

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Reserved on : 01.08.2024****Pronounced on : 07.02.2025****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)Nos.24617, 24618, 24619, 24620, 24621, 24622, 24623, 24624, 27531, 27532, 27760 & 27761 of 2022****AND****WMP(MD)Nos.18694, 18696, 18697, 18716, 18718, 18710, 18711, 18699, 18703, 18698, 18700, 18701, 18704, 18702, 18705, 21629, 21630, 21845 & 21846 of 2022,****in WP(MD)No.24617 of 2022 : -**

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent



redetermination Award made by the 2nd respondent in Roc.J2/07/2010 (Arb. Redetermination Award No.2A/2014) dated 18.07.2022 and quash the same and further direct the 1st respondent not to entertain second round of arbitration petitions based on the redetermination award of the 2nd respondent and thus render justice.

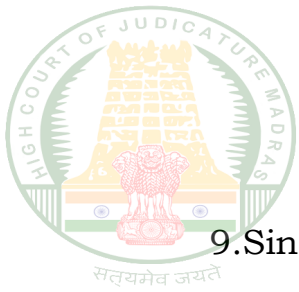
in WP(MD)No.24618 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

- 1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.
- 3.S.Robinson
- 4.V.Ramalinga Nadar
- 5.Subbiah M
- 6.Subbiah S
- 7.Pappu Nadar M
- 8.Thangavel R



9.Singaram S

... Respondents

(R3 to R9 were impleaded vide order dated 09.01.2023)

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/2105/2022 (Arb. Redetermination Award No.3A/2014) dated 17.08.2022 pertaining to Aralvoimozhi and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.24619 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

- 1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

3.Justin Oliver T

... Respondents



(R3 was impleaded vide
order dated 09.01.2023)

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Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/2266/2022 (Arb. Redetermination Award No.7A/2014) dated 05.09.2022 pertaining to Kappiyarai Village, Kanyakumari District and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.24620 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

- 1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of



India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/1384/2022 (Arb. Redetermination Award No.4A/2013) dated 11.07.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.24621 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

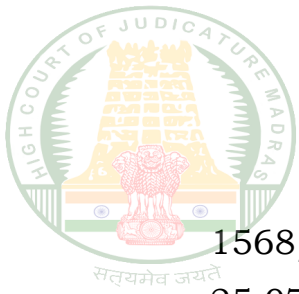
Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/



1568/2022 (Arb. Redetermination Award No.2A/2013) dated 25.07.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.24622 of 2022 : -

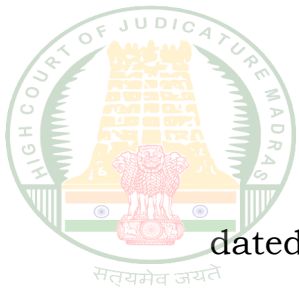
The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

- 1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.
- 3.Subbaiah
- 4.Rajapavu.A
- 5.Shanmuga Perumal P
- 6.Bhagathi Ammal S
- 7.Bamila V
- 8.Veerachandran R
(R3 to R8 were impleaded vide order

... Respondents



dated 09.01.2023)

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Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/2247/2022 (Arb. Redetermination Award No.5A/2014) dated 30.08.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.24623 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

- 1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

3.Vaija K.J

... Respondents

(R3 was impleaded vide order
dated 09.01.2023)



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Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/2247/2022 (Arb. Redetermination Award No.5A/2014) dated 30.08.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.24624 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of



India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/1922/2022 (Arb. Redetermination Award No.1A/2014) dated 05.08.2022 pertaining to Theroor (NH-47) Village, Kanyakumari District and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.27531 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

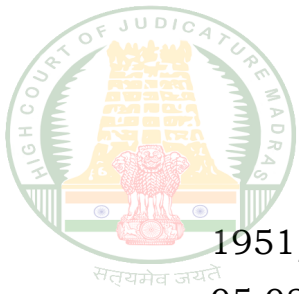
Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/



1951/2022 (Arb. Redetermination Award No.1A/2014) dated 05.08.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.27532 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent made in E2/11294/2017 dated 04.05.2022 and the consequent redetermination Award made by the 2nd respondent in Roc.J2/1818/2022 (Arb. Redetermination Award No.2A/2012) dated 28.07.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.



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in WP(MD)No.27760 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,
No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

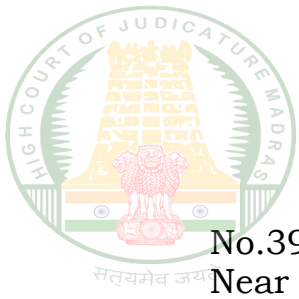
2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the redetermination Award made by the 2nd respondent in Roc.J2/2358/2022 (Arb. Redetermination Award No.6A/2014) dated 16.09.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

in WP(MD)No.27761 of 2022 : -

The Deputy General Manager (T)
cum Project Director,
PIU – Nagercoil,



No.395/3-1, M.S.Road, Majestic Colony,
Near Ayyappankovil, Parvathipuram,
Nagercoil – 629 003.

... Petitioner

Vs.

1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the redetermination Award made by the 2nd respondent in Roc.J2/2387/2022 (Arb. Redetermination Award No.5A/2013) dated 20.09.2022 and quash the same and further direct the first respondent not to entertain second round of arbitration petitions based on the redetermination award of the second respondent and thus render justice.

In WP(MD)Nos.24617, 24620, 24621, 24624, 27531, 27532, 27760 & 27761 of 2022 :

For Petitioners : Mr.Su.Srinivasan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General assisted
by Mr.K.Balasubramaniyan,
Special Government Pleader
for R1 and R2

In WP(MD)No.24618 of 2022 : -

For Petitioners : Mr.Su.Srinivasan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General assisted
by Mr.K.Balasubramaniyan,



Special Government Pleader
for R1 and R2

Mr.G.Justin for R3 to R9

In WP(MD)No.24619 of 2022 : -

For Petitioners : Mr.Su.Srinivasan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General assisted
by Mr.K.Balasubramanian,
Special Government Pleader
for R1 and R2

Mr.G.Justin for R3

In WP(MD)No.24622 of 2022 : -

For Petitioners : Mr.Su.Srinivasan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General assisted
by Mr.K.Balasubramanian,
Special Government Pleader
for R1 and R2

Mr.G.Prabhu Rajadurai for R3

Mr.G.Justin for R4 to R8

In WP(MD)No.24623 of 2022 : -

For Petitioners : Mr.Su.Srinivasan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General assisted
by Mr.K.Balasubramanian,
Special Government Pleader
for R1 and R2

Mr.C.T.Perumal for R3



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COMMON ORDER

The Deputy General Manager (T) cum Project Director, National Highways Authority of India, PIU – Nagercoil is the writ petitioner in all these writ petitions. In WP(MD)Nos.24617, 24618, 24619, 24620, 24621, 24622, 24623, 24624, 27531, 27532 of 2022, the direction issued by the District Collector, Kanyakumari and the consequential redetermination awards passed by the Competent Authority and Special District Revenue Officer (LA), National Highways, Tirunelveli @ Nagercoil are under challenge. In the remaining two writ petitions, the consequential redetermination awards passed by the authority alone have been questioned.

2.The basic facts are not in dispute. The second respondent herein was appointed as Competent Authority for the project vide Notification No.1197 and S.O. No. 2078(E) dated 20.08.2008 in exercise of the powers conferred to the Central Government under Section 3(a) of the National Highways Act, 1956. Lands were acquired under the provisions of the National Highways Act, 1956 for the widening of NH-47B (Nagercoil to



Kavalkinaru Section). Notifications issued under Section 3-A(1) and Section 3-D(1) of the National Highways Act, 1956 were published in 2010-2011. The notifications included 22 villages in Kanyakumari District and one village in Tirunelveli District. The competent authority passed awards determining the compensation for the following villages on the dates correspondingly mentioned in the following table :

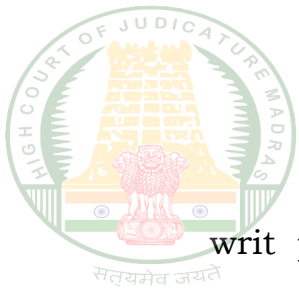
Sl No .	Name of the village	3A Notification	3D Notification	Award date	Date of deposit
1.	Perungudi	25.01.2010	09.12.2010	11.4.2012	01.09.2012
2.	Theroor (NH-47B)	25.01.2010	09.12.2010	24.08.2012	29.09.2012
3.	Aralvoimozhi	25.01.2010	09.12.2010	02.07.2014	22.08.2014
4.	Thirupathisaram (NH-47)	20.04.2010	08.04.2011	06.06.2013	02.07.2013
5.	Thirupathisaram (NH-47B)	26.02.2010	07.02.2011	28.03.2013	23.04.2013
6.	Eraviputhur	26.02.2010	07.02.2011	17.12.2013	15.02.2014
7.	Kappiyarai	23.03.2010	25.02.2011	27.10.2014	08.12.2014
8.	Aloor	23.03.2010	25.02.2011	23.06.2014	11.09.2014
9.	Theroor (NH-47)	09.04.2010	08.04.2011	29.01.2014	22.04.2014
10	Kunnathoor	10.06.2010	24.05.2011	11.08.2014	09.09.2014
11	Thovalai	12.04.2010	08.04.2011	03.09.2014	28.09.2014
12	Kalkulam	12.04.2010	08.04.2011	19.09.2014	11.10.2014

Though the notification was in respect of 23 villages, compensation in respect of 15 villages were determined under the provisions of the National Highways Act, 1956 and compensation in respect of the remaining 8 villages was



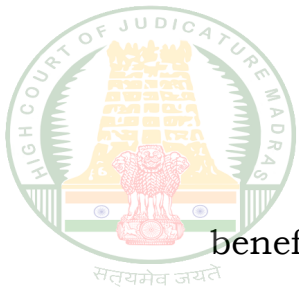
determined as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This disparity in grant of compensation gave rise to considerable heart burn and led to widespread agitation and protests. The aggrieved land owners wanted redetermination of their compensation in terms of the 2013 Act. This issue was taken up by the District Collector, Kanyakumari District who vide proceedings dated 04.05.2022 accorded his concurrence for passing revised award under the new Act in respect of the aforementioned villages (10) except Kalkulam and Eraviputhoor. Pursuant to the said proceedings, the competent authority passed the impugned redetermination awards enhancing the compensation payable to the persons whose lands were acquired. The stand of the writ petitioner/NHAI is that even though the proceedings of the District Collector, Nagercoil dated 04.05.2022 pertained only to ten villages, the competent authority passed redetermination awards in respect of two more villages. Challenging the redetermination, these writ petitions have been filed.

3.The learned standing counsel for NHAI reiterated all the contentions set out in the affidavits filed in support of the



writ petitions. His primary contention is that the impugned proceedings are illegal and without jurisdiction. He pointed out that all the awards in the instant cases were passed prior to 01.01.2015. Relying on the decisions reported in **2018 SCC OnLine Raj 77 (Gopa Ram vs Union of India)** and **2021 SCC OnLine AP 3194 (Lanka Prabhakar v Union of India)**, he contended that Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 will not be applicable to the present case as the acquisitions were made under NH Act, 1956. This is more so because all the awards have been made and the entire compensation deposited prior to 01.01.2015. He further argued that the respondent authorities were discharging the statutory function conferred on them by the provisions of the National Highways Act, 1956 and that they had become functus officio after passing the original award. In this regard, he placed reliance on Para 10 of the judgment of this Court dated 19.10.2023 made in W.P(MD) Nos 8777, 9833, 10036 and 10037 of 2020.

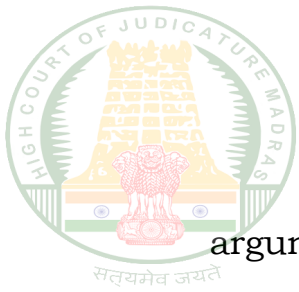
4. When I queried the learned standing counsel as to whether the writ petitions would be maintainable since all the



beneficiaries have not been made parties, he invoked the theory of useless formality and submitted that when the illegality is evident on the face of it, no purpose will be served by impleading the beneficiaries who are large in number and putting them on notice. In any event, in some of the writ petitions, a few land owners have been impleaded.

5.Per contra, the learned Additional Advocate General submitted that the impugned orders do not call for interference. He submitted that the District Collector, Kanyakumari District had only applied the policy of NHAI which provided for such redetermination. He pointed out that when the lands spread over 23 villages have been acquired, it would be a sheer breach of the equality principle to determine the compensation in respect of some of them under one enactment and the remaining under another enactment. He called upon this Court to sustain the impugned orders and dismiss the writ petitions. The learned counsel for private respondents endorsed the stand of the learned Additional Advocate General.

6.I carefully considered the rival contentions and went through the materials on record. It is very difficult to repel the



arguments grounded on principles of equality and equity. I can very well understand as to why the villagers hailing from the aforementioned ten villages are feeling troubled and agitated. But the issue has to be approached only from a strictly legal perspective. The fact remains that the awards in the instant cases were passed well before 01.01.2015. Section 3-G of the National Highways Act, 1956 deals with determination of the amount payable as compensation. The said provision 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



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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 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,



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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.”

In this case, the competent authority had passed awards under Section 3-G (1) of the Act. Since this was not acceptable to the persons whose lands were acquired, owing to the increase in guideline value by the State Government of Tamil Nadu w.e.f 01.04.2012, they moved the arbitrator who in this case is the District Collector, Kanyakumari. The arbitrator considered the increased market value and enhanced the compensation amount payable to the land owners in terms of the revised guideline value as on 01.04.2012. The National Highways Authority of India had deposited the amounts as determined by the competent authority originally before 01.01.2015. It is stated by the learned standing counsel for NHAI that the enhanced amounts had also been subsequently deposited.

7.Now, the only question that calls for consideration is whether the District Collector was justified in issuing a general direction to the competent authority to pass redetermination



awards. The National Highways Act, 1956 is a special enactment providing for acquisition of lands for building or widening national highways. The Act also contains a specific provision, namely, Section 3-G, for determination of amounts payable as compensation to the owners whose lands are to be acquired. Section 3 of the Act defines competent authority as any person or authority authorised by the Central government by the notification in the official gazette to perform the functions of the competent authority for such area as may be specified in the notification. In the case on hand, the Special District Revenue Officer has been designated as the competent authority. Section 3-G (5) of the Act states that if the amount determined by the competent authority is not acceptable to either of the parties, it shall be determined by the arbitrator to be appointed by the Central Government. The District Collector had been designated as the arbitrator. Section 3-G (6) states that the provisions of the Arbitration and Conciliation Act, 1996 would apply to every arbitration under the Act. In this case, the competent authority had passed awards determining the compensation amount. Subsequently, the District Collector, Kanyakumari District acting as arbitrator had also enhanced the amount. When both the authorities had discharged their statutory functions in



respect of the aforesaid proceedings, they had become functus officio. The question of issuing direction for passing redetermination awards will not arise at all.

8.The District Collector under the scheme of NH Act, 1956 can only pass arbitral awards on the arbitration petitions before him and he has no authority to issue any general direction to the competent authority to pass redetermination awards. The only role conferred by the National Highways Act, 1956 on the first respondent is to authorise him to function within the four corners of law and not act beyond the scope of authority conferred on him. The District Collector in this case has acted as the head of the administration and not as an arbitrator. It is well settled that in a democratic set up governed by rule of law, any action by the statutory authority having civil consequences has to be traceable to a statutory or constitutional provision. An order cannot be issued in vacuum without any basis. The proceedings dated 04.05.2022 issued by the District Collector are not traceable to any statutory provision. I, therefore, have no hesitation to hold that the impugned proceedings are bereft of jurisdiction. When once this conclusion is arrived at, the consequential redetermination awards also



have to go. The proceedings of the District Collector will have to rest on a statutory foundation. In this case, there is no foundation at all. The first respondent has arbitrarily built a castle in the air. It has to necessarily fall. The competent authority had passed awards in respect of the aforementioned ten cases only pursuant to the direction of the District Collector. In respect of the two remaining villages, even without such direction, the competent authority has passed redetermination awards. When I have held that the District Collector cannot issue any direction for passing redetermination awards, the competent authority could not have on her own passed redetermination awards.

9. Though these writ petitions have to be allowed on the ground of jurisdiction alone, even on merits, the impugned orders have to be set aside. The respondents have invoked the Circular No.NH/11011/30/2015-LA dated 28.12.2017 issued by the Government of India. The said circular in turn refers Section 24 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 24 of the said Act reads as follows :



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“24.Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,— (a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or (b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed. (2)

Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a **majority of land holdings** has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition



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Act, shall be entitled to compensation in accordance with the provisions of this Act.”

Even a bare reading of the said provision would show that it is applicable only to acquisition proceedings taken under the Land Acquisition Act, 1894. Section 24 of the Act does not anywhere refer to National Highways Act, 1956. The learned standing counsel for the petitioner has drawn my attention to the opinion given by the Attorney General of India. It reads as follows :

“3.2 Applicability of Section 24 of the RFCTLARR Act, 2013 to the National Highways Act, 1956.

Section 24 of the RFCTLARR Act 2013 provides for lapsing of certain acquisitions initiated under the Land Acquisition Act, 1894. the MORTH seeks my opinion on whether this Section also applies to acquisitions undertaken under the National Highways Act, 1956. Section 24 of the RFCTLARR Act, 2013 states as follows :

“24.Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,-



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(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a **majority of land holdings** has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be



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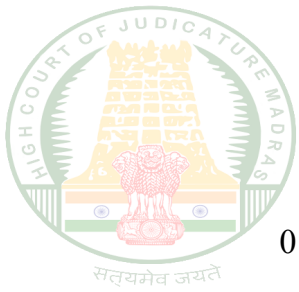
entitled to compensation in accordance with the provisions of this Act.”

A reading of Section 24 makes it abundantly clear that the provision is applicable only to acquisitions that have been undertaken under the Land Acquisition Act, 1894, in as much as the legislative intent can be ascertained from the specific mention of the 'Land Acquisition Act, 1894. Further, Section 105(1) of the RFCTLARR Act, 2013 specifically excludes the application of any Section of the RFCTLARR Act 2013 to the Acts mentioned in the fourth schedule. The only exception to Section 105(1) is Section 105(3), which makes only the 1st, 2nd and 3rd schedule applicable to the fourth schedule Acts.”

The relevant portion of the comprehensive guidelines issued by the Government of India, Ministry of Road Transport & Highways, dated 28.12.2017 reads thus :

“4.Applicability of the ‘RFCTLARR Act 2013’ to the enactments mentioned in the Fourth Schedule of the Act *ibid*:

4.4 Following the notification of the aforesaid Ordinances, the Ministry of Road Transport & Highways issued a letter dated 29.04.2015 whereby the select provisions of RFCTLARR Act, 2013 were made applicable to the NH Act, 1956 with effect from 01.01.2015. A conjoint reading of the aforesaid shows that the Ordinance (Amendment) remained in force till 31st August 2015. ‘Removal of Difficulties Order’ was issued by the Department of Land Resources on 28th August 2015, which took effect from



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01.09.2015. However, since the date of application of the selected relevant provisions of the RFCTLARR Act, 2013 to the NH Act, 1956 was 01.01.2015 in terms of the Ordinance (Amendment) No. 9 of 2014, it remains an unambiguous and accepted position that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule have been made applicable to all cases of land acquisition under the NH Act, 1956, i.e. the enactment specified at Sr. No. 7 in the Fourth Schedule to the RFCTLARR Act, with effect from 01.01.2015.

4.5 Applicability of Section 24 of the RFCTLARR Act 2013 to the NH Act, 1956.

(i) MoRT&H had issued instructions vide OM bearing No. 11011/30/2015-LA dated 13th January 2016 clarifying that Section 24 of the RFCTLARR Act, 2013 was applicable to the NH Act, 1956. However, the issue as to whether Section 24 of the RFCTLARR Act, 2013 is applicable to the NH Act, 1956 has been under consideration and revisited in consultation with the Ld. Attorney General, who has observed as under:

“A reading of Section 24 makes it abundantly clear that the provision is applicable only to acquisitions that have been undertaken under the Land Acquisition Act, 1894, in as much as the legislative intent can be ascertained from the specific mention of the ‘Land Acquisition Act, 1894’. Further, Section 105(1) of the RFCTLARR Act 2013 specifically excludes the application of any



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Section of the RFCTLARR Act 2013 to the Acts mentioned in the Fourth Schedule. The only exception to Section 105(1) is Section 105(3), which makes only the First, Second and Third Schedule applicable to the Fourth Schedule Acts.”

(ii) **As such, it is now clear that Section 24 of the RFCTLARR Act, 2013 is not applicable to the acquisitions under the NH Act, 1956.**

4.6 Date of determination of market value of land

.....

(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:

(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."*

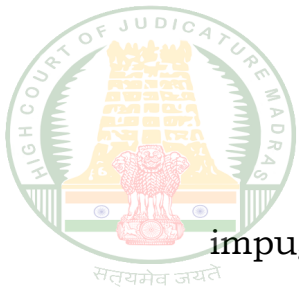
The Hon'ble High Court of Rajasthan in its decision reported in **2018 SCC OnLine Raj 77 (Gopa Ram vs Union of India)** held that Section 24 of the Acquisition Act of 2013 has no application to the acquisition proceedings under the NH Act of 1956. It was further held that in cases where final awards in respect of the notification issued under Section 3A of the NH Act of 1956 were



issued under Section 3G of the NH Act of 1956 prior to 31.12.2014 and whole amount of compensation was deposited with the CALA before 31.12.2014, and land owners whose lands were acquired have admitted that they have received compensation as determined in the awards passed under Section 3G of the NH Act of 1956 prior to 31.12.2014, there is no question of determination of compensation under Acquisition Act of 2013. The Hon'ble Division Bench of the High Court of Andhra Pradesh in its decision reported in **2021 SCC OnLine AP 3194** (vide ***Lanka Prabhakar v Union of India***) also took the same view. In any event, a circular cannot prevail over a mandatory provision of the Act.

10. Even assuming that the land owners in question are entitled to redetermination of the compensation payable to them, such an exercise could have been undertaken only pursuant to an order passed in writ jurisdiction. The District Collector, Kanyakumari could not have issued any direction on his own.

11. Of course, I must deal with the question as to whether the present writ petitions suffer from the vice of non-joinder of necessary parties. The beneficiaries under the



impugned orders are not before me. But then, this is a classic

case where the principle of useless formality can be invoked.

Even if the villagers are before me, that would not make the slightest difference. The impugned orders are set aside. These writ petitions are allowed. No costs. Connected miscellaneous petitions are closed.

07.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
SKM

Note : Issue order copy on 20.02.2025

To

- 1.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
Land Acquisition – National Highways,
Tirunelveli HQ at Nagercoil.



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WP(MD)NO.24617 of 2022

G.R.SWAMINATHAN, J.

SKM

W.P.(MD)Nos.24617, 24618, 24619,
24620, 24621, 24622, 24623, 24624,
27531, 27532, 27760 &
27761 of 2022
AND
WMP(MD)Nos.18694, 18696,
18697, 18716, 18718, 18710,
18711, 18699, 18703, 18698,
18700, 18701,
18704, 18702,
18705, 21629, 21630, 21845 &
21846 of 2022,

07.02.2025