



W.A.(MD) Nos.1107 and 1108 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A.(MD) Nos.1107 and 1108 of 2022

Udayakkal (died)
U.Vasantha ... Appellant/Petitioner in W.A.(MD)No.1107 of 2022

Sathaiyah (died)
S.Koorisamy ... Appellant/Petitioner in W.A.(MD)No.1108 of 2022

-vs-

- 1.The Union of India,
Represented by its Secretary,
Ministry of Road,
Transport and Highway,
New Delhi.
- 2.The Chief Engineer,
(National Highways),
Public Works Department,
State of Tamil Nadu,
Chennai.
- 3.The Project Director and Executive Engineer,
Public Works Department,
National Highways,
Karaikudi, Sivagangai District.



W.A.(MD) Nos.1107 and 1108 of 2022

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4.The District Collector,
Ramanathapuram District,
Ramanathapuram.

5.The Prescribed Authority cum Special District
Revenue Officer/Land Acquisition Officer,
Madurai – Dhanushkodi,
National Highways No.49,
Ramanathapuram District.

... Respondents/Respondents
in both writ appeals

6.Thirupathi
7.Govindamal

... Proposed Respondents/6th & 7th Respondents
in W.A.(MD)No.1107 of 2022

[R6 & R7 are impleaded vide order dated 11.09.2023
in C.M.P.(MD)No.11913 of 2023]

COMMON PRAYER: Writ Appeals have been filed under Clause 15 of Letters
Patent to set aside the order, dated 22.07.2021 made in W.P.(MD)Nos.15681
and 15677 of 2019 on the file of this Court.

In both Appeals:

For Appellant : Mr.J.John

For Respondents : Mr.S.Jeyasingh
Special Government Pleader for R1

Mr.D.Sachikumar
Additional Government Pleader
for R2, R4 & R5

Mr.Arulvadivel @ Sekar
Senior Counsel
for M/s.Arul Vadivel Associates for R3



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W.A.(MD) Nos.1107 and 1108 of 2022

COMMON JUDGMENT

[Judgment of the Court was made by S.S.SUNDAR, J.]

These Writ Appeals are directed against the order of the learned Single Judge dated 22.07.2021 made in W.P.(MD)Nos.15681 and 15677 of 2019.

2. The brief facts that are necessary for disposal of these writ appeals are as follows:

The Union of India issued a notification under Section 3A(1) of National Highways Act, 1956 in respect of the appellants' land on 29.03.2012. The lands belonging to the appellants are in Achundanvayal Village, Ramanathapuram Taluk, Ramanathapuram District to an extent of 62,994 sq.mtr. It is not in dispute that the appellants are the owners of their respective lands sought to be acquired by the Union of India under the provisions of National Highways Act. It is also not in dispute that the land owners participated in the enquiry conducted by the fifth respondent. An award was passed on 21.07.2014 in both the cases and the fifth respondent by a communication dated 23.01.2015 requested the land owners to



W.A.(MD) Nos.1107 and 1108 of 2022

surrender their possession of the properties acquired under the National Highways Act. It is admitted that the entire compensation for the land was deposited only on 28.04.2015 in all cases in this batch. The petitioners have filed the writ petitions in W.P.(MD)Nos.15677 and 15681 of 2019 to quash the award dated 21.07.2014 and to direct the fifth respondent to determine the compensation under Act 30 of 2013 (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013) in respect of the property of the petitioners. The learned Single Judge dismissed the writ petitions on the ground that the award amount has been deposited well before 01.01.2015 and therefore, the petitioners are not entitled to challenge the award and to seek further direction to get compensation payable under Act 30 of 2013. The learned Single Judge further observed that the petitioners cannot be given any relief merely on the ground that the copy of the award was served on 27.04.2015. Challenging the order of the learned Single Judge, the above writ appeals have been filed.

3. The issue was considered by this Court earlier in a batch of cases in the case of **S.Chellammal and another Vs. Union of India** [W.A.(MD)Nos. 1927 to 1930 of 2021 & 2167 to 2177 of 2021, dated 14.07.2022]. After considering the scope of relevant position of the Act particularly the clause



W.A.(MD) Nos.1107 and 1108 of 2022

4.6(iii)(a) and (b) of the notification dated 28.12.2017, this Court has held as follows:

“7. On a careful scrutiny of Clause (a) and (b), they convey a meaning only if both are read together. In this case, none of the claimants have received any amount before 31.12.2014. The applicability of Clause 4.6 (iii) (a) cannot be disputed in a case, where compensation had not been paid in case of majority of land holdings under acquisition as on 31.12.2014. In such cases, compensation is required to be paid as per Schedule I of the Act 30 of 2013. The word 'paid' used in Clause (a) assumes significance as Section 3H of National Highways Act makes a specific difference between the amount “deposited” and 'paid'. Under Section 3H(1) the amount determined under Section 3G has to be deposited with the competent authority before taking possession of the land and if the amount has been deposited as per sub-clause (1) of 3 H, the Competent Authority shall pay the amount to the persons who are entitled to. Therefore, the word 'paid' used in Clause 4.6 (iii) (a) would mean actual payment to the land owners. When a particular case falls under sub-clause (a) of Clause 4.6 (iii) of the notification, it is not necessary to consider whether the entire amount of award had been deposited by the acquiring agency with the competent authority or not.

8. Clause 4.6 (iii) (a) and Clause 4.6 (iii) (b) are found with a negative expression. The language used in sub-clause (a) is “ where awards had been announced but compensation had not been paid in respect of majority of the land holdings under acquisition as on 31.12.2014”. Sub-clause (b) refers to cases “ where the land acquisition process was initiated and award of compensation under Section 3G had



W.A.(MD) Nos.1107 and 1108 of 2022

also been announced before 01.01.2015 but the full amount of award had not been deposited by the acquiring agency with the CALA, the compensation amount would be liable to be determined in accordance with the First Schedule w.e.f. 01.01.2015". Sub-clause (a) and (b) can be applied to all cases, when the award was pronounced prior to 01.01.2015. Then sub-clause (a) is not necessary if the intention is to exclude the applicability of sub-clause (a) in cases where full amount of Award had been deposited. Even where full amount is deposited before 01.01.2015, if the compensation is not paid to majority of land holding, it has been classified that compensation would be payable in accordance with the First Schedule of Act 30 of 2013. Therefore, on a plain reading of relevant clauses in the context we are of the firm view that land owners are entitled to get compensation as per Act 30 of 2013 where compensation had not been paid to majority of land owners. Interpretation cannot be given to defeat the object. There is no provision under the Highways Act to vitiate the acquisition merely for non-payment of compensation within stipulated time. There may be variety of administrative reasons for non payment of compensation in a given case. By taking shelter under Clause 4.6 (iii) (b) any amount delay in actual payment of compensation will be justified. Therefore, a clarification by introducing sub-clause (a) of Clause 4.6 (iii) is found necessary. Therefore, a harmonious reading of the two Clauses would only lead to the conclusion that in all cases of acquisitions, where the compensation had not been paid in respect of a majority of the land holdings as on 31.12.2014, the Competent Authority has to pay the compensation in accordance with the First Schedule of Act 30 of 2013.

9. Learned counsel for the appellants relied on the decision of the



W.A.(MD) Nos.1107 and 1108 of 2022

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Hon'ble Supreme Court in *Bhuwalka Steel Indus. Ltd. v. Bombay Iron & Steel Labour Bd. & Anr.* in Civil Appeal No.8452 of 2009, wherein it is held as follows:

“35. Similarly, reliance was placed by Shri C.U. Singh, Learned Senior Counsel for the appellants on the decision in *National Insurance Co. Ltd. Vs. Laxmi Narain Dhut* [2007 (3) SCC 700]. The provisions of Motor Vehicles Act, 1988 and more particularly, Sections 147, 145 (d) and 149 fell for consideration therein. There also, the Court held that the golden rule of interpretation is that the statutes are to be interpreted according to grammatical and ordinary sense of the word in grammatical or literal meaning unmindful of consequence of such interpretation. It was only when such grammatical and literal interpretation leads to unjust results which the legislature never intended that the said rule has to give place to the "rule of legislative intent". We have already pointed out that in this case, the golden rule of interpretation would not lead to any injustice. Therefore, this ruling is more helpful to the respondents than the appellants. Another ruling, which was relied upon was *Bombay Dyeing & Mfg. Co. Ltd. Vs. Bombay Environmental Action Group & Ors.* [2006(3) SCC 434]. Reliance was placed on the observations made in para 176. Hon'ble Sinha, J. therein had quoted paras 1392, 1477 and 1480 of Halsbury's Laws of England (4th Edn.), Vol. 44(1) (Reissue). Those paras are as under:

"1392. Common-sense construction rule: It is a rule of the common law, which may be referred to as the common- sense construction rule, that when considering, in relation to the facts of



W.A.(MD) Nos.1107 and 1108 of 2022

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the instant case, which of the opposing constructions of the enactment would give effect to the legislative intention, the Court should presume that the legislator intended common sense to be used in construing the enactment.

1477. Nature of presumption against absurdity: It is presumed that Parliament intends that the Court, when considering, in relation to the facts of the instant case, which of the opposing construction of an enactment corresponds to its legal meaning, should find against a construction which produces an absurd result, since this is unlikely to have been intended by Parliament. Here 'absurd' means contrary to sense and reason, so in this context the term 'absurd' is used to include a result which is unworkable or impracticable, inconvenient, anomalous or illogical, futile or pointless, artificial or productive of a disproportionate counter-mischief.

1480. Presumption against anomalous or illogical result:

It is presumed that Parliament intends that the Court, when considering, in relation to the facts of the instant case, which opposing constructions of an enactment corresponds to its legal meaning, should find against a construction that creates an anomaly or otherwise produces an irrational or illogical result. The presumption may be applicable where on one construction a benefit is not available in like cases, or a detriment is not imposed in like cases, or the decision would turn on an immaterial distinction or an anomaly would be created in legal doctrine. Where each of the constructions contended for involves some anomaly then, insofar as the



W.A.(MD) Nos.1107 and 1108 of 2022

WEB COPY

Court uses anomaly as a test, it has to balance the effect of each construction and determine which anomaly is greater. It may be possible to avoid the anomaly by the exercise of a discretion. It may be, however, that the anomaly is clearly intended, when effect must be given to the intention. The Court will pay little attention to a proclaimed anomaly if it is purely hypothetical, and unlikely to arise in practice."

It will be seen that the absurdity which the appellants are referring again and again has to be such that it should be contrary to the sense and reason and, therefore, should include a result, which is unworkable or impracticable, inconvenient, anomalous or illogical, futile or pointless, artificial or productive of a disproportionate counter mischief. We do not think that such absurdity could be arrived at if the literal interpretation is given to the term. We, therefore, reject the argument of Shri C.U. Singh in this behalf. Once we accept the literal construction, there will be no further question of holding otherwise on the basis of the intent of the legislature. We have already pointed out that there would arise no absurdity of any kind if the literal interpretation is given."

The golden rule of interpretation is that the statutes are to be interpreted according to grammatical and ordinary sense of the word. When a literal interpretation leads to unjust results, it is for the Court to interpret the legislation so that there will be no injustice caused even by applying the golden rule of interpretation.

10. It is admitted that the entire compensation was deposited in the joint account of competent authority and the project officer of



W.A.(MD) Nos.1107 and 1108 of 2022

national Highways. The word 'deposit' as found in Clause 4.6 (iii) (b) is not satisfied in the sense that the amount was not available at the disposal of the competent authority before 01.01.2015 and the delay in payment / deposit of the amount in the accounts of the appellants has not been accounted. If Clause 4.6 (iii) (b) has to be relied, even if there is a delay of 5 years or 10 years, the National Highways Authority would develop a argument that they have deposited the entire amount with the Competent Authority within the cut of date and they are not responsible for the payment of money to individual land owners. Therefore, this Court has no hesitation to hold that the interpretation of the learned Judge is not proper and therefore, the appellants are entitled to compensation as provided under the new Act viz., Act 30 of 2013."

4. Apart from the judgment above referred to, this Court in the present case finds that the amount had been deposited only on 28.04.2015. In such circumstances, this Court is of the view that in view of the categorical pronouncement of this Court in the judgment referred to above and the fact that the award amount was deposited only on 28.04.2015 ie., after 01.01.2015, the writ petitions have to be allowed. Therefore, these writ appeals are allowed and the order passed by the learned Single Judge dated 22.07.2021 made in W.P.(MD)Nos.15681 and 15677 of 2019 are set aside. The respondents 1 to 5 are directed to determine the compensation payable for the lands belonging to the petitioners as per the provisions of Act 30 of 2013



W.A.(MD) Nos.1107 and 1108 of 2022

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(Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013) within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

[S.S.S.R., J.] [D.B.C., J.]

11.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Secretary,
Union of India,
Ministry of Road,
Transport and Highway,
New Delhi.
- 2.The Chief Engineer,
(National Highways),
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State of Tamil Nadu,
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and
D.BHARATHA CHAKRAVARTHY, J.

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W.A.(MD) Nos.1107 and 1108 of 2022

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