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Rev.Appl.Nos.122 to 131 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Rev.Appl.Nos.122 to 131 of 2023 and
C.M.P.Nos.27867, 27865, 28699, 27866, 27871, 27872, 27870,
27868, 27869, 15761, 15778, 15829, 15782, 15783, 15791,
15814, 15833, 15750, 15860 of 2023; 671 of 2024 in
W.A.Nos.173, 174, 175, 176, 177, 178, 179, 180 181, 183 of 2023

Rev.Appl.No.122 of 2023

G. Robert Jesudoss

.. Applicant

Vs

1. THE UNION OF INDIA
Rep By Its Secretary,
Ministry of Shipping, Road Transport And Highways,
New Delhi.
 2. THE COMPETENT AUTHORITY AND
SPECIAL DISTRICT REVENUE OFFICER,
National Highways,
O/O. The Villupuram District Collectorate,
Villupuram, Tamilnadu.
 3. THE PROJECT DIRECTOR
National Highways Authority of India,
No.10 Govindasamy Nagar,
Vazhudhareddy Post, Villupuram-605 401.
- .. Respondents



Rev.Appl.Nos.122 to 131 of 2023

Prayer in Rev.Appln. No.122/2023: Review Application filed under Order XLVII Rule 1 read with Section 114 of the Civil Procedure Code to review the order dated 11.4.2023 made in W.A.No.17 of 2023

For the Applicant in : Mr.N.Subramaniyan
Rev.Appl.No.122/2023

For the Respondents in : Mr.T.K.Saravanan
Rev.Appl.No.122/2023 Government Advocate
for 2nd respondent

: Mrs.S.R.Sumathi
for 3rd respondent

and batch cases

COMMON ORDER

(Order of the court was made by the Hon'ble Chief Justice)

The present review applications are filed seeking review of the order dated 11.4.2023 passed in the writ appeals filed by the present review applicants.

2. The review applicants had filed writ petitions before the learned Single Judge challenging the notifications issued under Sections 3A(1) and 3D(1) and (2) of the National Highways Act,



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1956. The review applicants, in fact, were challenging the acquisition proceedings. The review applicants had also challenged the notice seeking possession of the lands under Section 3E(1) of the Act of 1956. The review applicants further sought directions against the respondents to receive back the amount paid to the present applicants as compensation.

3. The writ petitions were dismissed. Against the said order dismissing the writ petitions, the present applicants filed writ appeals before the Division Bench. The Division Bench of this court allowed the appeals and passed the following order:

"10. In the result,

(I) The Writ Appeals are allowed;

(II) The Common Order of the Learned Single Judge dated 25.11.2022 is set aside and the Writ Petitions filed by the petitioners in W.P.Nos.15155, 15157, 15160, 15162, 15156, 15163, 18917, 15158, 15159, 15161 of 2010 are allowed on the following terms:-



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(a) The appellants/writ petitioners shall deposit the compensation amount received by them with interest at the rate of 9% per annum from the respective date of receipt of award amount till the date of deposit with the second respondent namely, the Competent Authority/Special District Revenue Officer, National Highways, Villupuram District Collectorate, Villupuram, by way of demand draft, within 8 weeks from the date of receipt of a copy of this judgment.

(b) Upon such deposit, the Writ Petitions filed by the writ petitioners in W.P.Nos.15155, 15157, 15160, 15162, 15156, 15163, 18917, 15158, 15159, 15161 of 2010 shall stand allowed on the following terms:-

(i) The notifications under Section 3A(1) and 3-D(1&2) of the National Highways Act, 1956, published in the Gazette of India, Part-II, Section 3, Sub-Section(ii) dated 16.01.2009 and 27.07.2009 respectively, and proceedings in Na.Ka.A/Tha.Ma.A /NH.66/841/2007 dated 19.05.2009 proceedings in Na.Ka.No.A/PuVaSa/66-12/07 dated 31.03.2010 and the notice seeking possession of lands under Section 3E(1) of the National Highways Act, 1956, dated 18.05.2010, shall stand quashed in as much as they



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relate to the lands of the petitioners;

(c) There shall be no orders as to costs and consequently all the connected miscellaneous petitions are closed.

(III) However, there will be no orders as to costs. Consequently, the connected miscellaneous petitions are closed.”

4. The present review applications are filed to the extent of grant of interest at the rate of 9% per annum.

5. Mr.N.Subramaniyan, learned counsel for the review applicants, submits that the court ought not to have ordered 9% interest on the amount of compensation paid to the applicants at the time of setting aside the acquisition proceedings. Upon acquisition, the lands vest with the respondent authority. As such, the applicants are not in a position to deal with the said property as the owners. The applicants are not entitled to alienate or transfer the property in whatsoever manner. The applicants, since beginning,



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were ready to refund the amount, however it is the respondents who did not accept the amount. The applicants cannot be said to be at fault. When the acquisition proceedings are held to be illegal, then directing the applicants to pay interest at the rate of 9% per annum is too harsh.

6. Learned counsel for the applicants relies upon the judgments of the Apex Court in the cases of (i) *Anil Agarwal Foundation v. State of Orissa and others*, 2023 SCC OnLine SC 407; and (ii) *Ravinder Kumar Goel v. State of Haryana and others*, 2023 SCC OnLine SC 147.

7. Learned counsel for the third respondent submits that the review applicants were in physical possession of the property throughout. The physical possession was never taken by the respondents. This court had directed the respondents not to take possession.

8. Learned counsel for the applicants submits that though the



possession remained with the present review applicants, the business activity could not be carried out. The electricity connection was also disconnected to the appellant in W.A.No.179 of 2023.

9. We have considered the submissions.

10. In the case of *Anil Agarwal Foundation* (supra), the Apex Court confirmed the judgment of the High Court, however, there is no discussion at all on the aspect of grant of interest. In the case of *Ravinder Kumar Goel* (supra), the Apex Court had directed refund of the compensation amount received by the claimants within a particular time frame and in default directed payment of interest at the rate of 9% per annum.

11. The grant of interest is the discretion of the court. There is no dispute that the applicants have received the compensation in the year 2010. The writ petitions were also filed in the year 2010. During the pendency of the writ petitions, it was open to the applicants to make an application and deposit the amount received



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by them. However, the applicants did not deposit the amount. The applicants were enjoying the property and the amount also for all these years. The amount of interest is directed to be paid as the respondents were deprived of the use and enjoyment of the said amount and, at the same time, the applicants were in a position to utilise the said amount for all these years.

12. The review cannot be considered as an appeal in disguise. The scope of review is in a narrow compass. The review certainly cannot be entertained in respect of the discretionary orders passed by the court. The grant of interest is the discretion of the court.

In the light of the above, we are not inclined to entertain the review applications. The review applications and the miscellaneous petitions are dismissed. There shall be no order as to costs.

(S.V.G., C.J.)

(D.B.C., J.)

09.01.2024

Index : Yes/No
Neutral Citation : Yes/No
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1. THE SECRETARY,
UNION OF INDIA
Ministry of Shipping, Road Transport And Highways,
New Delhi.
2. THE COMPETENT AUTHORITY AND
SPECIAL DISTRICT REVENUE OFFICER,
National Highways,
O/O. The Villupuram District Collectorate,
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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

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