



W.A.Nos.2161, 2834 of 2018 & 2488 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.A.Nos.2161, 2834 of 2018 & 2488 of 2013

and

M.P.No.1 of 2013, C.M.P.Nos.23554 & 16743 of 2018

W.A.No.2161 of 2018 :

1.The Government of Tamil Nadu,
Represented by its Chief Secretary,
Fort St. George, Chennai – 600 009.

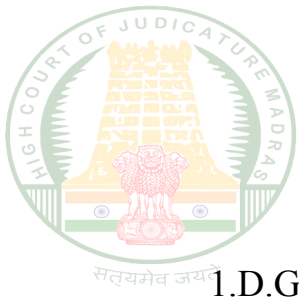
2.The Secretary,
Public (Law & Order.F) Department,
Fort St. George, Chennai – 600 009.

3.The Home Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

4.The District Collector,
Tuticorin District at Tuticorin.

... Appellants

Vs.



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1.D.G.Rajan alias Gnanaraj,
Managing Director,
Indian Tropical Agro Products (P) Ltd.

2.Raja Agency,
Post Box No.141,
Opp. Bharat Petroleum Products,
Bye-Pass Road, Madathur,
Tuticorin – 628 008.

... Respondents

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.04.2013 in W.P.No.10146 of 1999 on the file of this Court.

For Appellants : Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs.Mythreye Chandru
Special Government Pleader

For Respondents : Mr.Madhan Babu

W.A.No.2834 of 2018 :

1.The Government of Tamil Nadu,
Represented by its Chief Secretary,
Fort St. George, Chennai – 600 009.

2.The Secretary,
Public (Law & Order.F) Department,
Fort St. George, Chennai – 600 009.



W.A.Nos.2161, 2834 of 2018 & 2488 of 2013

3.The District Collector,
Tuticorin District at Tuticorin.

... Appellants

Vs.

1.St.John Freight Systems Ltd.,
C-98, SIPCOT Industrial Complex,
Tuticorin – 628 008.

2.T.Johnson

... Respondents

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.04.2013 in W.P.No.6163 of 1999 on the file of this Court.

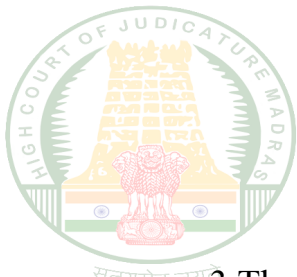
For Appellants : Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs.Mythreye Chandru
Special Government Pleader

For Respondents : Mr.Madhan Babu

W.A.No.2488 of 2013 :

1.The Government of Tamil Nadu,
Represented by its Chief Secretary,
Fort St. George, Chennai – 600 009.

2.The Secretary,
Public (Law & Order.F) Department,
Fort St. George, Chennai – 600 009.



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3. The District Collector,
Tuticorin District at Tuticorin.

... Appellants

Vs.

P.P.M.Thangaiah Nadar Firm,
Represented by its Partner T.P.Prakasam,
No.154, New Colony, Tuticorin.

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.04.2013 in W.P.No.2705 of 1999 on the file of this Court.

For Appellants : Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs.Mythreye Chandru
Special Government Pleader

For Respondents : Mr.B.Madhan Babu

COMMON JUDGMENT

(Judgment was delivered by **S.S. SUNDAR, J.**)

The above three Writ Appeals arise out of a common order, dated 09.04.2013, allowing the writ petitions filed by the respondents herein, in W.P.Nos.10146, 6163 & 2705 of 1999. Since the facts are almost identical



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and common arguments were advanced by the learned counsel on either side, the above Appeals are disposed of by this common judgment.

2. Brief facts that are necessary for the disposal of these Appeals are as follows :

2.1. There was a communal clash in Thoothukudi on 09.05.1996 between members of Barathar (Fernando) and Nadar Communities, which continued unabated for a few days. Police firing took place on 11.05.1996 and few persons died due to Police firing. During the communal clash and due to rioting, arson and looting took place, resulting in damages caused to the valuable properties of worth several Crores to several business persons belonging to both groups. People belonging to business class of Thoothukudi shut down their shops from 16.05.1996 demanding adequate Police protection and payment of compensation to those who had sustained loss due to the communal clash. It was alleged that the Law Enforcing Authorities of the State failed to enforce law and order and that the rioting and communal clash got aggravated by total inaction and failure on the part of Law Enforcing Authorities.



WEB COPY 2.2.It was at that stage, the Government decided to enquire into the matter and pay compensation to the victims of Police firing and others who also got injured due to explosion of country bombs and stone pelting, etc. Pursuant to the decision of the Government, the Government of Tamil Nadu, in exercise of its powers conferred under Section 3(1) of the Commissions of Inquiry Act, 1952, vide G.O.Ms.No.534, Public (Law and Order.F) Department, dated 25.05.1996, constituted a One Man Commission of Enquiry and Mr.V.K.Thirunavukkarasu, District Judge, presiding over the Special Court under Essential Commodities Act, Madurai, was appointed as Commissioner of Enquiry. The terms of reference are as follows :

- i. To inquire into and report the causes and circumstances that led to the clashes between two communities in Thoothukudi from 10.5.1996 and subsequent occurrences of Law and Order disturbances.*
- ii. To inquire into and report the causes and circumstances that led to the opening of fire by the Police on 11.5.1996, and as to whether the Police firing is justified.*
- iii. To inquire into and to identify the victims who sustained injuries and also the persons who actually suffered loss or*



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damages to property, business establishment, etc., in the above mentioned violent incidents and to assess the extent of damages and to suggest the quantum of compensation to be paid to the victims.

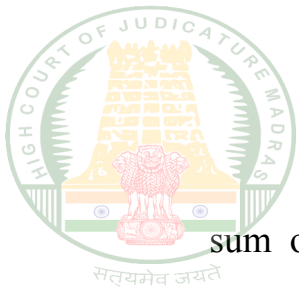
- iv. *To recommend suitable measures to prevent such occurrences in future and also to suggest measures to maintain communal harmony and lasting peace.*

2.3.The District Collector also constituted independent Committees to assess the damages caused to two groups of persons and their properties due to the communal clash from 09.05.1996 to 15.05.1996.

2.4.The One Man Commission of Enquiry constituted by the Government conducted elaborate enquiry. After taking 12 months, examining 281 witnesses, and making spot inspection, a Report dated 25.06.1997 was filed. It is admitted in this proceedings that the said report was accepted by the Government vide G.O.S.S.No.(II) 495-5-97, dated 16.10.1997.



WEB COPY 2.5.As per the report of the One Man Commission, the private respondents in these Appeals, who are writ petitioners, are found to have suffered substantial damages. Before the Commission, the respondents also produced several witnesses and documents. It is pointed out that the District Committee constituted by the Collector also assessed the value of damages. The One Man Commission, though rejected the claims of a few individuals, recommended compensation in its report under three Categories. Under Category-A, claims of 84 persons were considered. Under Category-B, claims of 112 persons were considered. Under Category-C, claims of 28 persons were considered. Almost all the claims were considered and a fair assessment is said to have been made by the Commission before making its recommendations. The Commission has recommended a sum of Rs.1,84,42,775/- in favour of the respondent in W.A.No.2488 of 2013, who is the writ petitioner in W.P.No.2705 of 1999. Similarly, the Commission has recommended a sum of Rs.70,00,000/- in favour of the respondents in W.A.No.2161 of 2018, who are the writ petitioners in W.P.No.10146 of 1999. The Commission has recommended a

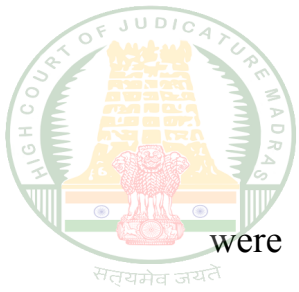


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sum of Rs.85,74,000/- in favour of the respondents in W.A.No.2834 of 2018, who are the writ petitioners in W.P.No.6163 of 1999.

2.6. Even though the report of the One Man Commission was accepted by the Government in principle, the Government vide G.O.Ms.No.1834, Public (Law & Order.B) Department, dated 06.11.1998, sanctioned compensation to 186 persons equal to the quantum of loss sustained by the claimants or Rs.2,00,000/- whichever is less.

2.7. It is pertinent to mention that the compensation recommended by the Commission in respect of more than 170 persons is less than Rs.2,00,000/-. However, the Government, while sanctioning compensation to the claimants as per the report, directed payment of compensation equal to the quantum of loss sustained by the claimants or Rs.2,00,000/- whichever is less. Therefore, several writ petitions were filed by persons whose loss were assessed by the Commission at more than Rs.2,00,000/-, after refusing to receive the compensation as suggested by the Government. When a batch of writ petitions in W.P.Nos.2705, 6163 and 10146 of 1999



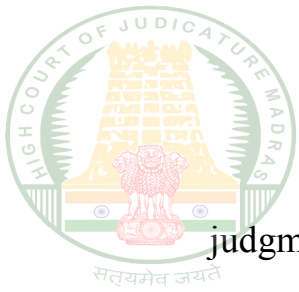
were listed before the learned Single Judge, an order of reference was passed by the learned Single Judge by order dated 10.11.2000. The terms of reference are as follows :

“8.Considering all the above aspects and in view of the fact that the decisions referred to above relate only to compensation for the loss of life and no decision fixing the responsibility of the State for payment of compensation for the loss of property of the citizens was put-forth before this Court except the decision in “Coimbatore case” and also in view of the fact that the issue had not been seriously raised before the Division Bench of this Court in Writ Appeal No.314 of 1989 dated 8.12.1998 and considering the happenings of frequent communal clashes now-a-days in many parts of the State, involving loss of valuable life and damage to properties, I am of the view that an authoritative decision is called for by a Larger Bench of this Court. It has to be considered in view of the deletion of Article 19(1)(f) of the Constitution, viz., right of a citizen to challenge (sic) the freedom of property from Chapter-III of “Fundamental Rights”, whether it is obligatory on the part of the State to compensate the entire loss caused to the properties of citizens due to communal clashes, etc.”



WEB COPY 2.8. Thereafter, the Full Bench of this Court, by order dated 29.09.2006, reported in **2006 (5) CTC 97**, answered the reference in favour of claimants holding that, compensation for loss to the property can also be claimed under Article 226 of the Constitution of India. The Full Bench also examined the question relating to the value to be attached to the report of a Commission constituted under the Commissions of Inquiry Act, and held that, even if the report of the Commission of Enquiry is not legally binding and has not got evidentiary value, once such report, to the extent it is accepted by State, it would not be fair on the part of the State to contend that it is not bound by the findings of the Commission of Inquiry.

2.9. There is no difficulty for this Court or any of the learned counsel to accept the order of the Full Bench as one in favour of the writ petitioners to the effect that the Government has accepted to pay compensation to the victims of riot as suggested by the One Man Commission. Since the matter was thereafter placed for hearing before the Single Bench, the writ petitions were heard by learned Single Judge of this Court. After referring to the



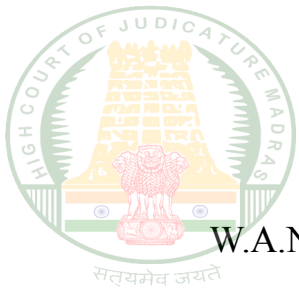
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judgment of the Full Bench, the learned Single Judge disposed of the writ

petitions with the following directions :

“16. In view of all the above, the respondents are directed to make the payment of compensation to the petitioners as derived by the Commission appointed by the State Government within three months from the date of receipt of a copy of this Order and even though, the petitioners are entitled for 12% interest, no order has been passed in respect of the same aiming that the amount will be settled very soon. In the event of failure to settle the same within the time prescribed by this Court, the petitioners are entitled for the said compensation amount with 9% interest”.

2.10. Thereafter, the respondents in W.A.Nos.2161 of 2018 and 2834 of 2018 who are the writ petitioners in W.P.Nos.10146 of 1999 and 6163 of 1999, filed Writ Appeals in W.A.Nos.1589 and 1525 of 2013 challenging the order of the learned Single Judge claiming interest for the amount at the rate of 9% p.a. A Division Bench of this Court, by order dated 30.06.2017 in W.A.Nos.1589 and 1525 of 2013, after recording the fact that the Government had not paid the compensation amount to the appellants therein, held that the appellants therein, namely, the respondents in



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W.A.Nos.2161 of 2018 and 2834 of 2018, are entitled to interest at the rate of 9% p.a. The Division Bench has also recorded that the State is ready to pay interest at the rate of 9% p.a. on account of their failure to pay the amount. A direction was also issued to the State Government to pay the amount to the appellants therein as directed by the learned Single Judge in his order dated 09.04.2013 in W.P.Nos.10146 of 1999 and 6163 of 1999 and interest at the rate of 9% p.a. within a period of three months from the date of production of copy of the order. Similarly, a Writ Appeal in W.A.No.2343 of 2013 was filed by the respondent in W.A.No.2488 of 2013, who is the writ petitioner in W.P.No.2705 of 1999, claiming interest. The same Division Bench, by order dated 19.01.2018, observed that the issue is covered by the judgment dated 30.06.2017 in W.A.Nos.1589 and 1525 of 2013. In the second order also, the State Government was directed to pay the amount to the appellant therein, the respondent in W.A.No.2488 of 2013, as directed by the learned Single Judge in the other two cases with interest at the rate of 9% p.a., within a period of three months from the date of receipt or production of a copy of the order.



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2.11.However, it is now reported that the Government of Tamil Nadu

has preferred Special Leave Petitions as against the orders of Division Bench dated 30.06.2017 and 19.01.2018 in W.A.Nos.1589 and 1525 of 2013 and W.A.No.2343 of 2013 respectively.

2.12.While so, the Government has preferred the above Writ Appeals as against the order of the learned Single Judge dated 09.04.2013 in W.P.Nos.2705, 6163 and 10146 of 1999.

3.Learned Additional Advocate General appearing for the appellants submitted that the order of the learned Single Judge directing the appellants to pay compensation as derived by the Commission appointed by the State Government, is erroneous, arbitrary, and opposed to legal principles. Since the Government has already directed disbursement of compensation in terms of G.O.Ms.No.1834, Public (Law & Order.B) Department, dated 06.11.1998, it is contended by the learned Additional Advocate General that no compensation can be directed as per the report of the One Man Commission which is not binding on the Government. The learned



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Additional Advocate General reiterated that the report or findings of the Commission of Inquiry are just recommendations which can be taken only as an information to the Government and the report of Commission is not binding on the Government. Further, it is contended by the learned Additional Advocate General that the Government will be overburdened in case the report of the Commission is directed to be implemented.

4.This Court is unable to countenance any of the submissions of the learned Additional Advocate General. We have carefully considered the report of the One Man Commission. The One Man Commission has examined several witnesses and considered several documents while assessing the damages caused to the respondents and others. It is not the case of the appellant that the report, as such, is vague or prepared without any basis. The recommendations of the Commission was on the basis of physical inspection, documents produced, and witnesses examined. The One Man Commission had cautiously valued the damages and the report was accepted by the Government. The One Man Commission assessed the damages on the basis of documents and the report of the One Man



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Commission was accepted by the Government in principle. The District Administration (Collector) also formed Committees to assess the damages.

Even though the damages assessed by the Committees constituted by the District Collector are not the same, the Government has no reason to reduce the compensation as recommended by the One Man Commission. The reduction in compensation is not on any rational basis. The Government has not made any independent assessment of damages either on the basis of materials collected by the One Man Commission or on the basis of materials produced by the District Collector.

5.It is seen from the report of the Commission that the One Man Commission has awarded more than Rs.2,00,000/- only in the case of 7 out of 84 claimants under Category-A. Similarly, even under Category-B, 5 out of 112 claims were awarded more than Rs.2,00,000/-. In Category-C, only 2 out of 28 claimants were recommended to get compensation above Rs.2,00,000/-. Therefore, out of the entire list, more than 95% of the claims have been admitted and settled in full. As stated earlier, the Government has sanctioned a compensation of Rs.2,00,000/- or the actual amount of



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damages, whichever is less, to all those who suffered property damages due to the communal clashes. The Government, even in the Government Order impugned, has not given any reason for fixing a ceiling of Rs.2,00,000/-. The decision of the Government restricting the claim to Rs.2,00,000/- is arbitrary, discriminatory, irrational and against public policy. When the Government has admitted its liability by awarding compensation to 95% of the persons who suffered damages on account of the rioting, the rejection of substantial claim of the respondents herein is discriminatory and shows the most unfair treatment to the respondents. Therefore, the Government Order in G.O.Ms.No.1834, Public (Law & Order.B) Department, dated 06.11.1998, is opposed to Article 14 of the Constitution of India. As a matter of fact, this Court finds no merit in any of these Appeals.

6.During the course of hearing, the learned Additional Advocate General produced before this Court an order dated 18.11.2024 in S.L.P. (Civil) Diary No.52230 of 2024 pending before the Hon'ble Supreme Court as against the order of the Division Bench of this Court dated 30.06.2017 in W.A.Nos.1589 and 1525 of 2013 and order dated 19.01.2018 in



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W.A.No.2343 of 2013, wherein, the Division Bench of this Court directed

payment of interest at the rate of 9% p.a. for the delay in payment. The Hon'ble Supreme Court has observed that the Division Bench while passing the impugned judgment, has overlooked the aspect that the Government had restricted the payment of compensation to Rs.2,00,000/-. Therefore, while recording the submission on behalf of the State Government, the Hon'ble Supreme Court granted stay of operation of the impugned judgment except to the extent that the Government of Tamil Nadu will pay compensation in terms of G.O.Ms.No.1834, Public (Law & Order.B) Department, dated 06.11.1998. Subsequently, the Hon'ble Supreme Court, while granting leave, disposed of the Appeal with a direction that a sum of Rs.2,00,000/- will be paid along with interest @ 6% p.a. with effect from 06.11.1998 till the date of payment. The Hon'ble Supreme Court also requested this Court to dispose of the pending Writ Appeals uninfluenced by the present order or the interim order passed by the Hon'ble Supreme Court on 18.11.2024.

7. Therefore, this Court is of the view that the above Appeals need not



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be kept pending having regard to the observations of the Hon'ble Supreme

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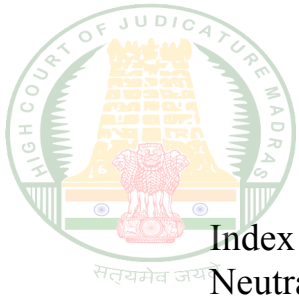
Court. Apart from pointing out the illegality in the impugned order restricting the claim to a sum of Rs.2,00,000/-, it is also relevant to point out that the same issue was argued at length earlier and the Full Bench of this Court, while answering the reference on 29.09.2006 in respect of three writ petitioners who are respondents in these Appeals, has given a categorical finding that the Government has a duty to act fairly since the report of the Commission is accepted.

8. Therefore, this Court finds no merit in these Appeals. Accordingly, these Writ Appeals are dismissed. The Government is directed to pay compensation to the respondents in these Appeals in accordance with the recommendations of the One Man Commission along with interest at the rate of 6% p.a. from 06.11.1998 till the date of payment. No costs. Consequently, connected miscellaneous petitions are closed.

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(S.S.S.R., J.) (P.D.B., J.)
30.01.2025

Internet : Yes



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Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.
- 2.The Secretary,
Public (Law & Order.F) Department,
Fort St. George, Chennai – 600 009.
- 3.The Home Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.
- 4.The District Collector,
Tuticorin District at Tuticorin.

S.S. SUNDAR, J.



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W.A.Nos.2161, 2834 of 2018 & 2488 of 2013

and
P. DHANABAL, J.

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W.A.Nos.2161, 2834 of 2018 & 2488 of 2013

30.01.2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

CORAM

**THE HONOURABLE MR JUSTICE S. S. SUNDAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

WA No. 2161 of 2018

AND

**WA NO. 2488 OF 2013,WA NO. 2834 OF 2018,CMP NO. 16743 OF
2018,CMP NO. 23554 OF 2018**

The Government of Tamil Nadu
Rep.By Its Chief Secretary For St.
George Chennai - 9

Appellant(s)

Vs

D.R.Rajan Alias Gnanaraj
Managing Director Indian Tropical
Agro Products (p) Ltd.,

Respondent(s)

WA No. 2488 of 2013

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Appellant(s)

Vs

P.P.M. Thangiah Nadar Firm
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No.154 New Colony Tuticorin

Respondent(s)

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The Government Of Tamil Nadu
Rep By Its Chief Secretary, Fort
St.George, Chennai 9

Appellant(s)

Vs

St.John Freight Systems Ltd
C-98, Sipcot Industrial Complex,
Tuticorin 628 008

Respondent(s)

CMP No. 16743 of 2018

The Government of Tamil Nadu
Rep.By Its Chief Secretary For St.
George Chennai - 9 AND 3 OTHERS

Appellant(s)

Vs

D.R.Rajan Alias Gnanaraj
Managing Director Indian Tropical
Agro Products (p) Ltd., and another

Respondent(s)

CMP No. 23554 of 2018

The Government Of Tamil Nadu
Rep By Its Chief Secretary, Fort
St.George, Chennai 9 AND 2
OTHERS

Appellant(s)

Vs

St.John Freight Systems Ltd
C-98, Sipcot Industrial Complex,
Tuticorin 628 008 and another

Respondent(s)



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W.A.Nos.2161, 2834 of 2018 & 2488 of 2013

WA No. 2161 of 2018

For Appellant(s): Mr. G.Nanmaran, Special
Government Pleader.

For Respondent(s): Mr. B.Madhan Babu For
Respondent

ORDER

(Order of the Court was made by S.S.Sundar J.)

Today, the matter is listed under the caption “for being mentioned”.

2.This Court, while dismissing the Writ Appeals by judgment dated 30.01.2025, directed the Government to pay compensation along with interest at the rate of 6% p.a. However, learned counsel for the respondents seeks modification of the interest portion. As there are factual issues which have to be considered and it may prejudice any one of the parties if we modify the order, this Court is not inclined to modify the order and we leave it open to the parties to file a review.

(S.S.SUNDAR J.)(P.DHANABAL J.)
29-04-2025



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Index: Yes/No

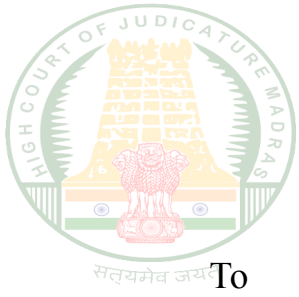
Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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1.D.R.Rajan Alias Gnanaraj
Managing Director Indian Tropical
Agro Products (p) Ltd.,

2.Raja Agency
Post Bo No.141, Opp. Bharat
Petroleum Products Bye-pass Road
Madathur, Tuticorin - 628 008.

3.P.P.M. Thangiah Nadar Firm
Rep. By Partner T.P. Prakasam
No.154 New Colony Tuticorin

4.St.John Freight Systems Ltd
C-98, Sipcot Industrial Complex,
Tuticorin 628 008

5.T.Johnson
106-4/66, Millerpuram, Tuticorin
628 006



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**S.S.SUNDAR J.
AND
P.DHANABAL J.**

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**WA No. 2161 of 2018
AND WA NO. 2488 OF
2013, WA NO. 2834 OF
2018**

29.04.2025