

WP No. 38904 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : **26-06-2025**

Delivered on : **11.08.2025**

CORAM

THE HONOURABLE MR JUSTICE M. SUNDAR

AND

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 38904 of 2016

AND

WMP.No. 33326 of 2016

T.Ashok Surana

..Petitioner (Party in person)

Vs

1.The Competent Authority,
National Highways Authority of India,
Kancheepuram Collectorate,
Kancheepuram.

2.The Project Director,
National Highways Authority of India,
Sri Towers, 3rd Floor,
DP34 Sp Industrial Estate,
Guindy, Chennai-600032.

3.The Authorised Officer,
Small Industries Development Bank of India,
Overseas Towers,
756L Anna Salai (Opp TVS)
Chennai- 600002.



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4.The Authorised Officer,
Indian Bank,
ARMB 1 Branch,
55, Ethiraj Salai, Egmore,
Chennai-600008.

5.Encore Asset Reconstruction Company Pvt.Ltd.,
Having Office at 101, Executive Zone,
766, Ground Floor, Anna Salai, Chennai-600002.

By authorised signatory,
R.Suresh Kumar,
S/o.N.A. Ramachandra Raja
(R5- Impleaded vide order of this
Court dated 13.02.2025)
..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus to the 1st & 2nd respondents that the petitioners are eligible for award to be fixed as per The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 including solatium and the same be paid in the ratio of the land released and mortgaged to the petitioner firm and 3rd respondent in proportion, subject to the outcome of this and other proceedings pending or to be initiated, and hold excess, if any with it as per the directions of this Court, or hold the award in relation to the property mortgaged in fixed deposit with a Bank to the satisfaction of this Court till the outcome of all the proceedings pending before the Court and pass such further or other orders.



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For Petitioner : Mr. T.Ashok Surana (Party-in-Person)

For Respondent : Mr.V.Ravi, Spl.GP – R1

Mr.Su.Srinivasan, Sr.Standing Counsel-R2

Mr.C.P. Hem Kumar

For M/s.Ganesh & Ganesh – R3

Mr.J. Kifif Tonna Sharon &

Mr.V.Kalyanaraman

For M/s. Aiyar and Dolia – R4

M/s.K.Gomathi

For Mrs.R.Sumathy - R5

ORDER

HEMANT CHANDANGOUDAR, J.

The petitioner in the captioned writ petition seeks the issuance of a writ of mandamus, directing respondents 1 and 2 to determine and pay just and proper compensation under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act' for the sake of clarity and convenience).

2. Factual Background:

2.1. The land measuring 180 square meters, situated in Ward B, Block No. 53, T.S. No. 36/2, Old Survey No. 144, in Ambattur Village, Ambattur Taluk, Tiruvallur District, is the subject matter of the present writ petition



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(hereinafter referred to as ‘the said land’ for clarity and convenience).

2.2. Initially, a notification under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as the ‘1956 Act’) was issued for the purpose of building, construction, maintenance, management, and operation of Chennai Bypass (Phase III, connecting National Highway No. 4), proposing to acquire the said land along with other lands. This notification under Section 3A(1) was followed by a notification dated 21.02.2006 under Section 3D of the 1956 Act, and the passing of an award dated 30.11.2006 under Section 3G(1) of the 1956 Act.

2.3. Owing to an incorrect description of the said land, the earlier acquisition proceedings were withdrawn. Subsequently, a fresh notification under Section 3A of the 1956 Act was issued on 06.10.2009, again proposing to acquire the said land for the same purpose. This was followed by a notification under Section 3D of the 1956 Act, issued on 27.04.2010.

2.4 The petitioner challenged these notifications in W.P. No. 12199 of 2010, in which this Hon’ble Court, by order dated 11.06.2010, granted an interim stay of the acquisition proceedings. However, the said writ petition was subsequently dismissed as withdrawn by order dated 15.02.2016, with liberty



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reserved to the petitioner to approach the appropriate authority for compensation in accordance with law. The interim stay granted earlier was also specifically vacated.

2.5. Thereafter, the Competent Authority and Special District Revenue Officer (Land Acquisition), National Highways, Kancheepuram and Tiruvallur Districts, at Kancheepuram, passed an award dated 30.11.2016, determining compensation of Rs. 59,00,456/- as payable for the acquisition of the said land.

2.6. Taking exception to the compensation determined under the 1956 Act, the present writ petition has been filed seeking just and proper compensation under the 2013 Act.

3. The petitioner, appearing party-in-person, made the following submissions:

- i. The said land was originally acquired through a notification issued under Section 3A(1) of the National Highways Act, 1956 (hereinafter 'the 1956 Act'), which culminated in the passing of an award dated 30.11.2006. Upon such acquisition, the land vested with the Central Government free from all encumbrances. Therefore, the respondent National Highways Authority of India (NHAI) was precluded from issuing a fresh notification to acquire the very same land for the



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same purpose, in the absence of an express order of withdrawal from the earlier acquisition or any statutory provision under the 1956 Act permitting such withdrawal.

ii. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter 'the 2013 Act') came into force on 01.01.2014. As of that date, no valid award had been passed in respect of the said land. It is undisputed that the First, Second, and Third Schedules of the 2013 Act became applicable to land acquisitions under the 1956 Act with effect from 01.01.2015. Therefore, since no award was passed until 31.12.2014, the compensation ought to have been determined in accordance with the 2013 Act. The failure to do so has resulted in denial of just, fair, and equitable compensation to the petitioner.

iii. The impugned award dated 30.11.2016 is only a draft award and, as per the applicable procedure, can be acted upon only upon approval by the competent authority/higher officer. As such, until such approval is granted, the award does not attain legal finality and is therefore not a valid award in the eyes of law.



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iv. The claim made by respondents 3 to 5, i.e., the Financial Institutions, for recovery of loan amounts allegedly secured by the subject land is barred by limitation, as the demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) was issued on 21.04.2011. As per Article 55 of the Limitation Act, 1963, the limitation for such recovery has expired. Furthermore, against a total alleged due of Rs. 85,34,172.18, the borrower has already paid an excess amount of Rs. 50,000/-, and therefore, respondents 3 to 5 have no enforceable right or claim over the said land.

In support of his submission, he placed the reliance on the following decisions;

1. Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another. **(1961 AIR 1500)**
2. Union of India Vs. Tarsem Singh and Ors. **(2019 INSC 1061)**
3. M/s. Delhi Airtech Services Pvt. Ltd. & Anr. Vs. State of U.P. & Anr. **2011 INSC 590**
4. Union of India and Ors. V. Brigadier P.S. Gill. **(2012) 4 SCC 463**
5. Pankaj Gupta Vs. Union of India.



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6. New Okhla Industrial Development Authority Vs. Lt. Col. J.B. Kuchhal (Dead) Through LRS. and Ors. **(2020) 18 SCC 619**
7. Mahanadi Coal Fields Ltd. & Anr. Vs. Mathias Oram & Ors. **((2022) INSC 1158)**
8. State of Rajasthan Vs. Surendra Mohnot. **(MANU/SC/0579/2014)**
9. Syndicate Bank Vs. Channaveerappa Beleri and Ors. **(MANU/SC/2032/2006)**
10. Competent Authority Vs. Barangore Jute Factory and Ors. **(MANU/SC/2053/2005)**
11. Special Agricultural Produce Market Committee for Fruits and Vegetables, Golimangla Vs. N. Krishnappa and Ors. **9MANU/SC/0429/2017)**
12. Luka Mathai (Dead) by Legal... Vs. Neelakanta Iyer Subramonia Iyer **(1972 AIR 383)**
13. Atma Ram Mittal Vs. Ishwar Singh Punia. **(1988 AIR 2031)**
14. Pankaj Bhargava and anr. Vs. Mohinder Nath and Anr. **(1991 AIR 1233)**
- 15 P. Chinnanna Vs. State of A.P. **((1994) 5 SCC 486)**
16. Smt. Bailamma @ Doddabailamma (dead) and Ors. Vs. Poornapraja House Building Co-operative Society and Ors. **(2006 AIR SCW 689)**
- 17 Indian Bank Vs. ABS Marine Products (P) Ltd. **((2006) 5 SCC 72)**
18. A.B. Bhaskara Rao Vs. Inspector of Police, CBI Visakhapatnam. **(2011 AIR SCW 5539)**
19. Bernard Francis Joseph Vaz and Ors. Vs. Government of Karnataka and Ors. **((2025) INSC 3)**
20. Sudhir Shantilal Mehta Vs. CBI. **[(2009) 8 SCC 1]**



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21. Ritesh Tewari and Anr. Vs. State of U.P. and Ors. **(MANU/SC/0742/2010)**
22. The Executive Engineer, Gosikhurd vs. Mahesh and Ors. **(MANU/SC/1042/2021)**
23. Faizabad-Ayodhya Development Authority Vs. Rajesh Kumar Pandey and Ors. **(MANU/SC/0700/2022)**
24. Harihar Nath and Ors. vs. State Bank of India and Ors. **[(2006) 4 SCC 457]**
25. All India Institute of Medical Sciences Vs. Sanjiv Chaturvedi & Ors. **[(2020) 17 SCC 602]**
26. The State of Uttar Pradesh & Ors. Vs. Pratyush Rawat & Ors. **[MANU/SCOR/19723/2025]**

4. Submissions of the 1st respondent:

Mr. V. Ravi, learned Special Government Pleader appearing for the 1st respondent, made the following submissions:

4.1 The petitioner cannot question the validity of the acquisition proceedings culminating in the passing of the award dated 30.11.2016, having already withdrawn the earlier writ petition in W.P. No. 12199 of 2010. The liberty preserved to the petitioner in the said writ petition was only to claim compensation in relation to the acquisition of the said land.

4.2 The award was passed after following all the procedures prescribed under law, and the compensation amount was deposited before the



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jurisdictional court on 20.09.2017. If the petitioner is dissatisfied with the quantum of compensation determined under the impugned award, he has an alternative remedy by taking recourse to arbitration proceedings by filing an application before the arbitrator appointed by the Central Government, as provided under sub-section (5) of Section 3(G) of the Act 1956. Therefore, the present writ petition is not maintainable and deserves to be dismissed in limine.

4.3 The award was not passed within a reasonable time after issuing the final notification under Section 3(D)(1) of the Act 1956 due to the interim stay granted by this Court in W.P. No. 12199 of 2010, which was in force from 11.06.2010 to 15.02.2016. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “Act 2013”) came into effect on 01.01.2014. Therefore, deducting the period during which the interim stay was operative, the impugned award was passed,, and therefore , the guidelines issued by the Central Government, which prescribe that Act 2013 shall be applicable to acquisitions under the NHAI Act with effect from 01.01.2015 are not applicable ..

4.4 In support of these submissions, reliance is placed on the decision of



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the Hon'ble Supreme Court in *Faizabad–Ayodhya Development Authority v. Rajesh Kumar Pandey*, (2022) 18 SCC 507.

5. Mr. Su. Srinivasan, learned Senior Standing Counsel representing the 2nd respondent / NHAI, submitted as follows:

5.1 The challenge in the present writ petition to the impugned award passed under Section 3(G)(1) of the Act 1956 is not maintainable, since sub-section (5) of Section 3(G) of the Act 1956 provides for arbitration in relation to the determination of compensation by an arbitrator to be appointed by the Central Government. In support of this contention, reliance is placed on the judgment of the Division Bench of this Court in W.A. No. 2627 of 2019, dated 05.02.2020.

5.2 The petitioner's assertion that the subsequent acquisition is void on the ground that an earlier award dated 30.11.2006 already exists is misconceived and devoid of merit. The earlier acquisition proceedings were withdrawn due to an incorrect block number in the notification issued under Section 3(D)(1) of the Act 1956. Furthermore, the petitioner challenged the notification dated 06.10.2009 issued under Section 3(A)(1) of the Act 1956 in W.P. No. 12199 of 2010, which was later withdrawn on 15.02.2016. Hence, the



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petitioner is estopped from now contending that the subsequent award is invalid.

5.3 A plain reading of the impugned award indicates that it is a final award passed under Section 3(G)(1) of the Act 1956. There is no provision, guideline, circular, or order requiring approval of the award by any higher authority. Pursuant to the impugned award, the amount determined has been deposited before the Sub-Court, Poonamallee.

5.4. In W.P. No. 12199 of 2010, an interim order of stay was granted by this Court, which remained in force until 15.02.2016. This restrained the competent authority from conducting an enquiry and passing the award during that period. Though an application was filed to vacate the interim order, it was not disposed of until the petition was withdrawn. Therefore, the petitioner cannot now claim the benefit of delay and seek compensation under Act 2013. Reliance is placed once again on the decision of the Hon'ble Supreme Court in Faizabad–Ayodhya Development Authority v. Rajesh Kumar Pandey, (2022) 18 SCC 507.

5.5 The present writ petition has been filed seeking compensation under the Act 2013, without specifically challenging the validity of the acquisition



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proceedings. However, during oral arguments, the petitioner sought to challenge the acquisition itself. Since there is no such foundational pleading in the writ petition, the oral arguments made in this regard cannot be entertained. In support, reliance is placed on the decision of the Hon'ble Supreme Court in the case of *National Building Construction Corporation Vs. S.Raghunathan & Others (Civil Appeal No. 4483 of 1998)* and *National Building Construction Corporation Vs. S.P.Singh & Others (Civil Appeal No. 4484 of 1998)*, reported in [(1998) 7 SCC 66].

6. Submission of the 3rd respondent

6.1 The petitioner had filed W.P. No. 733 of 2015 seeking a writ of declaration declaring that the notice dated 18.11.2013, revoking the guarantee issued by the petitioner to this respondent bank, is bad in law, illegal, and barred by law. The said writ petition was opposed through an application under Order VII Rule 11(a) & (e) of the Code of Civil Procedure. A predecessor Bench of this Court, vide order dated 30.10.2015, dismissed the writ petition as devoid of merits and frivolous, observing that the petitioner, being the managing partner of the company, was liable and that the bank was entitled to recover its dues under appropriate provisions of law.



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6.2 A suit in O.S. No. 105 of 2011 was filed by M/s. Tunor Engineering Company against M/s. Surana Industries and this respondent bank for specific performance of a contract, seeking a direction to the defendants to execute the sale deed in respect of the subject property based on a sale agreement dated 10.08.2011. The jurisdictional trial court, vide judgment dated 29.01.2014, decreed the suit in favour of the plaintiff in respect of the prayer for specific performance and directed the petitioner and this respondent to execute the sale deed in favour of the plaintiff. Suppressing the existence of this decree, the petitioner has filed the present writ petition. Therefore, the writ petition is liable to be dismissed in limine for suppression of material facts.

6.3. The petitioner also addressed a letter dated 01.11.2016 to the 3rd respondent, calling upon this respondent to produce the original documents before the competent authority and to collect the portion of the award payable to this respondent. Hence, having admitted the liability, the petitioner cannot now turn around and contend that the claim of this respondent is time-barred or that the entire loan amount has been repaid.

7. Submissions of the 4th Respondent:

7.1 The petitioner, M/s. Surana Industries, of which the petitioner is the



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Managing Partner, created a second charge over the subject property in favour of this respondent. Therefore, this respondent is not a necessary party to the present proceedings. Moreover, the debt owed by M/s. Surana Industries has since been assigned to the 5th respondent. In the absence of any pleadings, much less any specific prayer, the petitioner cannot question the actions taken by this respondent for recovery of the loan amount. The scope of the relief sought in this writ petition cannot be expanded to challenge the initiation of recovery proceedings undertaken by this respondent.

8. After considering the rival submissions made by the learned counsel for the parties and upon perusal of the writ records, the following points arise for consideration:

1. Whether this writ petition seeking a mandamus in relation to an award passed under Section 3(G)(1) of the National Highways Act, 1956, is maintainable?
2. Whether the oral submissions made by the petitioner/party-in-person, challenging the recovery proceedings initiated by the respondent financial institutions, are time-barred and impermissible, and whether such arguments can be entertained in the present writ petition?



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3. Whether the petitioner/party-in-person has established entitlement to compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013)?

9. Point 1:

Before delving into the points that arise for consideration, it is pertinent to reproduce Section 3(G) of the National Highways Act, 1956, which reads as follows

“3G. Determination of amount payable as compensation.—

(1). Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2). Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3). Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4). Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a



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legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5). If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6). Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7). The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”



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A plain reading of Section 3(G) of the National Highways Act, 1956, indicates that if any party to the award passed under sub-section (1) is dissatisfied with the quantum of compensation, such party may seek redetermination of the compensation amount by making an application to the Arbitrator appointed by the Central Government under sub-section (5). However, the said provision does not contemplate or provide for a challenge to the legality or validity of the award itself on grounds other than quantum.

9.1. In the present case, the petitioner has not merely questioned the adequacy of the compensation determined under the award dated 30.11.2016 but has challenged its very legality, contending that he is entitled to compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “Act 2013”). According to the petitioner, the impugned award was passed beyond the cut-off date specified under the guidelines issued by the Central Government, which mandated the application of the Act 2013 to acquisitions made under the National Highways Act, 1956, with effect from 01.01.2015. The petitioner asserts that, in view of the delay in



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passing the award, the compensation ought to have been determined under the provisions of the Act 2013 and not under the earlier Act.

9.2. In view of the nature of the relief sought, the writ petition cannot be said to be a mere challenge to the quantum of compensation. Rather, it involves a substantial question of law regarding the applicability of the Act 2013 and whether the award dated 30.11.2016 is legally sustainable in that context.

9.3. Accordingly, we are of the view that the writ petition, to the extent it is construed to challenge the legality of the award on the ground of applicability of the Act 2013, is maintainable in law. However, the issue as to whether the petitioner is, in fact, entitled to compensation under the Act 2013 will be examined under Point No. 3 below.

10. Point No.2

10.1. On perusal of the memorandum of the writ petition, we find that the petitioner has not made any specific averment or pleaded that the respondent financial institutions are estopped from initiating recovery proceedings under the SARFAESI Act or any other applicable law on the ground that such proceedings are time-barred or otherwise impermissible, particularly in light of



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the petitioner's alleged repayment of the entire loan amount. Furthermore, there is no prayer seeking such relief in the writ petition.

10.2. In any event, the claim of the petitioner and the counterclaim raised by the respondent financial institutions involve disputed questions of fact, which cannot be adjudicated in a writ petition of this nature. Writ jurisdiction is primarily exercised for the enforcement of fundamental rights or for the correction of jurisdictional errors and illegality; it is not intended to function as a forum for the trial of disputed factual issues, especially where alternative remedies are available.

10.3. Accordingly, the captioned writ petition insofar as it seeks to challenge the recovery proceedings initiated by the respondent financial institutions is not maintainable and cannot be adjudicated at this stage. However, the petitioner is at liberty to pursue appropriate remedies before the competent civil or quasi-judicial forums having jurisdiction over such disputes.



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11. Point No. 3:

11.1. Initial notification under Section 3(A) of the Act 1956 proposing to acquire the subject land was received on 08.12.2004 which culminated in passing of an award dated 30.11.2006 under Section 3(G)(1) of the Act 1956. The compensation determined in relation to the subject land was Rs.22,47,723/- .

11.2. The petitioner raised an objection that the block number of the subject property was wrongly described as 33 instead of 53. Although the description of the subject property was mere irregularity and not illegality since the petitioner had filed objections and also participated in the enquiry before passing of an award, the NHAI instead of proceeding with the earlier notification and proceeded to abandon the earlier proceedings. More so, in the backdrop that the said land was already registered with the central government upon publication of the final notification under section 3(D) and sub section 2 clearly states that on publication of declaration under sub section 1, the land vest absolutely with the central government free from all the encumbrances.



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11.3 Once the land vested with the central government under sub section 2, there is no provision under the act for divesting the land/withdrawing the acquisition proceedings. The petitioner's contention that fresh acquisition proceedings could not initiated holds no water since he withdrew the writ petition in W.P.12199 of 2010 voluntarily without preserving any right to file a petition afresh challenging the acquisition proceedings on the ground that the NHAI was not empowered to initiate fresh acquisition after the said land was vested with the central government under Section 3(D)(2) of the Act 1956. The order passed in W.P.No. 12911 of 2010, dated reads as follows;

"2. The petitioner, who is appearing in person, submitted that though the petitioner has approached this Court, by way of this Writ Petition, challenging the notification issued by the second respondent under Section 3 c of National Highways Act, 1956, he would state that, his objection has been considered; his grievance has been redressed, and what remains to be done is that, payment of compensation alone. This being a separate claim, at this stage of the matter, no direction can be given, except to record the said submission of the petitioner appearing in person. Accordingly, this Writ Petition stands closed based on the said submission. In consequence thereof, the interim order stands vacated, and, it is open to the petitioner to move the concerned Authority for claiming compensation in accordance with statute. No



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costs. Consequently, M.P.No.2 of 2010, viz, the stay petition is dismissed, M.P.No.3 of 2010, viz., the vacate stay petition is disposed of, M.P.Nos.1 of 2010 and 1 of 2015, viz., the dispense with petition and direction petition are closed .“

Therefore the contention of the petitioner/ party in person that that award is vitiated on account of initiating fresh acquisition proceedings is impermissible and cannot be accepted.

12. Writ Petition in W.P. No.12199 of 2010 was filed challenging the notification issued 3(A) and 3(D)(1) of the Act 1956 and this Court vide order dated 11.06.2010 granted an interim order of stay. Admittedly, the NHAI filed a vacating stay petition, the interim order granted was in currency from 11.06.2010 till disposal of the said writ petition ie., 15.02.2016.

13. In the backdrop of the aforesaid facts, the claim of the petitioner as to whether he is entitled for compensation under the Act 2013 requires to be considered. The Act 1956 does not prescribe any limit for passing of an award upon declaration of the final notification under Section 3(D)(1) of the Act 1956, therefore the award should be passed within a reasonable time.



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14. During pendency of the writ petition in W.P. No. 12199 of 2010, the Land Acquisition Act 1984 was repealed by the Act 2013, which came into effect from 01.01.2014. Section 105 of the Act deals with the subject of applicability of provisions of the Act 2013 to the related statutes enumerated in the 4th schedule. Sub Section 3 of Sec 105 empowers the central government to issue notification within one year from the date of the commencement of the Act, directs that any provision of this act relating to the determination of compensation in accordance with first schedule and rehabilitation and resettlement specified in the 2nd and 3rd schedule being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the 4th schedule. The petitioner has placed on record the proceedings of the Government of India, Ministry of Road Transport and Highways, dated 28.12.2017 and on perusal of the same, it indicated that in exercising the power under Section, the central government issued a letter dated 29.04.2015 whereby the select provisions of the Act 2013 were made applicable to National Highways Act 1956 w.e.f. 01.01.2015. Therefore, it is undisputed that if an award is not passed under Section 3(G)(1) of the Act 1956 before 31.12.2014, the determination of compensation must be paid in



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accordance with the provisions of the Act 2013.

15. In the instant case, the award is dated 30.11.2016, however the competent authority had determined the award under the Act 1956, stating that the petitioner had obstructed the award proceedings in W.P. No 12199 of 2010 in which an interim order of stay was operating cannot be allowed to claim the benefit under the Act 2013 and the delay in passing the award is attributable to the petitioner and not the competent authority i.e.,NHAI. The Apex Court in the case of ***Faizabd Aodya Devleopment Authority*** held as follows;

"Object and purpose of providing Sub-section (1) of Section 24 of Act, 2013 is to save acquisitions which had been initiated under Act, 1894, where no award had been made or where an award had been made Under Section 11 of Act, 1894.

Expression "where no award Under Section 11 of the said Land Acquisition Act has been made" has to be read contextually and not by way of a plain reading. This is because a land owner who has an interim order of stay of further proceedings pursuant to the declaration made Under Section 6 of the Act, 1894 issued by a Court of law and has thereby restrained the Collector/Land Acquisition Officer from making an award cannot thereafter by contending that as on 01.01.2014, no award has been made by the acquiring authority seek benefit under the provisions of the Act, 2013 by receiving a higher compensation.

On interpreting sub-section (2) of Section 24 of the 2013 Act, the



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Constitution Bench of the Supreme Court in Indore Development Authority (LAPSE-5 J.). (2020) 8 SCC 129 had ultimately concluded as under:

(1) The time of five years is provided to the authorities to take action, not to sleep over the matter.

(2) Only in cases of lethargy or inaction and default on the part of the authorities and for no other reason lapse of acquisition can occur.

(3) Lapse of acquisition takes place only in case of default by the authorities acquiring the land, not caused by any other reason or order of the court.

(4) The additional compensation @ 12% provided under Section 69 of the 2013 Act has been excluded from the period acquisition proceedings have been held up on account of the interim injunction order of any court.

(5) If it was not possible for the acquiring authorities, for any reason not attributable to them or the Government, to take requisite steps, the period has to be excluded.

(6) In case the authorities are prevented by the court's order, obviously, as per the interpretation of the provisions, such a period has to be excluded.

(7) The intent of the 2013 Act is not to benefit landowners only. The provisions of Section 24 by itself do not intend to confer benefits on litigating parties as such, while as per Section 114 of the 2013 Act and Section 6 of the General Clauses Act the case has to be litigated as per the provisions of the 1894 Act.

(8) It is not the intendment of the 2013 Act that those who have assailed the acquisition process should get benefits of higher compensation as contemplated under Section 24 (of the 2013 Act).

(9) It is not intended by the provisions that in case, the persons, who have litigated and have obtained interim orders from the civil



courts by filing suits or from the High Court under Article 226 of the Constitution should have the benefits of the provisions of the 2013 Act except to the extent specifically provided under the 2013 Act.

(10) In cases where some landowners have chosen to take recourse to litigation and have obtained interim orders restraining taking of possession or orders of status quo, as a matter of practical reality it is not possible for the authorities or the Government to take possession or to make payment of compensation to the landowners. In several instances, such interim orders also have impeded the making of an award.

(11) However, so far as awards are concerned, the period provided for making of awards under the 2013 Act (sic 1894 Act) could be excluded by virtue of Explanation to Section 11-A, which provided that in computing the period of two years, the period during which any action or proceeding to be taken in pursuance of the declaration is stayed by an order of a court shall be excluded.

12) The litigation initiated by the landowners has to be decided on its own merits and the benefits of Section 24(2) should not be available to the litigants in a straitjacket manner. In case there is no interim order, they can get the benefits they are entitled to, not otherwise. Delays and dilatory tactics and sometimes wholly frivolous pleas cannot result in benefitting the landowners under sub-section (1) of Section 24 of the 2013 Act.

(13) Any type of order passed by the Supreme Court would inhibit action on the part of the authorities to proceed further, when a challenge to acquisition is pending.

(14) Interim order of stay granted in one of the matters of the landowners would cause a complete restraint on the authorities to proceed further to issue declaration.

(15) When the authorities are disabled from performing duties due to impossibility, it would be a sufficient excuse for them to save



them from rigour of provisions of Section 24 of the 2013 Act. A litigant may have a good or a bad cause, be right or wrong. But he cannot be permitted to take advantage of a situation created by him by way of an interim order passed in his favour by the Court at his instance. Although provision of Section 24 of the 2013 Act does not discriminate between landowners, who are litigants or non-litigants and treat them differently with respect to the same acquisition, it is necessary to view all of them from the standpoint of the intention of Parliament. Otherwise, anomalous results may occur and provisions may become discriminatory in itself.

(16) The law does not expect the performance of the impossible.

(17) An act of the court shall prejudice no man.

(18) A party prevented from doing an act by certain circumstances beyond his control can do so at the first subsequent opportunity.

(19) When there is a disability to perform a part of the law, such a charge has to be excused. When performance of the formalities prescribed by a statute is rendered impossible by circumstances over which the persons concerned have no control, it has to be taken as a valid excuse.

(20) The Court can under its inherent jurisdiction ex debito justitiae has a duty to mitigate the damage suffered by the defendants by the act of the Court.

(21) No person can suffer from the act of Court and an unfair advantage of the interim order must be neutralised.

(22) No party can be permitted to take shelter under the cover of Court's order to put the other party in a disadvantageous position.

(23) If one has enjoyed under the Court's cover, that period cannot be included towards inaction of the authorities to take requisite steps under Section 24 as the State authorities would have acted and passed an award determining compensation but for the Court's order."



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16. What emerges from the ratio enunciated in the aforesaid cited decisions is summarised as follows :

- i. Section 24(1) of the 2013 Act does not automatically grant benefits (like higher compensation or lapse of acquisition) to landowners if the delay in making the award was on account of restraint orders passed by the courts.
- ii. Landowners cannot take advantage of delays caused by their own legal challenges (e.g., interim orders they obtained to stop acquisition). Time lost due to such orders must be excluded.
- iii. Lapse of acquisition under Section 24(2) can occur only due to inaction by authorities, not because of court orders or actions by landowners.
- iv. The law does not intend to reward litigants who delayed acquisition proceedings by filing cases or using dilatory tactics.
- v. No party should benefit unfairly from orders passed in their favour which hinder acquisition proceedings.
- vi. When acquisition is delayed due to circumstances beyond the



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control of authorities , those delays don't count against the government.

vii. The bottom line is that Landowners cannot claim higher compensation or that acquisition has lapsed under the 2013 Act if the delay was due to court orders they themselves obtained. The law aims to ensure fairness, not reward obstruction through litigation.

17. The aforesaid principles were laid down in the context of landowners contending that the award under Section 11 of the Land Acquisition Act, 1894, had not been passed within a period of two years from the date of publication of the declaration under Section 6 of the said Act. Consequently, it was argued that, in terms of the provisions of Section 11-A of the Act of 1894, the land acquisition proceedings had lapsed. Alternatively, the landowners submitted that, since the acquisition proceedings were not completed within the prescribed time, the award should be passed under Section 24(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013



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18. In the present case, the acquisition is governed by the National Highways Act, 1956 (“the 1956 Act”), which does not prescribe any time limit for passing the award following the publication of a declaration under Section 3-D. Further, there is no post 2013 amendment to 1956 Act for determination of compensation in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“the 2013 Act”).

19. The Government of India, Ministry of Road Transport and Highways, issued a circular dated 13.01.2016 after obtaining the opinion of the learned Additional Solicitor General of India. He opined that:

“In cases initiated under the NH Act, 1956, where the award has not been announced by 31.12.2014, the RFCTLARR Act, 2013 will apply under Section 24(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

20. Subsequently, the Government of India issued comprehensive revised guidelines dated 28.09.2017. According to these guidelines, it was clarified that the First, Second, and Third Schedules of the 2013 Act would be applicable to



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acquisitions under the 1956 Act with effect from 01.01.2015. It was further clarified that in all cases where land acquisition awards under Section 3(G) of the 1956 Act had not been announced by 31.12.2014, or where awards had been announced but compensation had not been paid for the majority of land holdings under acquisition as on 31.12.2014, compensation would be payable in accordance with the First Schedule of the 2013 Act.

21. However, the said guidelines do not restrict the determination of compensation under the 2013 Act in cases where the respondent authorities were prevented from passing the award prior to the commencement of the 2013 Act due to orders of restraint, stay, or injunction issued by courts of law.

22. In the instant case, a declaration under Section 3(D)(1) of the 1956 Act was issued on 27.04.2010. A notice for conducting an enquiry with respect to the award was issued, calling upon the petitioner to appear for the enquiry scheduled on 11.06.2010. On that very day, the petitioner filed W.P. No. 12199 of 2010, wherein an interim stay order was granted by the learned Single Judge. The writ petition was eventually disposed of on 15.02.2016, granting liberty to the petitioner to claim compensation in accordance with the applicable statute.



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23. Following the disposal of the said writ petition, the impugned award dated 30.11.2016 was passed by the competent authority, determining the value of the land at Rs. 25,57,962/- along with interest at the rate of 9% from 26.05.2010 to 30.11.2016, and the value of the structure at Rs. 9,69,633/- along with interest at the rate of 9% from 01.12.2006 to 30.11.2016, resulting in a total compensation of Rs.59,00,456/-.

24. However, the petitioner was denied compensation under the 2013 Act based on an opinion dated 23.08.2016 from the learned Additional Solicitor General of India, who opined that the petitioner was entitled to compensation based on the market value prevailing at the time of the Section 3(A)(1) notification under the 1956 Act, and not under the provisions of the 2013 Act.

25. Notably, the impugned award does not specify that the petitioner is disentitled to compensation under the 2013 Act on account of any delay attributable to him. Moreover, the opinion of the learned Additional Solicitor General of India was not annexed to the award served upon the petitioner.



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Although the award refers to the said opinion being communicated by the Project Director, NHAI, to the first respondent, the delay cannot be solely attributed to the petitioner.

26. The petitioner had earlier approached this Court in W.P. No. 12199 of 2010, contending that the first respondent had initiated acquisition proceedings by issuing a notification dated 08.01.2004 under Section 3(A) of the 1956 Act, which culminated in an award dated 30.11.2006. Therefore, the petitioner submitted that the first respondent could not have initiated fresh acquisition proceedings by issuing another notification dated 06.10.2009, followed by a declaration under Section 3(D)(1) on 27.04.2010.

27. The earlier award dated 30.11.2006 was not implemented on the ground that the said land was incorrectly described in the initial acquisition notification under Section 3(A)(1) of the 1956 Act. However, a mere discrepancy in the description of the property in the notification cannot be a valid ground for withdrawing or abandoning the acquisition, particularly when the property is otherwise identifiable and the petitioner had participated by



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filing objections in the enquiry.

28. The petitioner had filed objections to the notification dated 08.10.2004 under Section 3(C) of the 1956 Act and had also participated in the enquiry under sub-section (2) of Section 3(C). Although the petitioner withdrew W.P. No. 12199 of 2010 on 15.02.2016, the delay in completing the acquisition process since 08.01.2004 is also attributable to the conduct of the first respondent in withdrawing the earlier proceedings initiated under the notification dated 08.01.2004, which had culminated in the award dated 30.11.2006.

29. The petitioner has been unlawfully deprived of the full and unencumbered enjoyment of the said land from the year 2004 to 2009, during which period the earlier acquisition proceedings, initiated by the authorities to acquire the said land, were ultimately withdrawn on the ground of incorrect description of the said land. In such circumstances, the petitioner cannot be faulted for questioning the legality and validity of the subsequent acquisition proceedings. Furthermore, the petitioner, in exercising his legitimate legal rights approached this Court and duly obtained an interim order. The



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invocation of writ jurisdiction before this Court cannot be construed as improper or unjustified.

30. In addition, the petitioner appearing as party-in-person—is also entangled in recovery proceedings initiated by the respondent financial institutions. Given the peculiar facts and circumstances of the case, the petitioner is entitled to the determination of compensation under the provisions of the 2013 Act.

31. Even assuming, arguendo and without admitting the compensation ought to have been determined in accordance with the provisions of 1956 Act, the impugned award fails to provide for payment of 12% interest as mandated under Section 23(1-A) of the 1894 Act, and instead only 9% is awarded . The impugned award also fails to provide for the payment of solatium as mandated under Section 23(2) of the Land Acquisition Act, 1894. A similar issue was considered by the Hon'ble Supreme Court in Union of India and Another v. Tarsem Singh and Another [(2019) 9 SCC 304], where the Court categorically held that the provisions of the Land Acquisition Act, 1894, relating to solatium and interest—specifically those contained in Section 23(1)(a) (market value), Section 23(2) (solatium) and the proviso to Section 28 (interest on excess



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compensation)—would be applicable to land acquisitions made under the National Highways Act, 1956.

32. The Supreme Court, in interpreting the constitutional mandate under Article 14 of the Constitution of India, observed that there cannot be arbitrary discrimination between landowners whose land is acquired under the Land Acquisition Act, 1894 and those whose land is acquired under the National Highways Act, 1956. The absence of a provision for solatium and interest in Section 3(G) of the National Highways Act, 1956, was held to be violative of Article 14, as it unjustly deprives landowners of components of compensation that are otherwise statutorily guaranteed under the 1894 Act.

33. In light of the Apex Court's decision in Tarsem Singh (*supra*), it is now well settled that the beneficial provisions of the 1894 Act relating to solatium and interest must be read into the National Highways Act to ensure parity and constitutional compliance. Therefore, the omission of these components in the impugned award renders it legally unsustainable and warrants interference by this Court



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34. The petitioner has further contended that the impugned award is merely a draft and therefore, does not constitute an award capable of being enforced in law. However, this contention is legally untenable and deserves to be rejected. The competent authority, having been vested with statutory powers under the applicable provisions of the 1956 Act has duly passed the award.

35. It is pertinent to note that unlike the erstwhile Land Acquisition Act, 1894 particularly the proviso to Section 11 thereof which expressly mandates that no award shall be made by the Collector without the prior approval of the appropriate Government or an officer authorized in this behalf, the 1956 Act does not contain any analogous provision requiring post-decisional approval by any higher authority for the award to attain legal finality.

36. Although the writ petition does not contain a specific prayer for setting aside the award dated 30.11.2016, the pleadings do challenge its legality. A writ of mandamus has been sought for determination of compensation under 2013 Act. Therefore, the absence of a specific prayer cannot be used to non-suit the petitioner, especially in the context of the



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acquisition of valuable land for a public purpose. The petitioner cannot be denied just and fair compensation on the basis of mere technicalities.

37. In the case of National Buildings Construction Corporation (supra), the Hon'ble Apex Court observed that the question of legitimate expectation was neither raised nor was any foundational basis laid in the pleadings. However, such a plea was advanced before the Court. Therefore, in the absence of proper pleadings and supporting affidavit from the respondents, the entire exercise undertaken by the High Court was held to be speculative.

38. The said decision was rendered in the context where the question of whether a claim under the doctrine of legitimate expectation is reasonable or justified was held to be a question of fact, to be determined on a case-to-case basis not according to the claimant's perception, but with reference to larger public interest.

39. For the reasons set out in the preceding paragraphs, the cited decision is clearly distinguishable and, therefore, not applicable to the facts of the



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present case.

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40. In light of the foregoing discussion, we have no hesitation in holding that the petitioner is entitled to the determination of just and proper compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, along with all statutory benefits flowing there from. Accordingly, the impugned award, which determines compensation under the Act, 1954 and denies the petitioner the statutory benefits, is legally untenable and discriminatory.

41. Accordingly, the following order is passed;

- i. The impugned award dated 30.11.2016 issued by Respondent No.1 is set aside. The writ petition is allowed.
- ii. The Respondent No.1 to re-determine the compensation in relation to the said land strictly under the provisions of 2013 Act. The said exercise shall be completed within three months from the date of uploading of this order in the official website of this court.
- iii. The Amount already deposited before the jurisdictional court shall be deducted from the compensation amount to be re-determined



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afresh under the 2013 Act.

iv. The petitioner shall be entitled to the release of the compensation amount deposited pursuant to the impugned award dated 30.11.2016, bearing Proceeding Rc.No.129/2009/A/NH/TVR, issued by the Competent Authority and Special District Revenue Officer (Land Acquisition), National Highways, Kancheepuram and Tiruvallur Districts, at Kancheepuram, before the Subordinate Judge, Sub Court, Poonamallee, subject to the claims, if any, of Respondents 3 to 5.

v. All rights and contentions of the petitioner and respondents 3 to 5 with respect to their inter se claims over the compensation amount are expressly preserved

vi. Consequently, the connected miscellaneous petition is closed.

There shall be no order as to costs.

[M.S.,J.]

[H.C.,J]

11.08.2025

Index : Yes

Internet : Yes

Neutral Citation : Yes

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To

1.The Competent Authority,



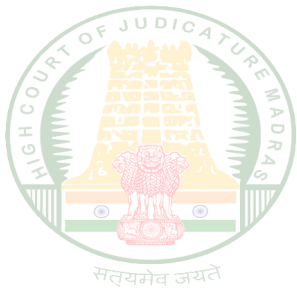
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National Highways Authority of India,
Kancheepuram Collectorate,
Kancheepuram.

2.The Project Director,
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Guindy, Chennai-600032.

3.The Authorised Officer,
Small Industries Development Bank of India,
Overseas Towers,
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4.The Authorised Officer,
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55, Ethiraj Salai, Egmore,
Chennai-600008.



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M. SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

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11.08.2025