



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 07-03-2025**

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

**WP No. 28133 of 2019  
and WMP Nos. 27780 & 27781 of 2019**

1. A.Dhanasgopal

Petitioner(s)

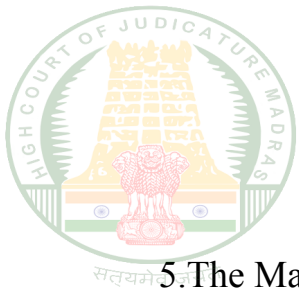
Vs

1. The Principal Secretary to Government,  
Revenue Department, Secretariat,  
Chennai-600 009

2.The Special Commissioner and  
Commissioner of Land Administration  
Chepauk, Chennai- 600 005

3.The Member Secretary, Chennai  
Metropolitan Development Authority,  
Egmore, Chennai-600 008

4.The Special Tahsildar  
Land Acquisition, Chennai Metropolitan  
Development Authority, Egmore,  
Chennai-600 008



5. The Managing Director  
Tamil Nadu Housing Board, Nandanam,  
Chennai-600 035

6. The District Revenue officer,  
Land Acquisiton, Tamil Nadu Housing  
Board Schemes, Nandanam,  
Chennai-600 035

Respondent(s)

**PRAYER** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent pertaining to 1.G.O.MS No.683, Revenue Department dated 21.07.1997, 2. G.O.MS No.401, Revenue and Disaster Management (LA-1) (1) Department dated 12.10.18 and 3.Letter No.558 (LA1(1) 05-2 dated 11.3.2005 quashing the same and consequentially direct the Respondents 1 and 2 to give necessary directions to the District Collectors/District Revenue officers/Land Acquisition officers to apply the Principles declared by the Hon'ble supreme Court of India reported in **2006 8 Supreme court Cases, Page 457 (Gurpreet Singh- vs Union of India)** in respect of the compensation payable to the Land Wwners under the Land Acquisition Act, 1894 (Central Act 1 of 1894).

For Petitioner(s): Mr.M.S.Subramanian

For Respondent(s): Mr.M.R.Gokul Krishnan  
Additional Government Pleader  
for R1, R2, R4 and R6  
Mr.A.M.Ravindranath Jeyapal  
for R6  
Mr.R.Thamarai Selvan  
Standing Counsel for R3



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**ORDER**

This writ petition has been filed challenging G.O.Ms.No.683, dated 21.07.1997, G.O.Ms.No.401, dated 12.10.2018 and Letter No.558(LAI(1) 05-02 dated 11.03.2005 and for a consequential direction to the 1<sup>st</sup> and 2<sup>nd</sup> respondents to give necessary directions to the District Collectors/District Revenue Officers/Land Acquisition Officers to apply the principles declared by the Hon'ble Apex Court 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.

2.The issue that is involved in the present writ petition was already dealt with by Hon'ble Mr.Justice N.Seshasayee (as he then was) in W.P.No.446 of 2017 in ***Hemavathy and others vs. The Secretary to Government, Revenue Department and others***, dated 19.12.2017. The relevant portions are extracted hereunder:



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3. *In this petition, the learned counsel alleged that the ratio in PremNath Kapoor case decided by a Bench of three Judges of the Supreme Court and referred to and relied on by the first respondent in the correspondence now impugned in these proceedings has since been overruled by a Constitutional Bench of the Supreme Court in the case of Gurupreet Singh vs. Union of India [(2006) 8 SCC 457]. Hence, this aforesaid correspondence of the first respondent is no more valid and is contrary to the principles governing the and d the Land Acquisition Authorities were wrong in following the direction given in the impugned correspondence.*

4. *Mr.A.Zakir Hussain, the learned Government Advocate entered appearance for filed by them. the respondents and no counter affidavit has filed by them.*

5. *The learned counsel for the petitioners submitted that even as on 06.11.2009, when the First Appeal was disposed of by this Court the principles laid down in the authority in Gurupreet Singh Vs. Union of India (2006) 8 SCC 457] has come to have force and hence, the calculation of interest by the authorities on*



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*6.A careful reading of the judgement of the Hon'ble Supreme Court in Gurpreet Singh case does indicate that it actually overturns the entire ratio in Premnath case, though there is Limited overruling. In the context of case at hand, the principles which the Supreme Court has declared in Gurpreet Singh case are:*

- *Where a part payment of compensation was received, the decree-holder/the erstwhile owner of the land can first adjust it against the interest, then the cost and then the principal amount payable out of it.*
- *Where this appropriation has been done once, later when the balance amount is paid, the appropriation earlier made cannot be reopened and the entire transaction cannot be reworked by recalculating the interest payable on the whole and Fresh appropriation towards interest, cost and principal based thereon cannot be done.*
- *In cases when part of the amount awarded by the Reference Court or by the appellate Court is deposited pursuant to an interim order of the appellate Court or of the further*



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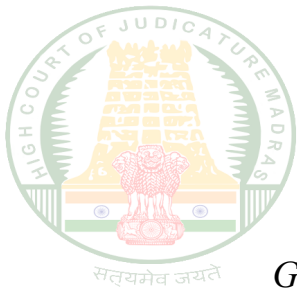


*appellate court and the awardee withdraws the same, and subject to the fact that such appeal is decided in his favour;*

- *the decree-holder would be entitled to appropriate the amount already received by him pursuant to the interim order first towards interest, then towards costs and the balance towards principal as on date of the withdrawal of the amount and claim interest on the balance amount of enhanced compensation.*
- *However, on the part amount already appropriated towards principal, the interest would cease from the date on which the amount is received by the awardee.*
- *If however, the Court, passes the interim order enabling withdrawal of part amount has indicated the mode of appropriation then that would prevail.*

*7. It is therefore evident that whatever direction was given under the letter dated 11.03.2005 of the first respondent directing the sixth respondent to calculate the interest in terms of the principles initiated in the case of Premnath case to the extent, the*

*same is at variance with the decision of the Supreme Court in*



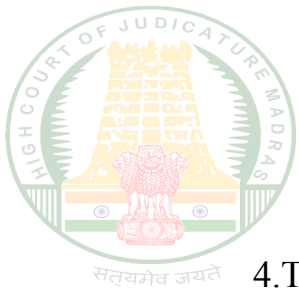
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*Gurpreet Singh case [(2006) 8 SCC 457] cannot be sustained.*

*8. It should not forgotten that what is now impugned is only an administrative letter and not any Executive Order and it need not be even set at naught. In stead it is sufficient to direct the first respondent to issue fresh administrative communication in terms of the ratio in Gurpreet Singh case. However, this is optional, since when law is declared by the Supreme Court nothing contrary to what is so declared can have force.*

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 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.***



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4. The subsequent Government Order in G.O.Ms.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*



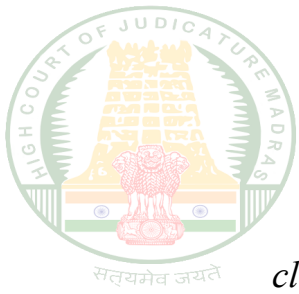
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*amount awarded under section 23(1A) and 23(2) of the Land Acquisition Act, 1894 (Central Act 1 of 1894) shall be followed".*

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:

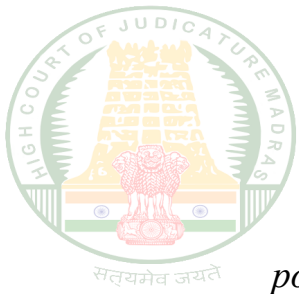
*54. One other question also was sought to be raised and answered by this Bench though not referred to it. Considering that the question arises in various cases pending in Courts all over the country, we permitted counsel to address us on that question. That question is whether in the light of the decision 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*



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*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 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 re-appropriation or fresh appropriation by the decree-holder. This*

*we have indicated by way of clarification also in exercise of our*

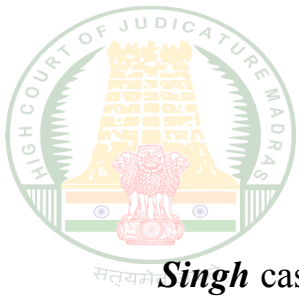


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*power under Articles 141 and 142 of the Constitution of India  
with a view to avoid multiplicity of litigation on this question.*

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 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

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**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 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 1<sup>st</sup> 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  
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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 result, this writ petition stands allowed with the above directions.

No Costs. Consequently, connected miscellaneous petitions are closed.

**07-03-2025**

**(1/2)**

Index: Yes

Speaking

Internet: Yes

Neutral Citation: Yes

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To

1. The Principal Secretary to Government,  
Revenue Department, Secretariat,  
Chennai-600 009
2. The Special Commissioner and  
Commissioner of Land Administration  
Chepauk, Chennai- 600 005
3. The Member Secretary, Chennai  
Metropolitan Development Authority,  
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**N.ANAND VENKATESH J.**

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