

Shiji vs the Project Director

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Court : Kerala

Decided On : Apr-10-2023

Judge : Honourable Mr. Justice Amit Rawal, Honourable Mrs. Justice C.S. Sudha

Appeal No. : Arb.A/1/2022

Appellant : SHIJI

Respondent : The Project Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA MONDAY, THE 10TH DAY OF APRIL 2023 / 20TH CHAITHRA, 1945 ARB.A NO. 1 OF 2022 AGAINST THE ORDER IN OP(ARB) 526/2018 OF III ADDITIONAL DISTRICT COURT, THIRUVANANTHAPURAM DATED 25.2.2021 APPELLANT/3RD RESPONDENT: SHIJI AGED 40 YEARS, D/O VANAIAKUMARY, SHEEBA BHAVAN, KILLI, KOLLODU P.O. KATTAKKADA, THIRUVANANTHAPURAM-695 571. BY ADVS. K.SIJU S.ABHILASH ANJANA KANNATH T.S.SREEKUTTY RESPONDENTS/PETITIONER & RESPONDENTS 1 & 2:

1 THE PROJECT DIRECTOR N.H AUTHORITY OF INDIA, (MINISTRY OF ROAD TRANSPORT & HIGHWAYS), PROJECT IMPLEMENTATION UNIT, TC 36/414(5), KOIKKAL VEEDU, KAVU LANE, PALKULANGARA, THIRUVANANTHAPURAM-695 024. 2 THE DISTRICT COLLECTOR & ARBITRATOR, COLLECTORATE CAMPUS, THIRUVANANTHAPURAM-695 035. 3 SPECIAL DEPUTY COLLECTOR & COMPETENT AUTHORITY, LA(NH), COLLECTORATE CAMPUS, THIRUVANANTHAPURAM-695 035. BY ADV MATHEWS K.PHILIP, SC, NHA

OTHER PRESENT: SR. GOVERNMENT PLEADER SRI T K VIPIN DAS GOVERNMENT PLEADER SRI. JIMMY GEORGE THIS ARBITRATION APPEALS HAVING COME UP FOR ADMISSION ON 10.04.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 10th day of April, 2023

Amit Rawal, J.

Present appeal is directed against the judgment dated 25.2.2021 rendered in O.P(Arb).No.526/2018 of Additional District Court-III, Thiruvananthapuram, whereby the Award bearing No.55 of 2015 in LAC No.535 of 2013 of the Arbitrator dated 30.1.2018 enhancing the compensation awarded by the competent authority, has been set aside.

2. The facts in brief for adjudication of the controversy involved

in the present case, are as under: Land to the extent of 11.90 Ares, comprised in Re-Survey No.95/22 of Kanjiramkulam Village, along with other parcels of land, totaling 70.05.07 Hectares in various survey numbers of Kottukkal, Thirupuram, Kanjiramkulam, Chenkal and Karode village of Neyyattinkara Taluk was acquired for the purpose of forming a bye- pass to avoid the Kazhakkuttam-Karode stretch of the NH 47 in Thiruvananthapuram city.

3. Declaration under Sub Section 1 of Section 3D of the National Highways Act was approved and published in the official Gazette of Government of India on 7.3.2013. Special Deputy Collector, Land

Acquisition, National Highway, Thiruvananthapuram was appointed as the competent authority to determine the amount of compensation and vide order dated 2.12.2014 in LAC No.535 of 2013, awarded compensation as follows: Value of land - Rs.90,64,885/- 10% users right under Section 3(G) 2 of National Highway Act - Rs.9,06,489/- ----- Total - Rs.99,71,374/-

4. Aggrieved by the above mentioned determination, land

owners sought a reference to the Arbitrator and District Collector, Thiruvananthapuram was appointed as Arbitrator. Vide Arbitration Award No.55 of 2015, value of land was increased to the extent of 50% of the value fixed by the competent authority with 10% users right for enhanced amount as per the provisions of Section 3G (2) of

National Highways Act. In addition to the aforementioned, it was held

that the appellant was also eligible to get 9% interest per annum on the total excess amount (50% increased land value + 10% users right) from the date of taking possession under Section 3D of National Highways Act.

5. Arbitrator did not grant benefit under Sections 23(1-A) and 2 of erstwhile Land Acquisition Act, 1874 and interest payable in terms of Section 28 proviso thereof, as held admissible to the land owners in

respect of acquisition between 1997 to 2015, as per the verdict of Honble Supreme Court in Union of India and Another V. Tarsem Singh and Others [(2019) 9 SCC 304].

6. National Highways Authority, aggrieved by the aforementioned Award dated 30.1.2018 preferred objection under Section 34 of Arbitration and Conciliation Act. The contentions of National Highways Authority before the Objecting Court are as

under:

1. Arbitrator did not follow the mandate contained in Section 3G(7)(a) of National Highways Act and awarded exorbitant amount towards compensation.
2. Arbitrator violated the provisions contained in Sections 75 and 81 of the Arbitration and Conciliation Act.
3. The basic document adopted by the competent authority was not considered by the Arbitrator for fixing the land value.
4. The document bearing No.1059/2011 of SRO, Kanjiramkulam was the most suitable document.
7. The objecting Court accepted the contentions of the National Highway Authority and set aside the Award of the Arbitrator. It is in the said background, the present appeal has been filed.
8. Learned counsel appearing on behalf of the appellant-land owner submitted that solatium and interest as contained in Section 23 (1-A) and 2 and interest payable in terms of Section 28 proviso, of the

Land Acquisition Act, 1894 would also be applied to acquisition made under the National Highways Act, for, the Government came out with an enactment called Right to Fair Compensation and Transparency in

Land Acquisition (Rehabilitation and Resettlement (Removal of Difficulty) Order 2015, effective from 1.1.2015, whereby the Central Government considered it necessary to take the stand beneficial to land owners generally under Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) 2013 Act (30 of 2013), which came into effect from 1.1.2015, to similarly placed land owners, whose lands were acquired under 2013 enactment specified in Fourth Schedule of the National Highways Act.
9. The Fourth Schedule was carved out in terms of the

provisions of Section 105 of the 2013 Act, which expressly include item No.7 of National Highways Act, 1956, whereby prior to 24.1.1997 Act, the benefits of solatium and interest was payable to landowners, whose property was compulsorily acquired for the purpose of

National Highway. In 1997, excluding the applicability of the provisions of Land Acquisition Act, 1894, Section 3J in particular, was introduced and the said provisions continued till 2015. The Central Government came out with a notification dated 28.8.2015 under Section 113 of 2013 Act which came into effect from 1.1.2015 and

decided to extend the benefit available to land owners in RFCTLARR Act to similarly placed land owners, whose land was acquired under the thirteen (13) enactments specified in the Fourth schedule. The land owners, whose land was acquired between 1997 and 2015, vide various orders of competent authority, Arbitrator and objecting court or High Court previously were denied the benefits of 2013 Act as well as the benefit of solatium and interest and interest under Section 23(1-A)& 2 and Section 28 of the Land Acquisition Act, 1894.

10. During the interregnum, a Division Bench of Punjab &

Haryana High Court in *Golden Iron and Steel Forging v. Union of India* [2008 SCC OnLine P& H 498] struck down the provisions of Section 3J and 3G of the National Highways Act.

11. It was also submitted that even in the acquisition that had

taken place under the National Highways Act, Government came out with a notification of 2015 under the new acquisition Act of 2013 making solatium and interest payable in cases covered by both the Acts with effect from 1.1.2015 through an ordinance No.9 of 2013. In support of the contention, learned counsel placed reliance on judgments of the Supreme Court reported in *Union of India and Another v. Tarsem Singh and Others* [(2019) 9 SCC 304], and of this Court in *Navayuga Engineering Company Ltd., v. Union of India*

Union of India [2022 (1) KLJ 570] as also the unreported judgment of Supreme Court in Civil Appeal No.4671/2022 arising out of SLP No.19775 of 2021 titled as National Highways Authority of India v. S.P. Nagaraju @ Cheluvaiah & Another.

12. The objecting Court could not have interfered with the

Award of the Arbitrator, as consistently it was held by the Supreme Court and this Court that the jurisdiction under Section 34 is not an appeal, as the proceedings under Section 34 of Arbitration and Conciliation Act 1996 are summary in nature. Permissibility of interference by objecting Court should be on the following grounds:

1. Arbitrator did not adopt the judicial approach

2. Breach of principles of natural justice

3. Contravention of the statute not linked to the public policy or

public interest being patent illegality under Section 34(2A) and 4(1) of the Arbitration and Conciliation Act. There should be minimal interference in the Arbitral Award save it suffers from patent illegality.

13. On the other hand, learned counsel appearing on behalf of

the National Highways Authority supported the order of the objecting court whereby the Award of the Arbitrator has been set aside, by controverting that objecting court found that Award of Arbitrator was falling within the provisions as urged by the counsel representing the land owners, for, the objection complied with the provisions of Sections 34 (2)(b)(ii) read with Explanation 1(ii) to Section 34 and 34(2)(A) of the Arbitration and Conciliation Act.

14. It was next contended that the reason for setting aside the

Award was on account of the judgment of Supreme Court in National Highways Authority of India v. M.Hakkeem [2021 SCC OnLine SC 473], wherein it was held that Award of the Arbitrator cannot be modified.

15. No doubt, the objecting court noticed that the provisions of

solatium and interest would be beneficial in view of the notification which came into effect from 1.9.2015, but in the present case, notification issued under Section 3A of National Highways Act was issued on March 2012, much before the said notification and therefore, the said benefit cannot be granted to landowners. Award was in conflict with the public policy of India and vitiated by patent illegality.

16. We have heard learned counsel for the parties and appraised the paper book.

17. National Highways Authority Act, 1956, till 1997, did not exclude grant of solatium and interest pari materia to Sections 23(1A)

& 2 and 28 of the Land Acquisition Act, when the NHA Act was amended in 1997, by incorporating the provisions of Section 3A to 3J. Section 3J excluded the applicability of the provisions contained in

the Land Acquisition Act. However, during the interregnum, Legislature came out with a new Land Acquisition Act ie., Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013. Section 105 of the said Act provided that provisions of the Act shall not apply to the enactments relating to the acquisitions specified in the Fourth Schedule to this Act.

18. The First Schedule to Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 provided that solatium equivalent to 100% of Market value multiplied by various factors, depending on whether land is situated in a rural or urban area, constitutes minimum compensation package to be given to those, whose land is acquired and Fourth schedule

includes 13 Acts to which provisions of 2013 Act would not be applicable.

19. Section 105 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act is reproduced: 105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.-(1) Subject to sub-section (3), the provisions of this Act shall not

apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 106 the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification,

within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued

under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

20. For brevity, Fourth Schedule to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is extracted below:
THE FOURTH SCHEDULE (See section 105) LIST OF ENACTMENTS

REGULATING LAND ACQUISITION AND REHABILITATION AND RESETTLEMENT

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).
2. The Atomic Energy Act, 1962 (33 of 1962).
3. The Damodar Valley Corporation Act, 1948 (14 of 1948).
4. The Indian Tramways Act, 1886 (11 of 1886).
5. The Land Acquisition (Mines) Act, 1885 (18 of 1885).
6. The Metro Railways (Construction of Works) Act, 1978 (33 of 1978).
7. The National Highways Act, 1956 (48 of 1956). State
8. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962).
9. The Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952).
10. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (60 of 1948).
11. The Coal Bearing Areas Acquisition and Development Act, 1957 (20 of 1957).
12. The Electricity Act, 2003 (36 of 2003).
13. The Railways Act, 1989 (24 of 1989).

21. By notification dated 28.8.2015, effective from January

2015 was promulgated and it provided that compensation provision will apply to acquisition that will take place under National Highways Act, meaning thereby that before 1997 Amendment Act and till 2015, solatium and interest was not payable to land owners whose property was compulsorily acquired for the purpose of

National Highways Act.

22. Vires of Sections 3J and 3G(A), excluding the applicability of

the provisions of National Highways Act, was assailed before the High Court of Punjab & Haryana and by the judgment rendered in *Golden Iron and Steel Forging v. Union of India* [2008 SCC OnLine P&H 498], the provisions of Sections 3J and 3G of NHA Act were quashed.

23. The aforementioned judgment, along with other matters reached

the Supreme Court and in *Union of India and Another v. Tarsem Singh (supra)*. By noticing rival contentions and all the judgments on the point, much less the provisions of Article 31-C and 300A of the Constitution of India, it was declared that the provisions of the Land Acquisition Act relating to solatium and interest contained in Sections 23(1-A) and (2) and interest payable in terms of Section 28 proviso will apply to acquisitions made under the National Highways Act as the provisions of Section 3J were discriminatory and unconstitutional.

The aforementioned judgment was rendered on 19.9.2019. Paragraph 52 of the said judgment reads thus:

52. There is no doubt that the learned Solicitor General, in the aforesaid two orders, has conceded the issue raised in these cases. This assumes importance in view of the plea of Shri Divan that the impugned judgments should be set aside on the ground that when the arbitral awards did not provide for solatium or interest, no Section 34 petition having been filed by the landowners on this score, the Division Bench judgments that are impugned before us ought not to have allowed solatium and/or interest. Ordinarily, we would have acceded to this plea, but given the fact that the Government itself is of the view that solatium and interest should be granted even in cases that arise between 1997 and 2015, in the interest of justice we decline to interfere with such orders, given our discretionary jurisdiction under Article 136 of the Constitution of India. We therefore declare that the provisions of the Land Acquisition Act relating to

Solatum and interest contained in Sections 23(1-A) and (2) and interest payable in terms of Section 28 proviso will apply to acquisitions made under the National Highways Act. Consequently, the provision of Section 3-J is, to this extent, violative of Article 14 of the Constitution of India and, therefore, declared to be unconstitutional. Accordingly, appeal arising out of SLP (C) No. 9599 of 2019 is dismissed.

24. The aforementioned judgment also noticed the judgment of

Supreme Court in *Narain Das Jain v. Agra Nagar Mahapalika* [(1991) 4 SCC 212], wherein it was held that grant of interest on solatum is a matter of right for land owners as it amounts to re-compensate for loss of user of land or it is sum paid for delayed payment of compensation. Solatum being part of compensation must therefore,

held to be fetching a statutory interest from the date of dispossession

of the land owner till date of payment.

25. In *Golden Iron and Steel Forging v. Union of India*, it was

also held that solatum is not a largesse or a mere subsidy that the State doles out to a hapless landowners in discharge of some benevolent exercise of governmental power. Solatum is an amount, paid by the State to an unwilling land owner, for compulsory appropriation of his property. Solatum draws its meaning from the word solace.

26. In certain pending issues before the Supreme Court, owing

to the promulgation of ordinance regarding the applicability of the provisions of 2013 Act, to the acquisitions under National Highways Act, the Government conceded that the land owners would be entitled to solatum and interest as envisaged under sections 23 and 28 of Land Acquisition Act. This was so noticed in paragraph 6 of *National Highways Authority of India v. RLF Industries Ltd.*, in Civil

Appeal No.8874-8883 of 2013, which reads as follows: 6. The only point agitated before us by the learned Solicitor General is that in paragraph 23 of the impugned

judgment of the High Court, it has been held that land-owners

would henceforth be entitled to solatium and interest as envisaged by the provisions of Sections 23 and 28 of the Land Acquisition Act, 1894. In the ultimate paragraph of the impugned judgment it has, however, been mentioned that in respect of all acquisitions made under the National Highways Act, 1956, solatium and interest in terms similar to those contained in Sections 23(2) and 28 of the Land Acquisition Act, 1894 will have to be paid.

27. Granting of a statutory benefit is intrinsic and therefore,

when the Arbitrator or competent authority or objecting court fails to grant the same, it would not amount to modification of the Award. This point was considered by Bombay High Court, noticing the

judgment of M.Hakkeem (supra), in Shri Sarjuprasad and Others v.

National Highways Authority of India and Others [2022 (1) Mh.LJ 290], wherein the learned District Court, Nagpur, while exercising power under Section 34 of the 1996 Act, 'modified the award' passed by the Arbitrator by directing payment of interest @12% per annum as per the provision of Section 23(1-A) of the 1894 Act and further granted interest @9% in terms of Section 28 of 1894 Act. Apart from this, other modifications were also done viz. directed payment of 30%

solatium while directing 10% amount for loss of easement rights. The said grant of interest was challenged before the Bombay High Court by National Highway Authority vide Arbitration Appeal Nos.35 of 2019 and 36 of 2019.

28. In paragraph Nos.13, 15, 20 and 28 of the said judgment, the Bombay High Court held as under:

(13) Heard learned counsel for the rival parties and perused the material on record. Since the learned Senior Counsel appearing for the land owners on instructions has stated that the land owners are not pressing relief on the basis of the Right to Fair Compensation Act, this Court is not called upon to consider the said contention. As regards the other contentions raised on behalf of the rival parties in these appeals, it is necessary to peruse the impugned judgments and orders passed by the District Court. A perusal of the operative portion of the said judgments and orders shows that the District Court has categorically

held that the Awards are not set aside, but they are

modified by directing that the land owners would be paid 30% amount of the Award as solatium, 12% of the amount of compensation as per Section 23(1-A) of the Land Acquisition Act and interest @9% in terms of Section 28 of the Land Acquisition Act. It is also specifically directed that the amount of 10% granted to the land owners under Section 3-G(2) of the Act of 1956, towards loss of easementary rights would be deducted. The District Court has thus specifically modified the Awards,

while exercising power under Section 34 of the Arbitration Act. xxxx xxxx xxxx

(15) Therefore, there is substance in the contention

raised on behalf of the acquiring body that the District Court could not have modified the Award under Section 34 of the Arbitration Act. But, it needs to be examined as to whether the operative portion of the impugned Judgments and Orders passed by the District Court actually modifies the Award or not. This is in the backdrop of the contention raised on behalf of the land owners that when the District Court, while exercising power under Section 34 of the Arbitration Act, has only recognized and granted statutory benefits under the provisions of the Land Acquisition Act, which flow from grant of compensation, it cannot be

said that the Award has been modified by the District Court. In fact, it is contended that the only modification in the Award is deprivation of 10% of compensation under Section 3- G(2) of the Act of 1956, as granted under the Award and that therefore, only the said portion needs to be set aside as per the law laid down by the Hon'ble Supreme Court in the aforesaid recent judgment in the case of The Project Director, NHAI vs. M.Hakeem (supra).

xxxx xxxx xxxx 20) Thus, the declaration of law made in the above quoted paragraph of the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Tarsem

Singh (supra) has been clarified to specifically state that the provision of Section 23(1-A) of the Land Acquisition Act shall not be applicable to compensation paid when acquisition is undertaken under the Act of 1956. Consequently, the declaration of law contained in the above quoted paragraph of the said judgment of the Hon'ble Supreme Court would mean that the provisions of the Land Acquisition Act regarding solatium under Section 23(2) and payment of interest on excess compensation under Section 28 of the Land Acquisition Act, would be applicable to such acquisitions made under the Act of 1956.

(21) The position of law laid down by the Hon'ble

Supreme Court in the above quoted paragraph in the case of Narain Das Jain vs. Agra Nagar Mahapalika (supra), would show that payment of solatium and interest under the aforesaid provisions i.e. Section 23(2) and 28 of the Land Acquisition Act, would spontaneously spring up and become payable to the land owners, once the compensation as per market value stands determined. Therefore, to that extent when the District Court in the impugned judgments and orders directed payment of solatium and interest under clauses (i) and (iii) of the operative portions of the orders, it cannot be said that there was modification of the Award,

even though the District Court while recognizing grant of such amounts stated that the Award was being modified. xxxx xxxx xxxx

(28) In view of the above, all the four appeals are partly allowed and it is held as follows: -

(A) The Arbitration Award passed by the Arbitrator and confirmed by the District Court in the impugned

order is upheld and the impugned judgments and

orders are interfered with only to the extent that the direction of deducting 10% of compensation for loss of easementary rights under Section 3-G(2) of the Act of 1956, is set aside and further the direction to pay amount under Section 23(1-A) of the Land Acquisition Act in Clause (ii) of the impugned orders is set aside, as these directions amount to modification of the Arbitration Award.

(B) The direction in Clause (i) to pay solatium and

direction in clause (iii) for payment of interest are upheld, since they are held not to be modifications of the Arbitration Award, but instead recognition of statutory amounts payable to the land owners upon determination of compensation as per market value, which automatically flow to the land owners upon determination of such compensation.

30. Against the order of Bombay High Court, SLPs bearing Nos.8629 of 2022 and 8835 of 2022 were preferred, which have been dismissed by the Hon'ble Supreme Court vide judgment dated 11.7.2022.

31. Even after the judgment in Tarsem Singh (supra), National Highways Authority had been challenging grant of interest/solatium,

without noticing the fact that the counsel representing them had conceded the applicability of the provisions of 1894 Act viz., grant of solatium interest and interest

under Sections 23(1-A) & (2) and 2 and 28 of 1894 Act, brought into effect from 2015, fully knowing well that land owners have given the said benefit in respect of the acquisitions effected between 1997 and 2015.

32. Civil Appeal No.4671 of 2022 arising out of SLP.No.19775 of 2021, National Highways Authority of India v. Sri. P. Nagaraju @ Cheluvaiah & Another was dismissed vide judgment dated 11.7.2022.

33. In Tarsem Singh (supra), paragraph Nos.5 to 7 of the

judgment in Sunita Mehra v. Union of India [2019 (17) SCC 672] were

referred wherein it was noticed that Government also accepted the fact that in respect of acquisitions made under the National Highways Act, 1956, solatium and interest in terms similar to those contained in Sections 23(2) and 28 of the Land Acquisitions Act, 1894 will have to be paid and while noticing the contention of the learned Solicitor General, it was held that Award of solatium and interest on solatium should be made effective only to those proceedings pending on the date of the High Court order in Golden Iron and Steel Forging v. Union of India i.e., 28.3.2008 and concluded cases should not be opened. As for future proceedings, the position would be covered by

the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (came into force on 1.1.2014), which have been applicable to acquisitions under National Highways Act, 1956 by virtue of notifications/order issued under the provisions of the 2013 Act. Paragraph 7 of the

judgment rendered in Sunita Mehra (supra) reads as under:

7. We have considered the submissions advanced. In Gurpreet Singh v. Union of India, this Court, though in a different context, had restricted the operation of the

judgment of this Court in Sunder v. Union of India and had

granted the benefit of interest on solatium only in respect of pending proceedings. We are of the view that a similar course should be adopted in the present case also. Accordingly, it is directed that the award of solatium and interest on solatium should be made effective only to

proceedings pending on the date of the High Court order

in *Golden Iron and Steel Forging v. Union of India* i.e. 28-3-

2008. Concluded cases should not be opened. As for

future proceedings, the position would be covered by the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (came into force on 1-1-2014), which Act has been made applicable to acquisitions under the National Highways Act, 1956 by virtue of notification/order issued under the provisions of the 2013 Act.

34. Section 80 of 2018 Act deals with grant of the provisions of interest, which are pari-materia to the provisions of Section 28 of Land Acquisition Act, 1894.

35. Fully knowing all these provisions and judgments, it has

become a common practice that National Highways Authority of India, unnecessarily is burdening the courts with spate of litigations, putting the State Exchequer at peril causing delay in disbursement of interest and compensation thereon. Not only this, even when delayed

payments are released, the element of interest increases exponentially, which also causes a big hole in the pocket of bona fide tax payers. If the National Highway takes appropriate advice, it would save the cost of litigation and would avoid the burden of payment of heavy interests. It could have a great impact in saving the economy of the country.

36. For the reasons aforementioned, order of the objecting

Court is not tenable and sustainable, it is set aside and Award of the Arbitrator is restored. We also clarify that the land owners would also be entitled to the statutory benefit under Sections 23(1-A) & (2) and 28 of the Land Acquisition Act, as per the dictum in Tarsem Singh (supra) as it would not amount to modification of the Award, for, these are the intrinsic benefits, which are to be granted as per the

judgment in Shri Sarjuprasad's case of Bombay High Court, wherein

SLP has already been dismissed. Let all the benefits granted by the Arbitrator as well as the statutory benefits granted by this Court be released to land owners, within a period of two months from the date of receipt of a certified copy of this judgment. Appeal stands allowed. We further deem it appropriate to direct the Registrar General of this Court to circulate this judgment to all Project Directors of National Highway pan India as well as the Managing Director/Chairman for perusal. Sd/- AMIT RAWAL, JUDGE Sd/- C.S. SUDHA JUDGE sou.

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