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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**REV.APLW No. 80 of 2021
in W.P.No.9445 of 2020**

Sadasivam

Petitioner

Vs

1. The District collector -cum - Arbitrator,
Under the National Highways Act,
Collectorate, Kancheepuram,
Kancheepuram District.

2.The Competent Authority
and Special District Revenue Officer
(L.A),
National Highways, Kancheepuram,
Kancheepuram District.

3.National Highways Authority of India,
Rep. by its Chairman,
G- 5 and 6, Sector -10, Dwarka,
New Delhi 110 075.

Respondent(s)



PRAYER Petition filed under Order 47 Rule 1 read with Section 114 of C.P.C.,
to review the order dated 08.09.2020 passed in WP.No. 9445 of 2020 and allow
the Writ Petition No.9445 of 2020.

For Appellant(s): Mr.J.Hudson Samuel

For Respondent(s): Mr.P.Sathish
Additional Government Pleader
for R1 and R2
Mr.Su.Srinivasan
Standing Counsel For R3

ORDER

This petition has been filed to review the order passed by this Court in
W.P.No.9445 of 2020 dated 08.09.2020 on the ground that there is an error
apparent on the face of the order.

2.Heard Mr.J.Hudson Samuvel, learned counsel appearing on behalf of
the petitioner, Mr.P.Sathish, learned Additional Government Pleader appearing
on behalf of respondents 1 and 2 and Mr.Su.Srinivasan, learned Standing
counsel appearing on behalf of the 3rd respondent.



3. This Court dismissed the writ petition by an order dated 08.09.2020 and

the relevant portions are extracted hereunder:

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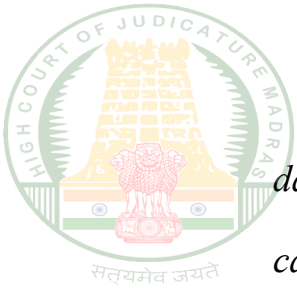
9. *The petitioner had approached this Court by challenging the award passed by the third respondent dated 30.12.2016 after nearly four years. The petitioner wants to take advantage of the judgment passed by the Hon'ble Supreme Court in **Tarsem Singh and others** reported in **2019 (9) SCC 304** referred supra. For reasons best known to the petitioner, he did not choose to challenge the award immediately like it was done by the other two co-owners. Therefore, the petitioner cannot be allowed to create a new cause of action based on the judgment of the Hon'ble Supreme Court, which was rendered on 19.09.2019. The law settled by the Hon'ble Supreme Court at a later point of time cannot become a cause of action for the petitioner to challenge an earlier award that was passed on 30.12.2016. Therefore, the request made by the petitioner that the matter has to be remanded to the third respondent to enable the petitioner to work out his remedy by claiming solatium in terms of the judgment of the Hon'ble Supreme Court is not sustainable.*



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10. *The Act itself provides for an alternative remedy of challenging the award passed by the District Collector. This alternative remedy must be resorted to and a Writ Petition cannot be filed before this Court under Article 226 of the Constitution of India. The reasoning given by the third respondent while rejecting the claim made by the other two co-owners seeking for enhancement of compensation will equally apply to the petitioner also. No useful purpose will be served by again remitting the matter to the file of the third respondent only to consider the claim made by the petitioner. The petitioner has to necessarily challenge the order passed by the second respondent and seek for whatever relief he is entitled for in law.*

11. *In view of the above discussion, the relief claimed by the petitioner cannot be granted by this Court. It is made clear that the order passed by the third respondent dated 03.09.2019 will also equally apply to the petitioner, since he is also a co-owner of the property. If the petitioner is aggrieved by the same, it is always open to the petitioner to work out his remedy in the manner known to law by filing an appropriate petition challenging the order passed by the third respondent*



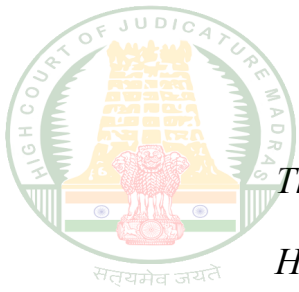
dated 03.09.2019. Except giving this liberty, no further orders can be passed by this Court.

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4.The main ground that was urged by the learned Standing Counsel appearing on behalf of National Highways Authority of India is that the proceedings have reached finality insofar as the petitioner is concerned and therefore, the petitioner cannot be allowed to take advantage of the judgement in Tarsem Singh case and revive the concluded proceedings. The learned counsel submitted that there is no error apparent on the face of the order which requires the review of the order and if at all the petitioner is aggrieved, he should file only a writ appeal.

5.When the matter was came up for hearing on 15.07.2022, this Court passed the following order:

The learned Standing counsel appearing on behalf of National Highways submitted that the order passed in a batch of writ petitions in favour of the claimants, has been taken on appeal and the same is pending before the Hon'ble First Bench.



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The learned counsel further submitted that the National Highways has also filed a clarification petition before the Apex Court seeking for a clarity on the applicability of the judgement in Tarsem Singh case for those proceedings where the acquisition is completed and determination of compensation have also been concluded. The learned counsel therefore requested this Court to keep this review petition in abeyance awaiting the further orders from the Apex Court and also the appeals pending before the Hon'ble First Bench.

2.Post this case on 18.08.2022.

6.When the matter was taken up for hearing today, the clarification order passed by the Apex Court reported in **2025 SCC Online 235** was placed before this Court. The relevant portions in the clarification order are extracted hereunder:

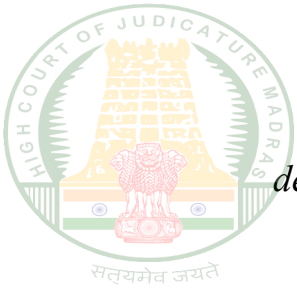
21. That being so, the decision in Tarsem Singh (supra) also cannot be assailed on the grounds that it opens a Pandora's Box or contravenes the doctrine of immutability, as it merely allows for the grant of 'solatium' or 'interest', which are inherently embedded as compensatory benefits under an



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expropriating legislation. This exercise cannot be equated to reopening of cases or revisiting the decisions that have already attained finality. Similarly, the restoration of these twin benefits does not invite reconsideration of the merits of a decided case, re-evaluation of the compensation amount, or potentially declaring the acquisition process itself to be unlawful. Instead, the ultimate outcome of Tarsem Singh (supra) is limited to granting 'solatium' and 'interest' to aggrieved landowners whose lands were acquired by NHAI between 1997 and 2015. It does not, in any manner, direct the reopening of cases that have already attained finality.

22. On the contrary, modifying or clarifying the judgment in Tarsem Singh (supra) would lend itself to violating the doctrine of immutability, undermining the finality of the decision. In fact, what the Applicant seeks to achieve, indirectly, is to evade responsibility and further delay the resolution of a settled issue where the directions given are unequivocal- Quandoaliquidprohibetur ex directo, prohibetur et per obliquumie, 'what cannot be done directly should also not be done indirectly'. This Court has, on several occasions, disapproved of the practice of filing Miscellaneous Applications as a strategic litigation tactic aimed at neutralising judicial

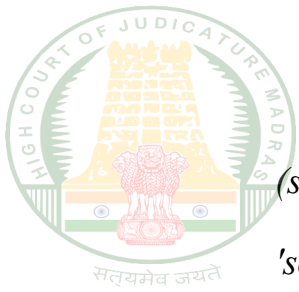


decisions and seeking a second opportunity for relief.

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23. In all fairness, the only defense that may perhaps seem appealing is the claim of a financial burden amounting to Rupees 100 crores. However, this argument does not persuade us for several reasons: First, if this burden has been borne by the NHAI in the case of thousands of other landowners, it stands to reason that it should also be shared by the NHAI in this instance, in order to eliminate discrimination. Second, the financial burden of acquiring land cannot be justified in the light of the Constitutional mandate of Article 300A. Third, since most National Highways are being developed under the Public Private Partnership model, the financial burden will ultimately be passed on to the relevant Project Proponent. Fourth, even the Project Proponent would not have to bear the compensation costs out of pocket, as it is the commuters who will bear the actual brunt of this cost. Ultimately, the burden is likely to be saddled onto the middle or upper-middle-class segment of society, particularly those who can afford private vehicles or operate commercial ventures. We are thus not inclined to entertain the plea for prospectivity on this limited tenet.

24. Lastly, as regards the decision in Sunita Mehra



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(supra), which is claimed to have prohibited the grant of 'solatium' or 'Interest' in concluded cases, we find that this position has already been addressed and clarified in Tarsem Singh (supra). Given that the Government, through the then Solicitor General, had conceded this issue at that time, it cannot now retract its stance and seek to reargue the same bone of contention. Hence, this assertion too, stands rejected.

7. In view of the above, the Apex Court came to a conclusion that the principles spelt out in Tarsem Singh case regarding the beneficial nature of granting solatium and interest, does not require any clarification and direction was given to the competent authority to calculate the amount of solatium and interest in accordance with the directions issued in Tarsem Singh case.

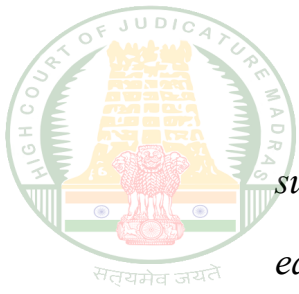
8. I had an occasion to deal with the same issue in W.P.No.18325 of 2020 which is reported in **2020 SCC Online Mad 6301**. While hearing this writ petition, the order passed in W.P.No.9445 of 202 was brought to my notice and I rendered the following findings:



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6. *The above order will squarely apply to the facts of the present case also. In the considered view of this Court, the request made by the petitioner for payment of the solatium and additional amount with interest cannot be termed as re-opening a settled claim. It is not as if this claim was made by the petitioner and rejected on the merits of the case. The compensation was not paid under these heads since Section 3-J was in force and therefore the compensation could not have been granted under these heads. Therefore, the petitioner is entitled to claim compensation under these heads.*

7. *The learned Standing Counsel appearing on behalf of National High ways brought to the notice of this Court the earlier orders passed by this Court in W.P.No.9445 of 2020, dt.08.09.2020 and submitted that similar such request made in that writ petition was rejected by this Court. In the considered view of this Court, the facts of the case involved in the said order is completely different from the facts of the present case. That apart, even assuming that the earlier order gives an impression as if the solatium and additional amount cannot be claimed after the judgment of the Hon'ble Supreme Court in **Tarsem Singh**,*



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such a view may not be correct and a Court which feels that an earlier view was wrong, need not bind itself with that view. As the Court gets wiser, it must correct its view wherever it finds that the earlier view was not in accordance with law.

9. In the considered view of this Court, in the subsequent order passed by me, I came to the conclusion that I did not take the correct view in W.P.No.9445 of 2020 and changed my view by considering the judgment in Tarsem Singh case. Hence, the order passed in the writ petition necessarily requires review.

10. As held by the Apex Court in the clarification order, the grant of solatium or interest which are inherently embedded as a compensatory benefit to the land owners, was not granted to the land owner by the relevant provisions which was struck down in Tarsem Singh case. Therefore, all those land owners who did not receive the solatium and interest between the period 1997 and 2015 will be entitled to receive the same. Hence, it is not a case of reopening a concluded lis and it is only a case of granting compensation to which the petitioner is legally entitled.



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11. In the light of the above discussion, this Court is inclined to review the order passed in the writ petition and accordingly, the order stands reviewed and there shall be a direction to the petitioner to make a fresh representation before the 1st respondent along with all the relevant documents and also a copy of this order and the 1st respondent on receipt of the same shall issue notice to the petitioner as well as National Highways Department and pass necessary orders with respect to the grant of solatium and interest, within a period of eight weeks from the date of receipt of the representation from the petitioner.

12. In the result, this review application is allowed with the above directions.

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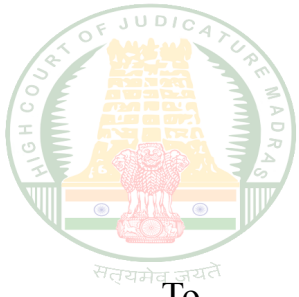
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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New Delhi 110 075.



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REV.APLW No. 80 of 2



N.ANAND VENKATESH J.

SSR

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in W.P.No.9445 of 2020**

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