



WEB COPY

WA No. 2708 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

WA No. 2708 of 2024

1. R.Ettikkan
S/o.Ramasamy, No.1/136-2,
Vagurampatti, Vasanthapuram (PO),
Namakkal Taluk and District.

Appellant(s)

Vs

1. THE SPECIAL TAHSILDAR (Land
acquisition)
By-Pass Road, Namakkal

2.The Divisional Engineer
National Highway, Salem

3.The Project Director
National Highway authority of India,
Salem.

Respondent(s)



PRAYER

To set aside the impugned order of this Court dated 05.07.2024 passed in W.P.No. 36286 of 2023.

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For Appellant(s): N.Subramaniyan

For Respondent(s): Mr.A.Selvendran For R1&2
Special Government Pleader
Mr.S.Srinivasan (NHAI) For R3

JUDGMENT

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

Under assail is the order dated 05.07.2024 passed in W.P.No.36286 of 2023.

2. The Writ petitioner is the appellant before this Court. The Writ of Mandamus has been instituted by the appellant seeking a direction to the respondents to pay compensation to the petitioner as directed by this Court by its judgement dated 22.03.2018 made in A.S.No.527 of 2015 with all other statutory benefits including statutory interest at the rate of 15% per annum, as mandated under proviso to Section 34 of the Land Acquisition Act, 1894 on simple interest basis for the first five years or appropriate period as may be fixed by this Court, and thereafter, to pay the compensation with compounding interest at half-yearly rests till date of payment.

3. Admittedly, the Appeal Suit in A.S. Nos.513 to 527 of 2015 and



22.03.2018. The award was modified, and the Appeal Suit was partly allowed as under,

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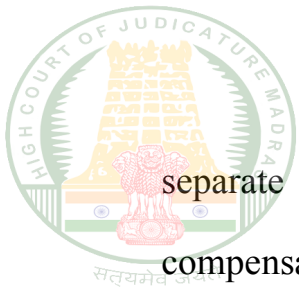
“26. Accordingly, we modify the award by fixing the land value at the rate of Rs.67/- per sq. ft.

27. In the result, (i) The appeals are partly allowed. No costs. (ii) The market value of land is redetermined at Rs.67/- per sq.ft. (iii) The appellant is directed to pay the compensation, less the amount already paid to the claimants, within a period of two months from the date of receipt of a copy this judgment. (iv) The learned Special Government Pleader is entitled to separate fee for the appeals.

28. The first appeals and the writ petitions are disposed of as indicated above. Consequently, the connected Miscellaneous Petitions are closed.”

4. Learned Single Judge in the impugned Writ Order has stated that the issue of payment of compensation and interest payable thereon has already reached finality in view of the dismissal of revision petition in C.R.P.No.4774 of 2023 by the order of this Court dated 15.03.2024. Thus, it is the duty of respondents to pay the amount of compensation determined by the executing Court in execution of the decree dated 22.03.2018 made in A.S.No.527 of 2015.

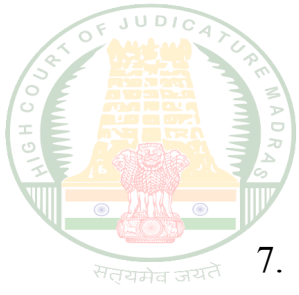
However, on account of delay in payment of compensation, there cannot be a



separate Writ Petition seeking a direction to the respondents to pay the compensation with compound interest thereon. In the event the compensation amount, as directed by the executing Court is not paid, the petitioner is not remediless, and for the delayed payment the petitioner is entitled to interest until the entire amount of compensation is paid, as per the judgement and decree of this Civil Court. Thus, the direction for payment of compounding interest is not maintainable and the Writ Petition was dismissed.

5. The Writ Court has not entertained the Writ Petition mainly on the ground that a judgment and decree had already been passed in Appeal Suit. The said decree is enforceable in the eye of law. The Appellant had filed an execution petition, wherein the quantum had been determined. Thereafter, CRP.No.4774 of 2023 has been filed, which was also disposed of by this Court on 15.03.2024. Therefore, the Writ Court held that if any grievance exists, the appellant ought to have preferred further appeal before the Apex Court. Contrarily, a Writ Petition under Article 226 of the Constitution of India is not maintainable.

6. This Court concurs with the view taken by the Writ Court regarding the maintainability of the Writ Petition, in view of the judgment and decree passed in the Appeal Suit and the order passed in the Civil Revision Petition. Thus, the appellant is at liberty to workout his remedy in the manner known to



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7. Accordingly, the Writ Appeal is dismissed. Consequently, the connected Miscellaneous Petitions, if any, are closed. No costs.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

03-03-2025

GD

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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**S.M.SUBRAMANIAM
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