



W.P.(MD)Nos.10166 to 10169 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **18.03.2025**

Delivered on : **04.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)Nos.10166 to 10169 of 2024

M.Sabapathi	... Petitioner in WP(MD)No.10166/2024
C.Karuppusamy	... Petitioner in WP(MD)No.10167/2024
C.Murugesan	... Petitioner in WP(MD)No.10168/2024
K.Thirumalaisamy	... Petitioner in WP(MD)No.10169/2024

/Vs./

1. The District Collector Cum Arbitrator,
Dindigul District, Dindigul.
2. The Competent Authority (Land Acquisition)
Cum District Revenue Officer,
National Highways - 209, Collectorate,
Dindigul District.
3. The Divisional Engineer
National Highways Division,
19a, Jawahar Street, Madurai - 20.
4. The Project Director
National Highways – 209,
National Highways Authority of India,



W.P.(MD)Nos.10166 to 10169 of 2024

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Project Implementation Unit,

Plot No.1, Aishwaryam Heights,

Indira Nagar, Sennamanaickenpatti (P.O),

Thadikombu Road, Dindigul-624 004.

5. The Special Tahsildar (Land Acquisition),

National Highways - 209 (By-Pass),

1st Floor, Sakthi Complex,

Opp. to Krishna School, Ottanchathiram,

Dindigul - 624 619.

... Respondents in all WP.s

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to re-determine the compensation for acquisition of petitioners respective lands Ottanchathiram Village, Dindigul District, in terms of the First Schedule of the Right of Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 in compliance of Section 105(3) of the Act 2013 and in terms of the Guideline 4.6(iii) (a) and (b) of the Comprehensive Guidelines issued by the Government of India Ministry of Road Transport and Highways dated 28.12.2017 and consequently directing the 1st and 2nd respondents to pay the re-determined compensation along with interest on the basis of the representation of the petitioner dated 13.04.2024, within a time frame as fixed by this Court.



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W.P.(MD)Nos.10166 to 10169 of 2024

(In all W.Ps.)

For Petitioner : Mr.B.Saravanan, Senior Counsel
for Mr.D.Kirubakaran

For Respondents : Mrs.S.Jeyapriya
Government Advocate for R1, 2 & 5

: Mr.Su.Srinivasan, Standing Counsel
for R3 & 4

COMMON ORDER

The writ petitioners seek issuance of Writ of Mandamus, to direct the 2nd respondent to re-determine the compensation payable to the petitioners in terms of First Schedule of the Right of Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 in compliance of Section 105(3) of the Act 2013.

2. I have heard Mr.B.Saravanan, learned Senior Counsel for the petitioner in all the writ petitions, Mrs.S.Jeyapriya, learned Government Advocate for the respondents 1, 2 and 5 and Mr.Su.Srinivasan, learned Standing Counsel for the respondents 3 and 4. I have gone through the records and also considered the submissions advanced by the learned counsel for the parties.



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

3. Mr.B.Saravanan, learned Senior Counsel for the petitioner would contend that all these writ petitioners were owners of the respective lands situated at Ottanchathiram Village, Dindigul District, and since the Government of India intended to acquire the lands for formation of Four lanes by-pass road, etc., a Notification came to be issued on 17.07.2008, in terms of which the second respondent was designated as the competent authority. The learned Senior Counsel would submit that the lands of the writ petitioners were included in the notification published under Section 3A(3) of the Act 1956 and subsequently 3D(1) of the Act 1956, published on 31.08.2012 and Gazetted on 06.09.2012 and the second respondent thereafter passed an award on 30.12.2013, determining the compensation payable to the petitioners.

4. The learned Senior Counsel would further submit that dissatisfied with the amount awarded to the petitioners, they initiated Arbitration Proceedings as envisaged under the Act. The learned Senior Counsel would invite my attention to the date of coming into force of the



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

Act, viz., 01.01.2014 and the fact that certain provisions of the said Act became applicable to other Acts mentioned in the 4th Schedule and one of the said Acts was the National Highways Act, 1956. Therefore, the learned Senior Counsel would submit that with effect from 01.01.2015, in terms of Section 105(3) of the Act 30/2013, the provisions of Act 30/2013 become applicable to the acquisition proceedings under the National Hgihways Act, 1956. The learned Senior Counsel would invite my attention to the comprehensive guidelines dated 28.12.2017 issued by the Government of India , Ministry of Road Transport and Highways in respect of issues regarding payment of compensation in cases of lands acquired under the National Highways Act.

5. The learned Senior Counsel would invite my attention to the guidelines 4.6(iii), which reads as follows:

“(iii) By now, it is also a settled proposition that the First, Second and Third Schedule of the RFCTLARR Act, 2013 shall be applicable to the NH Act , 1956 with effect from 01.01.2015. As such, the following is clarified:

(a) All cases of Land acquisition where the Awards had not been announced under Section 3G of the NH Act till



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

31.12.2014 or where such awards had been announced but compensation had not been paid in respect of majority of the land holdings under acquisition as on 31.12.2014, the compensation would be payable in accordance with the First Schedule of the RFCTLARR Act, 2013.

(b) In cases, where the land acquisition process was initiated and award of compensation under Section 3G had also been announced before 01.01.2015 but the full amount of Award had not been deposited by the acquiring agency with the CALA, the compensation amount would be liable to be determined in accordance with the First Schedule w.e.f. 01.01.2015;

(c) In cases, where the process of acquisition of land stood completed (i.e.Award under Section 3G announced by CALA, amount deposited by the acquiring agency with the CALA, and compensation paid to the landowners in respect of majority of the land under acquisition) as on or before 31.12.2014, the process would be deemed to have been completed and settled. Such cases would not be re-opened.”

6. Further, referring to the information obtained under the Right To Information Act, the learned Senior Counsel would submit that the compensation amount in respect of acquisition of lands in



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

Ottanchathiram village, were not even deposited with the Competent Authority for Land Acquisition (CALA) before 01.01.2015 as stipulated under guidelines 4.6(iii) (b). However, the first respondent dismissed the Arbitration petitions filed by the petitioners and they have preferred Arbitration O.P. under Section 34 of the Arbitration and Conciliation Act, 1996. Admittedly, the said petitions are pending before the Principal District Court, Dindigul.

7. The learned Senior Counsel would further submit that similarly placed land holders sought for re-determination of compensation and filed W.P.(MD)Nos.14914 of 2020 and 24052 of 2018 and this Court allowed the said writ petitions on 22.07.2021 and directed the second respondent to redetermine the compensation in accordance with the First Schedule of the “New Act”. Against the aforesaid order, the official respondents preferred an appeal in W.A.(MD)No.92 of 2022 and this Court vide order dated 05.09.2023 dismissed the appeal. The learned Senior Counsel would therefore submit that the petitioners were entitled to re-determination of compensation amount and also further interest and when the comprehensive guidelines dated 28.12.2017 also clarified



W.P.(MD)Nos.10166 to 10169 of 2024

that the compensation will have to be paid in accordance with the First Schedule of Act 30 of 2013 and compensation should be re-determined under the First Schedule of the Act 30 of 2013.

8. The learned Senior Counsel would place reliance on the decision of the Hon'ble Supreme Court reported in **2015-1-SCC-347 (State of Uttar Pradesh and Others V. Arvind Kumar Srivastava and Others)**, where the Hon'ble Supreme Court held that when a particular set of employees were given relief by the Court, all other identically situated persons need to be treated alike by extending such benefit.

9. The learned Senior Counsel would also place reliance on the decision of the Hon'ble Supreme Court reported in **2024-SCC Online SC-3664 (Lt.Col.Suprita Chandel V. Union of India and Others)**, where the Hon'ble Supreme Court held that where a citizen aggrieved by the action of the Government Department has approached the Court and obtained a declaration of law in his / her favour, others similarly situated ought to be extended the benefit, without the need for them to go to Court. The learned Senior Counsel would submit that when other lands



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

owners have been paid higher compensation, the petitioners cannot be deprived of such enhanced compensation to be paid to them as well. He would pray for the writ petitions being allowed as prayed for.

10. Per contra, Mr.Su.Srinivasan, learned Standing Counsel for the respondents 3 and 4 would submit that the second respondent has determined the compensation in terms of the enactment on 30.12.2013 and admittedly, all the petitioners filed Arbitration Petitions, which were also decided by the first respondent on 19.09.2019. Aggrieved by the said Arbitral award, the petitioners have also filed Arbitration O.P.s under Section 34 of the Arbitration and Conciliation Act, 1996, on 17.06.2020 and after the lapse of 11 years from the date of the second respondent passing the award originally, determining the compensation, the petitioners are certainly not entitled to any relief, especially, in view of delay and laches on their part and also for the reason that the petitioners have already availed of the alternate remedy available under the Act. The learned Standing Counsel, Mr.Su.Srinivasan, would therefore submit that the petitioners are trying to get double relief one under the National Highways Act and other by invoking provisions of



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Removal of Difficulties) Act 2013. Therefore, on this limited ground itself, Mr.Su.Srinivasan, would contend that the petitioners are not entitled to any relief under the writ jurisdiction.

11. Mr.Su.Srinivasan, learned Standing Counsel would further submit that the petitioners are classic fence sitters and merely because other land owners have got extra benefits, it is not open to the petitioners to have belatedly approached the Court, seeking enhanced compensation. In fact, referring to the very same decision that was relied on by the learned Senior Counsel for the petitioners in *State of Uttar Pradesh and Others V. Arvind Kumar Srivastava and Others*, the learned Standing Counsel would invite my attention to the Hon'ble Supreme Court held that principle of treating similarly placed alike was subject to well recognized exceptions in the form of laches and delays as well as acquiescence and that the persons, who challenged action, waking up after long delay, only on the ground that the counter part, who had approached the Court earlier in time had succeeded in his efforts, such

10/26



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

petitioners would have to be only treated as fence sitters and laches and delay would be a valid ground to dismiss the claims.

12. The learned Standing Counsel, Mr.Su.Srinivasan, would also place reliance on the decision of the Hon'ble Supreme Court reported in **1964-6-SCC-261 (State of M.P V. Bhailal Bhai)**, where the Hon'ble Supreme Court held that the petitions filed after a period of three years should not be entertained. For the very same proposition, he would also place reliance on the decisions of the Hon'ble Supreme Court reported in **2011-5-SCC-394 (Banda Development Corporation V. Motilal Agarwal)** as well as reported in **1996-6-SCC-267 (State of Karnataka V. SM.Kotrayya & Ors.)**, where only on the ground of delay and laches, the petitions were dismissed.

13. He would further rely on the decision of the Hon'ble Supreme Court reported in **2003-12-SCC-408 (Board of Secondary Education of Assam V. MD.Sarifuz Saman and others)**, where the Hon'ble Supreme Court held that delay defeats discretion and loss of limitation destroys the remedy itself and delay amounting to laches, results in benefit of



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

discretionary power being denied on principles of equity alone.

14. The learned Standing Counsel would further submit that the judgment that has been relied on by the petitioners cannot be applied to the facts of the present case, more so, when the directions in the said judgment did not give any indication that it was a precedent that would become applicable to all similarly placed individual as regards the directions and the relief granted therein. He would therefore, submit that the said order would ensure only to those petitioners and cannot be pressed into service by the writ petitioners, seeking enhancement of compensation.

15. With regard to the provisions of Act 30 of 2013, the learned Standing Counsel would submit that that initially only Schedules I, II, III of the Act was made applicable to the Act 30 of 2013. However, the Schedule IV enumerated Acts were also brought in by virtue of Section 105(3) of the Act 30 of 2013 with effect from 01.01.2015. Lastly, the learned Standing Counsel would submit that Ministry's guidelines have no legal sanctity and will not bind the authority. The learned Standing



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

Counsel would submit that the executive guidelines or executive instructions cannot over ride the statutory provisions of the enactment itself. He would therefore submit that the guidelines, to such extent that they impose conditions, which are not envisaged under the Act, then such conditions or guidelines are unenforceable. He would therefore submit that even in terms of the doctrine of *sub silentio*, when the earlier Division Bench has not answered this issue with regard to the conflict between the guidelines and the statutory provisions, the said decision of the Division Bench cannot be treated as a binding precedent.

16. I have carefully considered the submissions advanced by the learned counsel on either side.

17. In all these cases the admitted facts are that the lands belonging to the petitioners were acquired for the purposes of Four laning of the Highways and awards came to be passed. The awards were challenged before the Arbitrator. However, the said challenge was unsuccessful and as against the same, the petitioners moved the Principal District Court, Dindigul, under Section 34 of the Arbitration and Conciliation Act and all



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

the petitions are pending. With regard to the submissions of Mr.Su.Srinivasan, learned Standing Counsel that when the petitioners themselves have invoked the Arbitration agreement and also having filed Section 34 petitions before the Principal District Court, Dindigul, the writ petitions are therefore not maintainable, is concerned, the petitioners have preferred Section 34(2) O.Ps only because they are aggrieved by the low compensation amount determined by the authorities under the statute. Now, in an by way of the present writ petitions, the petitioners seek for enhanced compensation payable to them, in line with the compensation paid to similarly placed land owners. The Arbitration O.P under Section 34 challenges only the determination of compensation, which according to the petitioners is very low and that pending the said Section 34 Arbitration Petition, to contend that the petitioners cannot seek re-determination of compensation invoking First Schedule of Act 30 of 2013.

18. As regards the arguments of the learned Senior Counsel appearing for the petitioners, placing reliance on Section 24 of Act 30 of 2013, referring to the proviso that where the award has been made and



W.P.(MD)Nos.10166 to 10169 of 2024

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compensation in respect of land, has not been deposited in the account of beneficiaries, then all beneficiaries would be entitled to compensation in accordance with the new Act in concerned, it is seen that the Schedule IV in terms of Section 105 of the Act, lists out various Central Acts, which regulate Land Acquisition Rehabilitation and Resettlement. Admittedly, National Highways Act 1956 is included in the said IV Schedule. Section 105 of the Act 30 of 2013 makes provisions of this Act not applicable to enactments relating to Land Acquisition set out in the IV Schedule in terms of Section 105 (3). The Central Government shall issue notification within one year from the date of commencement of the Act and shall direct in that any of the provisions of the Act relating to determination of compensation in accordance with the First Schedule and Rehabilitation in terms of Schedule II and III, being beneficial to affected family shall apply to the cases of under the enactments and listed under Schedule IV. Therefore in terms of Section 105 (3), the Central Government ought to have issued a notification within one year from the date of commencement of Act 30 of 2013 to make applicable provisions of this Act to the Acts specified in IV Schedule. The Central Government amended Act 30 of 2013 by Act 4 of 2015 and the provisions of Act 30 of



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

2013 relating to determination of compensation in accordance with the I Schedule, Rehabilitation and Resettlement in accordance with the II Schedule and the infrastructure amenities with regards to III Schedule were made applicable to the Acts specified in IV Schedule with effect from 01.01.2015 onwards. Therefore, on and from 01.01.2015, determination of compensation in respect of acquisition under the National Highways Act, would also be only in terms of I Schedule of Act 30 of 2013. In the present case, the award was passed and compensation was also paid not before 01.01.2015. Therefore, according to the learned Senior Counsel for the petitioners, the petitioners would be entitled for redetermination of compensation in terms of Act 30 of 2013.

19. Per contra, Mr.Su.Srinivasan, learned Standing Counsel, for the respondents 3 and 4, states that the proviso is only to Section 24 (2) and not Section 24(1) of the Act and therefore, the petitioners cannot contend that their case for re-determination under Section 24(2) proviso, would be available to the acquisition proceedings under the National Highways Act also. I find force in the submissions of the learned Standing Counsel. No doubt, the award was passed after 01.01.2015. Only in terms of Section



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

105 of the Act 30 of 2013, the notification issued by the Central Government, directing the provisions of the Act relating only to determination of compensation in accordance with the First Schedule, Rehabilitation and Resettlement in terms of II and III Schedule alone were made applicable to cases of land acquisition under enactments specified in the IV Schedule. Therefore, the only leverage that is shown to land owners is regarding determination of compensation in terms of provisions of New Act 30 of 2013 and nothing more. Insofar as the guidelines are concerned, the learned Senior Counsel would refer to clause 4.6(iii)(a). It has been clarified by the Central Government that all cases of land acquisition awards have not been commenced under Section 3G of the Highways Act, till 31.10.2014 or where awards had been announced for compensation in respect of majority of land holder under the acquisition on 31.12.2014, then, compensation would be payable in accordance with the First Schedule of the Act 30 of 2013. The learned Senior Counsel would place reliance on the said circular of the Central Government and contend that since admittedly the compensation has not been deposited with CALA, the petitioners are entitled to compensation to be determined under the provisions of Act 30 of 2013. The learned



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

Senior Counsel would also place reliance on the decision of this Court in W.P.(MD)No.14914 of 2020 and 24052 of 2018, where this Court decided a similar writ petition seeking direction to determine compensation in terms of Section 105 (3) of Act 30 of 2013 and apart from that in terms of clause 4.6(iii)(a) of the Comprehensive Guidelines issued by the Government of India dated 28.12.2017 and held that since no compensation was deposited before CALA on or before 01.01.2015, the petitioners would be entitled to benefit under Guidelines 4.6(iii)(b) of the Guidelines. Rejecting the arguments of delay and laches, this Court held that the writ petition was filed immediately, after the guidelines came into effect and therefore, the claim was not hit by laches. However, in the present case, it cannot be said that the petitioners were diligent in approaching this Court immediately after the comprehensive guidelines came to be issued by the Central Government. All these writ petitions have been filed only in the year 2024, long after the comprehensive guidelines issued by the Central Government, coming into force. As laid down by the Hon'ble Supreme Court, *Banda Development Corporation* as well as the *State of Karnataka V.SM.Kotrayya & Others* reported in *1996-6-SCC-267*, the petitioners are clearly fence sitters and only on



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

knowing that similarly placed land owners, who had filed writ petitions, immediately on the Guidelines came to be issued have chosen to knock at the doors of this Court, belatedly. There is absolutely no explanation for the delay in approaching this Court. The affidavit filed in support of these writ petitions silent on the delay in approaching this Court. Therefore, applying the ratio laid down by the Hon'ble Supreme Court in ***Banda Development Corporation*** and also ***State of Karnataka***, the general principle of enabling similarly placed persons to get similar relief that has been granted to similarly placed persons has its exception in the cases of laches. In the present cases also, the petitioners have, long after their counter parts, approached the Court and sought similar relief. Merely because similarly placed persons had approached this Court and succeeded, it would not enable these petitioners to take advantage of the said order in favour of similarly placed persons and thereby seek enhancement of compensation by way of re-determination of compensation under the provision of Act 30 of 2013. Even the judgment on which the petitioners rely upon was pronounced on 22.07.2021 and after a lapse of three years, the present writ petitions have been filed. In fact, the said decision of the learned Single Judge was challenged W.A.



W.P.(MD)Nos.10166 to 10169 of 2024

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(MD)No.92 of 2022, where the Division Bench found that the petitioners therein would fall under Guidelines 4.6(iii)(a) as well as (iii)(b) and further merely because the proceedings were challenged before the Arbitrator and thereafter Section 34 petitions were also filed it would not come in the way of the petitioners, seeking re-determination of compensation.

20. Applying the ratio laid down of the Hon'ble Division Bench to the facts of the present case, the argument of the learned Standing Counsel for the Highways regarding the petitioners attempting to claim double compensation in parallel proceedings cannot be countenanced. However, the question of delay and laches looms large over the petitioners faces. If these kinds of applications are entertained as and when land owners approach the Government, there would never be an end to acquisition proceedings and there would be a drain on the exchequer as well. More over, when the petitioners seek interference or aid of the High Court exercising powers under Article 226 of the Constitution of India, the petitioners will have to be diligent in approaching the Court, without any loss of time and delay, if any has to



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

be satisfactory explained, so that delay or laches is not put against the writ petitioners, seeking relief. Here, admittedly the petitioners are aware of the fact that the similarly placed land owners approached this Court and got re-determination of the compensation awarded under the provisions of Act 30 of 2013. As already discussed above, the Writ Court allowed the writ petition as early as July 2021 and these writ petitioners have filed the present writ petitions only in April 2024. There is absolutely not a single reason assigned in the affidavit, justifying or explaining the delay in approaching this Court. As held by the Hon'ble Supreme Court, even if similarly placed persons will have to be granted same relief, when the petitioners sleep over their right and approach the Court belatedly, it is not necessary for the Court to go to the aid of such petitioners who have chosen to sleep over their rights. The issue of delay was in fact even raised against the petitioners in the earlier proceedings in W.P.(MD)Nos.14914 of 2020 and 24052 of 2018. However, this Court negated the contention of delay and laches, finding that the writ petitions were filed immediately after the Comprehensive Guidelines came to be issued by the Central Government on 28.12.2017. Unfortunately, the present writ petitioners have been sitting on the fence



W.P.(MD)Nos.10166 to 10169 of 2024

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and watching over the proceedings and after finding that the similarly placed land owners were held to be entitled to re-determination of compensation, have chosen to approach this Court in 2024, after close to seven years from the date of the Comprehensive Guidelines being issued.

21. Insofar as the reliance placed on 4.6(iii)(a) and (iii)(b), I find force in the arguments of the Standing Counsel, Mr.Su.Srinivasan, that an Executive Circular cannot override the statute. The clarification issued by the Ministry was only with regard to the applicability of the Schedules I, II and III of Act 30 of 2013 to the National Highways Act, 1956 with effect from 01.01.2015. 4.6(iii)(a) merely states that the compensation would be payable in accordance with the I Schedule to RFCTLARR Act 2013 and even where 3G awards were made before 01.01.2015, but full award amount was not deposited with CALA, then also the compensation would have to be determined in accordance with the I Schedule with effect from 01.01.2015. In view of the fact that I have already found that the petitioners are not entitled to succeed on account of delay and laches on their part, I am not going to the other questions regarding the entitlement of the petitioners to have re-determination of the



W.P.(MD)Nos.10166 to 10169 of 2024

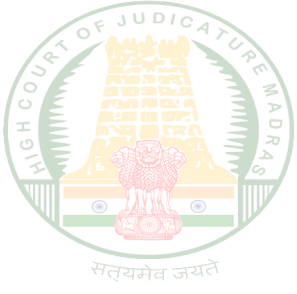
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compensation amount in terms of I Schedule of Act 30 of 2013. In fact, guidelines 4.6 itself was issued only with regard to the date on which the market value, will have to determine, considering the financial implications that may be involved. Therefore, the very clarification issued in 4.6(iii)(a) with regard to non payment of majority of land holding under acquisition as on 31.12.2014 would have no significance to determination of compensation under Section 26 of the Act. Therefore, I have my own doubts with regard to language employed in the Guidelines especially 4.6(iii). In any event, in the present case, there is no necessity for me to even delve into the applicability of effect of Guideline 4.6 in the first place, since the petitioners have been found to be disentitled to any relief on account of delay and laches.

22. Therefore, for all the above reasons, the writ petitioners are not entitled to any relief. Hence, these Writ Petitions are dismissed. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
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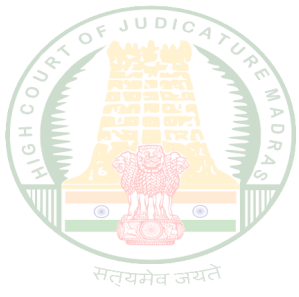
04.04.2025



W.P.(MD)Nos.10166 to 10169 of 2024

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TO:-

1. The District Collector Cum Arbitrator,
Dindigul District,
Dindigul.
2. The Competent Authority (Land Acquisition)
Cum District Revenue Officer,
National Highways - 209, Collectorate,
Dindigul District.



W.P.(MD)Nos.10166 to 10169 of 2024

WEB COPY

3. The Divisional Engineer

National Highways Division,
19a, Jawahar Street,
Madurai – 20.

4. The Project Director

National Highways – 209,
National Highways Authority of India,
Project Implementation Unit,
Plot No.1, Aishwaryam Heights,
Indira Nagar, Sennamanaickenpatti (P.O),
Thadikombu Road, Dindigul-624 004.

5. The Special Tahsildar (Land Acquisition),

National Highways - 209 (By-Pass),
1st Floor, Sakthi Complex,
Opp. to Krishna School, Ottanchathiram,
Dindigul - 624 619.



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W.P.(MD)Nos.10166 to 10169 of 2024

P.B. BALAJI, J.

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Pre- delivery Orders made in
W.P.(MD)Nos.10166 to 10169 of 2024

Dated:
04.04.2025