



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

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CORAM :

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

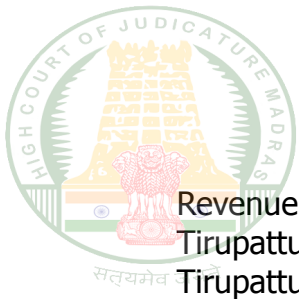
Writ Petition No.5147 of 2022

- 1.Sekar
- 2.Muniraji
- 3.Murugesan
- 4.Unnamalai
- 5.Anandan
- 6.A.Anandan

.... Petitioners

-Vs-

- 1.The Government of Tamil Nadu
Rep.by its Additional Chief Secretary to Government
Home (Police) Department
Secretariat, St.George Fort
Chennai 600 009.
- 2.The Government of Tamil Nadu
Rep. By its Principal Secretary to Government
Revenue & Disaster Management [LA-I(1)] Department
Secretariat, St.George Fort
Chennai 600 009.
- 3.The Director General of Police
No.1, Dr.Radhakrishnan Salai
Mylapore, Chennai 600 004.
- 4.The District Collector
Tirupattur District
Tirupattur-9.
- 5.The Special Tahsildar (Land Acquisition)



Revenue Divisional Officer
Tirupattur
Tirupattur District.



.. Respondents

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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records of the impugned order of the 5th respondent in Na.Ka.A4.S.R. 98 / 90 dated 04.01.2022 and calling for the entire records of the impugned G.O. (Ms) No. 401 Revenue and Disaster Management (LA-I (1)) Department dated 12.10.2018 and quash the same as it is not applicable to the petitioners case and thereby direct the respondents to pay the balance compensation amount due to the petitioners in accordance law.

For Petitioners :Mr.P.S.Kothandaraman

For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the 5th respondent dated 04.01.2022 and G.O.(Ms) No.401 dated 12.10.2018 and for a consequential direction to the respondents to pay the balance compensation amount due and payable to the petitioners.

2.The case of the petitioners is that their lands were acquired under the Land Acquisition Act, 1894 in the year 1988 (hereinafter referred to as 'the Act'). An award was passed by the Land Acquisition Officer in Award No.4/1988-89 dated 05.09.1988



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granting a partly sum of Rs.26/- per cent. Hence, an objection was made and a reference was sought for under Section 18 of the Act. The reference Court enhanced the compensation and not being satisfied, the petitioners filed AS.No.402 etc., of 2010 and they claimed a sum of Rs.15/- per Sq.feet. The appeals were allowed by this Court by a judgement and decree dated 27.08.2010. Thereafter, review application was filed in Review Application Nos.154 to 159 of 2017 and these applications were allowed by an order dated 20.09.2017.

3.The petitioners thereafter made a joint representation seeking for deposit of the enhanced compensation. Since the same was not considered, the petitioners filed WP.No.31737 of 2018, before this Court. This writ petition was disposed of by an order dated 07.01.2019, by directing the 5th respondent to pay the entire compensation to the petitioners within a period of eight weeks. Since the same was not complied with, contempt petition was filed in Cont.P.No.1323 of 2019.

4.When the contempt petition came up for hearing on 06.03.2020, the respondents relied upon G.O.(Ms) No.401 dated 12.10.2018 for computation/calculation of the compensation. Even thereafter, the compensation payable to the petitioners was not finalised. Ultimately, the contempt petition came up for hearing on 22.11.2021 and this Court passed the following order:

Today when the matter is taken up for hearing,
Mr.J.Ravindran, learned Additional Advocate General assisted by



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Mr.A.Selvendran, learned Special Government Pleader for the respondents would submit that as directed by this Court on 25.10.2021, the 3rd respondent is appearing before this Court through video conference. That apart, he also submits that the Government has passed a G.O. sanctioning compensation in G.O.(2D) No.282 dated 20.11.2021 and the compensation amount will be deposited before the Reference Court within a period of two weeks from today.

2. Mr.P.S.Kothandaraman, learned counsel for the petitioner would contend that the amount sanctioned as per the aforesaid G.O. is not the actual compensation payable to the petitioners and as per his calculation the petitioner is entitled to twelve lakhs more. In view of the dispute, learned counsel for the petitioners is directed to approach the concerned Tahsildar, Land Acquisition in relation to quantum of compensations payable to the petitioners and clarify with him regarding the quantum of compensation.

3. The presence of the 3rd respondent before this Court is dispensed with.

4. Post the matter for compliance on 20.12.2021. 22.11.20

5. Pursuant to the above order, petitioners approached the 5th respondent and made a representation requesting for payment of the balance compensation amount as per the decree. However, the 5th respondent passed the impugned order dated 04.01.2022, by relying upon G.O(Ms).No.401 dated 12.10.2018 and the judgement



passed by the Apex Court in the case of ***Gurpreet Singh .Vs. Union of India.***

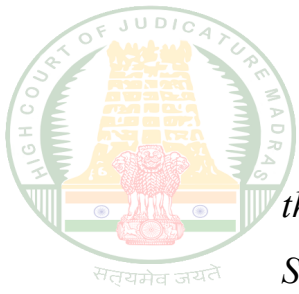
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6.The contempt petition thereafter came up for hearing on 07.01.2022 and it was closed with an observation that if the petitioners have any grievance over the order passed by the 5th respondent, it is left open to them to challenge the same. Accordingly, the present writ petition came to be filed before this Court.

7.Heard Mr.P.S.Kothandaraman, learned counsel for the petitioners and Mr.M.R.Gokul Krishnan, learned Additional Government Pleaders for respondents.

8.The case in hand is squarely covered by the earlier order passed by this Court in ***A.Dhanasgopal .Vs. The Principal Secretary to Government and Others*** reported in ***2025 Supreme (Online) (MAD) 7470.*** For proper appreciation, the relevant portions in the order is extracted hereunder:

3.G.O.Ms.No.683 dated 21.07.1997 was issued pursuant to the judgement of the Hon'ble Apex Court in Prem Nath Kapoor and another vs. National Fertilizers Corporation of India and others reported in 1996 2 SCC 71. The ratio in Prem Nath Kapoor case was subsequently over ruled by the Constitution Bench in the case of Gurpreet Singh v. Union of India reported in 2006 8 SCC 457. In view of the same, G.O.Ms.No.683, dated 21.07.1997 will be no longer valid. For



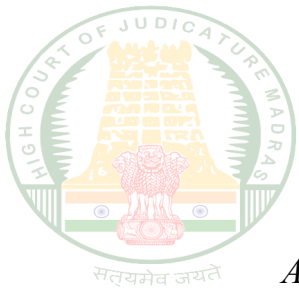
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the very same reason, the letter dated 11.03.2005 issued by the Secretary to Government, Revenue Department must also be held to be bad since such letter was given relying upon the Judgement of the Apex Court in Prem Nath Kapoor.

4.The subsequent Government Order in G.OMs.No.401 dated 12.10.2018 took note of the judgment in the case of Sundar vs. Union of India reported in AIR 2001 SCC 3516. The following direction was issued at Paragraph No.6 of the Government Order:

6. The Government, after careful examination hereby issue the following clarifications to the orders issued in the GO and letter second and third read above;--

"In all land acquisition cases, a person entitled to the compensation awarded under the Land Acquisition Act, 1894 (Central Act I of 1894), on or after 19.9.2001 is also entitled to get interest on the aggregate amount including additional market value and Solatium awarded, only with effect from 19.09.2001 as per the orders of Supreme Court of India in its judgement dated 30.09.2010 in Civil Appeal No. 1760-1761 of 2004. Regarding interest for the period prior to 19.09.2001, the procedures then in force on 18.09.2001, i.e., the claimants in the land acquisition cases are not entitled for payment of interest on the 30% solatium, and 12% additional amount

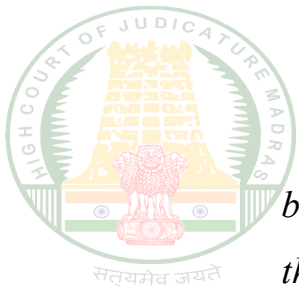


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awarded under section 23(1A) and 23(2) of the Land Acquisition Act, 1894 (Central Act 1 of 1894) shall be followed".

5.The above direction that was issued in Paragraph No.6 is not sustainable for the simple reason that the same is not in line with the judgement in Gurpreet Singh case which also clarified the position with respect to applying the ratio in Sundar case. For proper appreciation, Paragraph No.54 of the judgement in Gurpreet Singh case is extracted hereunder:

54. One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision in Sunder (supra), the awardee/decreed holder would be entitled to claim interest on solatium in execution though it is not specifically granted by the decree. It is well settled that an execution court cannot go behind the decree. If, therefore, the claim for interest on solatium had been made and the same has been negatived either expressly or by necessary implication by the judgment or decree of the reference court or of the appellate court, the execution court will have necessarily to reject the claim for interest on solatium based on Sunder (supra) on the ground that the execution court cannot go



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behind the decree. But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of Sunder (supra) and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of the judgment in Sunder (September 19, 2001) and not for any prior period. We also clarify that this will not entail any reappropriation or fresh appropriation by the decree-holder. This we have indicated by (way of clarification also in exercise of our power under Articles 141 and 142 of the Constitution of India with a view to avoid multiplicity of litigation on this question.

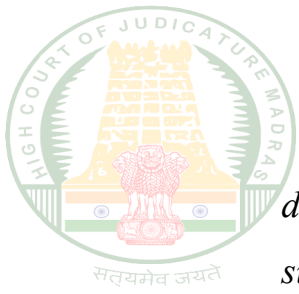
6. The above clarification given by the Apex Court makes it clear that wherever the interest on solatium has not been awarded in the decree, considering the ratio in Sundar case, such interest on solatium, can be claimed from the date of the



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judgement in Sundar case ie., from 19.09.2001. This is in view of the fact that the Execution Court cannot go behind the decree and grant the interest on solatium from the date of decree. However, this principle cannot be applied where the decree has been granted by including interest on solatium. In such cases, the interest will have to be necessarily calculated as provided in the decree and it cannot be restricted from 19.09.2001.

7.In the light of the above discussion, if Paragraph No.6 of G.O.Ms.No.401 dated 12.10.2018 is considered, it is seen that the Government has issued a clarification as if in all cases where interest on solatium is paid, it can be paid only from 19.09.2001. This direction issued by the Government is due to the wrong understanding of the judgement of the Apex Court in Gurpreet Singh case. Hence, such directions issued in G.O.Ms.No.401, dated 12.10.2018 is also not valid and the payment of interest on solatium will be squarely governed by Paragraph No.54 of the Gurpreet Singh case. The Hon'ble Supreme Court made it clear that where such interest on solatium has not been awarded by the Trial Court, the Execution Court can award such interest on solatium only from the date of judgement in Sundar case i.e, from 19.09.2001 and not for any prior period. However, if the interest on solatium has been awarded even as per the decree, then the interest cannot be restricted from 19.09.2001. Since if it is



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done, the Execution Court will be going behind the decree. In such cases, the interest on solatium will be payable from the date of decree.

8. In the light of the above discussion, there shall be a direction to the 1st respondent to issue a fresh Government Order taking note of the observations made in this order and give the necessary clarification to the District Collectors/District Revenue Officers/Land Acquisition Officers to apply the principles in Gurpreet Singh v. Union of India reported in 2006 8 SCC 457 in respect of the compensation payable to the land owners under the Land Acquisition Act, 1894. The Government Order shall be issued, within a period of four weeks from the date of receipt of copy of this order.

9. In the light of the above order passed by this Court, the impugned order passed by the 5th respondent requires interference since this Court has held that the directions issued in GO.Ms.No.401 dated 12.10.2018, is not valid and insofar as payment of interest on solatium, it will be covered by paragraph 15 of the judgement in Gurpreet Singh case. This Court also clarified that if the interest on solatium has been awarded even as per decree, then the interest cannot be restricted from 19.09.2001 as was held by the Apex Court in Sundar case. In the case in hand, this Court had granted the enhancement of compensation amount along with solatium and hence whatever was granted under the decree has to be paid to the petitioners.



10. In the light of the above discussion, the impugned proceedings of the 5th respondent dated 04.01.2022, is hereby quashed and there shall be a direction to the respondents to pay the balance compensation due and payable to the petitioners within a period of six weeks from the date of receipt of copy of the order.

11. This writ petition is allowed with the above directions. No costs.

25.04.2025

Index : Yes/No
NCS : Yes/No
KP

To

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Rep. By its Principal Secretary to Government
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4. The District Collector
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5. The Special Tahsildar (Land Acquisition)
Revenue Divisional Officer, Tirupattur
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N.ANAND VENKATESH, J.

KP

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