-67,
Thiruchirappalli.
- 3.The Deputy General Manager and Project Director,
Project Director,
Karur National Highways,
Thiruchirappalli.

...Respondents



WP(MD)No.20252 of 2021

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 15.07.2021 made in Land Acquisition Arbitration Case No.(Thiruchirappalli) Appeal No.36/2020 passed by the 1st respondent, Quash the same further directing the 2nd respondent to entertain the petitioners' applications dated 19.11.2020 and consider the same in the light of the Honble Apex Courts Judgement dated 19.09.2019 in Tarsem singh's case.

For Petitioners : Mr.S.Ramu

For Respondents : Mr.R.Ragavendran (R-1 & 2)

Government Advocate

Mr.C.Arulvadivel @ Sekar (R3)

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent in Land Acquisition Arbitration Case No. (Thiruchirappalli) Appeal No.36/2020 dated 15.07.2021.

2. The case of the petitioners is that the lands were acquired for the purpose of Karur – Tiruchirappalli National Highway (NH 67) and through the proceedings of the second respondent dated 04.02.2011, the compensation was determined and it was paid to the petitioners. The amount of compensation paid to each petitioner is tabulated hereunder:-



WP(MD)No.20252 of 2021

S.No.	Name	S.R.No.	Compensation
1.1	V.R.Ravi	127/2B	Rs.4,30,757/-
1.2	V.R.Ravi	127/2B	Rs.11,850/-
2	Sethurethinam	145/5H	Rs.2,00,996/-
3	Rajagopal	145/5H	Rs.3,38,278/-
4	Lakshmi Narayanan	127/2A 3B	Rs.10,31,576/-
5	Rameshbabu	145/5H	Rs.25,073/-
6.1	Selvaraj @ Selvam	127/2B	Rs.1,67,168/-
6.2	Selvaraj @ Selvam	127/2B	Rs.4,627/-
7	Balachandran	145/5G	Rs.4,47,227/-
8	A.Lakshman	145/5E	Rs.3,96,580/-
9	Rajasekaran	145/5A	Rs.6,22,653/-

3. When the above compensation was fixed by the second respondent, the solatium and interest was not taken into consideration by the second respondent, since there was a specific bar under Section 3J of the National Highways Act, 1956 for the application of the Land Acquisition Act, 1894.

4. The further case of the petitioners is that the Hon'ble Apex Court ultimately held in *Union of India and another Vs. Tarsem Singh and others* reported in **2019 (9) SCC 304** that Section 3J of the National Highways Act, 1956 is violative of Article 14 of the Constitution of India and it was struck down as unconstitutional. In view of the same, even insofar as the lands



WP(MD)No.20252 of 2021

acquired under the National Highways Act, 1956 is concerned, payment of solatium and interest in terms of Section 23(1A)(2) of the Land Acquisition Act, 1894 will apply.

5. The petitioners made an application before the second respondent to calculate the solatium and the interest amount and to pay the same to the petitioners. The second respondent, after receiving the representations / applications from the petitioners forwarded the same to the first respondent and the first respondent through the impugned proceedings rejected the applications merely on the ground that the same is barred by limitation. Aggrieved by the same, the present writ petition has been filed before this Court.

6. The third respondent has filed a counter affidavit and has taken a stand that the remedy that is available before the first respondent by means of arbitration has to be exercised within the time stipulated under the National Highways Act, 1956 and in the instant case, there was nearly 10 years of delay, which was not explained by the petitioners. In view of the same, the District Collector was perfectly right in rejecting the applications. Accordingly, the third respondent has sought for dismissal of this writ petition.



WP(MD)No.20252 of 2021

7. Heard Mr.S.Ramu, learned counsel appearing for the petitioners, Mr.R.Ragavendran, learned Government Advocate appearing for the respondents 1 and 2 and Mr.C.Arulvadivel @ Sekar, learned counsel appearing for the third respondent.

8. The issue that is involved in this writ petition is squarely covered by the earlier orders passed by this Court. It is not necessary to consider all the orders passed by this Court and it will suffice to take note of the order passed in WA(MD)No.1680 of 2018 dated 24.10.2019 and the relevant portions are extracted hereunder:-

“6.The question to be decided would be as to whether the respondent/ National Highways Authority of India can deny solatium, additional amount and interest to the appellant merely because the land acquisition was completed and award was passed on 25.02.2013, much prior to 01.01.2015.

7.This issue is no longer res integra in view of the decision of the Hon'ble Supreme Court in Union of India and another v. Tarsem Singh and other (Civil Appeal No.7064 of 2019. In the said decision it was pointed out that even in acquisitions that took place under the National Highways Act and the 1952 Act, the notification of 2015 under the new Acquisition Act of 2013 makes solatium and interest payable in cases covered by both Acts. The Hon'ble Apex Court referred to Section 113, which was inserted into Act 30 of 2013 and pointed out that the insertion of said provision and issuance of Ordinance



was to apply the principles contained in Nagpur Improvement Trust v. Vithal Rao [(1973) 1 SCC 500] as the Central Government has considered it necessary to extend the benefits available to landowners generally under the 2013 Act to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule. Further, it is pointed out that the National Highways Act being one of the aforesaid enactments should flow to the persons, whose lands have been acquired. Further, it was pointed out that it is clear even the Government is of the view that it is not possible to discriminate between landowners covered by the Act 30 of 2013 and the landowners covered by the National Highways Act, when it comes to compensation to be paid for lands acquired under either of the enactments. After referring to the said decision as well as the judgment of the Division Bench of this Court in T.Chakrapani v. Union of India (supra), which was quoted with approval, it was held that solatium and interest is payable even in cases that arise between 1997 and 2015. The above legal position has clearly set out the entitlement of the landowners to solatium and interest even though the acquisition was completed and notification was issued and award was passed under 3G(3) of the National Highways Act, 1956 on 25.02.2013 well before coming of Act 30 of 2013.

8.One more argument was put forth by the learned Standing Counsel appearing for the National Highways Authority of India that the Writ Court has granted liberty to the appellant to approach appropriate authority and it would be for the appellant to do so.

9.We do not accept the said contention. The landowner



cannot be treated in such a fashion, especially when the land is taken away from landowner by way of compulsory acquisition. The Hon'ble Supreme Court having settled the legal position, we are of the clear view that appellant, the erstwhile landowner, need not be driven to any forum and the National Highways Authority of India should disburse the solatium and interest on the compensation fixed by the arbitrator, who has enhanced the compensation determined by the Special District Revenue Officer, considering the prolonged litigation.

10. One more fact, which has weighed in our mind to take such a decision is because few of the landowners, whose lands were also acquired for the very same NH 47 and NH 47 B have been dealt with under Act 30 of 2013. Prima facie it appears to be a discrimination, though landowners have dragged the national highways Authority of India to litigation and the land acquisition proceedings were delayed and by then Act 30 of 2013 came into force and the benefits of Act 30 of 2013 have to be necessarily extended to them by the National Highways Authority of India. Therefore, this is a vital point to come to a conclusion that the appellant should not be driven to the authorities by making an application etc., but the National Highways Authority should voluntarily come forward to compute the solatium and interest and settle the same.

11. Obviously it goes without saying that the solatium will be calculated by applying the provisions under Land Acquisition Act, 1894 and the appellant cannot say the acquisition should be treated under Act 30 of 2013.”



WP(MD)No.20252 of 2021

WEB COPY

9. The above judgment was followed in a subsequent judgment in WA.Nos.2442 of 2021 etc., dated 16.12.2021 and it was held that the claimants therein are entitled for solatium and interest in accordance with law.

10. The above judgments will squarely apply to the facts of the present case. The solatium and interest forms part of the compensation that is payable to the petitioners. This was not paid, since Section 3J of the National Highways Act, 1956 was in force. After this provision was struck down by the Hon'ble Apex Court, it automatically enures in favour of those persons, who were not paid solatium and interest, since the judgment in *Tarsem Singh* supra was not given prospective effect.

11. The entitlement of the petitioners for the solatium and interest cannot be deprived on the ground that the claim made is barred by limitation. The petitioners will be entitled for such a claim only after the Hon'ble Apex Court had struck down Section 3J of the National Highways Act, 1956 and there was no occasion for the petitioners to make such a claim when Section 3J of the National Highways Act, 1956 was in force.



WP(MD)No.20252 of 2021

12. In view of the above, the impugned proceedings of the first respondent in Land Acquisition Arbitration Case No.(Thiruchirappalli) Appeal No.36/2020 dated 15.07.2021 is hereby set aside. There shall be a direction to the second respondent to calculate the solatium and interest payable to the petitioners as provided under the Land Acquisition Act, 1894 and the same shall be disbursed to the petitioners within a period of six weeks from the date of receipt of a copy of this order.

13. In the result, this writ petition is allowed with the above directions.

No costs.

07.12.2023

NCC : Yes/No
Internet :Yes/No
Index :Yes/No
sm



WEB COPY



WP(MD)No.20252 of 2021

N.ANAND VENKATESH, J.

sm

TO:-

- 1.The District Collector cum Arbitrator,
(As Per N.H.A.I. Act),
National Highways-67,
Thiruchirappalli.
- 2.The District Revenue Officer,
Competent Authority of Land Acquisition (CALA),
National Highways-67,
Thiruchirappalli.

Order made in
W.P.(MD)No.20252 of 2021

Dated:
07.12.2023