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W.P.No.2482 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.2482 of 2023
and WMP No.2582 of 2023

M/s.Chennai Metro Rail Limited,
Rep. By its Managing Director,
METROS,
No.327, Anna Salai,
Nandanam, Chennai – 600 035.

... Petitioner

-Vs-

1. Govt. of Tamil Nadu,
Rep. By its Additional Chief Secretary,
Environment, Climate Change & Forest Department,
Fort St. George,
Chennai, Tamilnadu – 600 009.

2. The Chairman,
Tamil Nadu Transmission Corporation
(TANTRANSCO)
NPKRR Maligai, TNEB Office,
144, Anna Salai,
Chennai – 600 002.

3. The Principal Chief Conservator of Forests
(Head of Forest Force),
Forest Headquarters Building,
Velacherry Main Road, Guindy,
Chennai – 600 032.



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4. The Conservator of Forests, Tamil Nadu,
Anna Salai, Teyanmpet,
Chennai – 600 018.

5. Tamil Nadu State Wetland Authority,
Rep. By Member Secretary,
Panagal Maligai, Saidapet,
Chennai – 600 015.

6. The Ministry of Environment, Forest and Climate,
Indira Paryavaran Bhawan, Jorbagh Road,
New Delhi – 110 003.

... Respondents

[R5 Suo motu impleaded vide order dated 01.02.2023 made in WP No.2482 of 2023 by NSKJ]

[R6 Suo motu impleaded vide order dated 09.02.2023 made in WP No.2482 of 2023 by NSKJ]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to consider the application in online portal PARIVESH-II dated 09.01.2023 submitted by the 2nd respondent seeking approval for rerouting of existing 230 KV feeders vide proposal No.FP/TN/TRANS/41326/2023 for facilitating construction of elevated corridor of Metro project (Phase-II), within a time limit.

For Petitioner : Mr.P.S.Raman, Sr. Counsel
for Mrs.Rita Chandrasekar

For Respondents
For R1, R3, R4 & R5 : Mr.R.Shanmugasundaram,
Advocate General
Assisted by Mr.K.Karthik Jeganath,
Government Advocate
and Ms.A.G.Shakeenaa

For R2 : Mr.D.R.Arun Kumar



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For R6

: Mr.AR.L.Sundaresan,
ASG of India
Assisted by Mr.K.Venkataswamy Babu,
SPC

ORDER

A writ of mandamus has been instituted by the Chennai Metro Rail Limited, to direct the 3rd respondent to consider the application in online portal PARIVESH-II dated 09.01.2023, submitted by the 2nd respondent seeking approval for rerouting of existing 230 KV feeders vide proposal No.FP/TN/TRANS/41326/2023, for facilitating construction of elevated corridor of Metro project (Phase-II), within a time limit to be stipulated.

2. The petitioner states that the Chennai Metro is a rapid transit system serving the city of Chennai, Tamil Nadu, India. It is the fourth longest metro system in India after Delhi Metro, Hyderabad Metro and Namma Metro. The Phase-I of the Chennai Metro Rail Project consists of two colour-coded lines covering a length of 54.15 kilometres (33.65mil). The Chennai Metro Rail Limited (CMRL), a joint venture between Government of India and the Government of Tamil Nadu, built and operates the network. The system has a mix of underground and elevated stations and uses standard gauge.



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3. The Chennai Metro Rail Limited is a special purpose vehicle (SPV) formed for the purpose of implementing the Chennai Metro Rail Project. The project is being funded by the Government of India and the State Government by way of equal equity contribution and subordinate debt (Government of India 20%, Government of Tamil Nadu 20.78% and the balance 59.22% being met from the loan assistance from Japan International Co-operation agency). The Government of India has also accorded sanction for the project.

4. Considering the acute traffic congestion and thereby hardship to the public by way of economic loss, accidents, pollution etc., phase-I of the Chennai Metro Rail project was initially planned for a length of 45kms in two Corridors. Finally, the two Corridors were covered a length of 45.046km network and consisted, Corridor-I – from Washermenpet to Airport (23.085 Km) and Corridor-2 – from Chennai Central to St. Thomas Mount (21.961 km). About 55% of the Corridors in Phase-I is underground and the remaining extent are elevated. Out of 32 numbers of stations, 13 numbers are Elevated Stations and remaining 19 numbers are underground Stations. Inter Corridor interchange



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Stations are available in Alandur (Elevated) and Chennai Central (Underground) respectively.

5. On account of the success of the Phase-I and Phase-I Extension of Chennai Metro Rail Projects, the Government in G.O.Ms.No.23 Planning, Development and Special Initiatives [SI] Department, dated 13.04.2017, had approved in principle the following three Metro Rail Corridors under Phase-II of Chennai Metro Rail Project. The present estimate cost of the project is about Rs.63,246/- Crores. The details of the corridors covered under Phase-II is as follows:

1.	Corridor-3	Madhavaram to Siruseri	45.77 Kms
2.	Corridor - 4	Poonomallee to Light House	25.70 Kms
3	Corridor -5	Madhavaram to Sholinganallur	44.66 Kms
		Total	107.55 Kms

6. As part of Phase-II, CMRL has proposed to construct an elevated Metro Corridor from Alandur to Shollinganallur Tower (14.653 kms), part of which is proposed to pass over and above the existing road adjacent to Perumbakkam Marsh Land, which is under the control of reserve forest at the southern side of Medavakkam-Shollinganallur Road.



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7. For the above purpose of construction of the elevated Metro Corridor, deviation of 230 KV overhead feeders in existing old tower near KITS Park is imperative for the functioning and operation of the proposed elevated metro project on this corridor.

8. For the deviation of the existing 230 KV overhead feeders from the old tower, it is necessary to dismantle and remove the existing old tower and erect 2 Nos. of Cable Termination Towers (Newly designed Narrow based Towers) adjacent to the existing line corridor in order to convert the existing Overhead line into Underground cable, to cater the requirement and construct elevated metro rail corridor in the road crossing area.

9. The existing old tower and line will be dismantled and removed from the Reserve Forest area after the erection of the new narrow designed towers. The above decision to convert the old lines is taken after considering all the feasibilities including the prevention of any damage to the marshland and the endangered species of Flora and Fauna of the Perumbakkam Marshlands.



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10. The existing Over Head Line was erected 30 years ago and during erection of the towers, the aforementioned area was under the control of Revenue Department and recently the same has been notified as Reserved Forest and Pallikaranai marsh lands as Ramsar Site.

11. The area required for the erection of newly designed narrow-based tower to erect in Perumbakkam marshland area will substantially require much lesser space than that of the existing tower. Moreover, the already existing old tower will be dismantled and removed immediately after the erection of new towers. The foot area of the proposed specially designed new narrow based 2 towers are each 2.5m x 2.5m against the existing one old tower is 16m x 16m. The excess free area in Marsh land is explained below:

Excess area to become free in Marsh land due to removal of existing old tower	: 11,130 m ²
Area required for erection of 2 nos. of new Narrow based cable termination Tower	: 9,677.50 m ²
Free area in Marsh land	: 1,452.50 m ²

12. The proposed elevated Metro Corridor from Alandur to Shollinganallur Tower is essential and critically needed for the public



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project as it will reduce the traffic considerably and in turn will improve the environmental performance by way of reducing air and noise pollution. There is no other effective or viable proposal in order to convert the existing Overhead line into Underground cable across the road to facilitate construction of the proposed elevated Metro rail Corridor over and above the road area.

13. There is no other suitable land available for the proposed elevated corridor in this stretch running over and along the road and this deviation proposed is essential for the construction and functioning of the proposed metro project. The petitioner in conjunction with the 2nd respondent (TANTRANSCO) has ensured and planned effective minimal usage of land in this area by utilizing the best techno economic feasible equipment and engineering skill.

14. The learned senior counsel appearing on behalf of the petitioner/CMRL mainly contended that the State Government may not have any serious objection in respect of the proposals in the interest of public, as the project is invested and coordinated by the Government of Tamilnadu for its peaceful and effective completion. The Government of



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India has no role in view of the fact that the permission is required only from the State Government and thus, the Government of Tamilnadu has to grant permission. On principle, the competent authorities of the Government of Tamil Nadu were convinced with the proposals submitted by the Chennai Metro Rail Limited. However, they expressed their concern about certain Court orders, which were earlier passed in the matter of according permission.

15. The learned Advocate General appearing on behalf of the Government of Tamil Nadu made a submission that the State has no serious objection in implementing the Metro Rail project as it is partly funded by the Government of Tamil Nadu and the project is of greater relief to the people and to decongest the traffic in many areas across the city of Chennai.

16. The learned Advocate General brought to the notice of this Court that the impediment considered by the authorities is the order passed by this Court in Crl.O.P.Nos.4413 of 2013 and 22457 of 2015 dated 19.08.2021.



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17. The above Anticipatory Bail petitions were filed by some land-grabbers, who were in illegal occupation of the government land including portion of Pallikaranai Marshlands. While dealing with the Anticipatory Bail petitions, this Court considering the public interest and also the environmental protection to be taken care of by the State Government, has invoked the powers under Article 226 of the Constitution of India and issued certain directions in the interest of public to protect the Marshlands. One of the directions issued by this Court is, “***prohibit any sort of non-forestry activity in the Pallikaranai marsh***”

18. The learned Advocate General pointed out that the activity if carried out may not result in contradicting the directions issued by this Court and therefore, the petitioner/CMRL has approached this Court seeking permission from the State Government.

19. This Court is of the considered opinion that in the interest of public and by exercising the constitutional powers under Article 226 of the Constitution of India, this Court has issued directions prohibiting any sort of non-forestry activity in the Pallikaranai marsh.



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WEB COPY 20. The question that arises is whether the proposal now made by the Chennai Metro Rail Limited is to be construed as a forestry activity or non-forestry activity or such rerouting of the electric transmitting cables would result in damaging the environmental development or otherwise.

21. Primarily, the proposal now mooted out by the Chennai Metro Rail is to reroute the existing HT Electric Overhead line into Underground cable. The Metro Rail has clearly set out the project of rerouting and sufficiently explained that it will not occupy much space and more so, it will occupy the lesser space than that of the existing Overhead cables.

22. That apart, the rerouting must be done by the TANTRANSCO at the cost of the CMRL, the petitioner herein. The TANTRANSCO authorities have also studied the viability and considered the proposals submitted by the petitioner/CMRL and they have no serious objection nor they have raised any objection regarding the environmental damage or other repercussions in respect of rerouting of the overhead line as



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underground cable. Therefore, the rerouting of the cable from overhead to underground, would not cause any injury to the forestry activity in Pallikaranai marshlands and more so, it cannot be a continuous affair or activity to be carried out in the Pallikaranai Marshlands. It is a non-forestry activity and a one time measure undertaken by the TANTRANSCO in co-operation with the CMRL in the interest of public and more so, by occupying the lesser space than that of the space now in occupation by way of overhead cable.

23. That apart, it is brought to the notice of this Court that due to overhead cable system, lot of birds are dying and that also can be prevented by laying underground cables, which will be more beneficial for the better protection of the Pallikaranai marshlands. Beyond public interest, the environmental interest also has been taken care of by the petitioner-CMRL and the TANTRANSCO.

24. Thus, there is no doubt such one time rerouting of existing High Tension Electricity overhead line into underground cable, cannot be construed as a non-forestry activity, since it is a one time permanent arrangement made in the interest of public and to develop the Metro Rail



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Project for the benefit of the public at large and to decongest the traffic in Chennai City.

25. In fact in the very same order, this Court has considered the development of MRTS station which came up during the relevant point of time and an observation was made that since MRTS station has already come up, it is impossible to do anything as it is in the interest of public. Thus, this Court has accorded recognition in respect of the MRTS station which was constructed when the case was disposed of by this Court.

26. When the construction of MRTS station was considered as public interest, the Chennai Metro Rail Project can no way be lesser than that of the public interest, which was considered in respect of MRTS station. Thus, this Court is of the considered opinion that the order prohibiting any sort of non-forestry activity passed by this Court is not an impediment, since the proposal now mooted out by the CMRL cannot be construed as non-forestry activity and it is an one time installation of underground cable for the benefit of Metro Rail project and thus the order passed by this Court, cannot stand in the way of the authorities to



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complete the project in all respects, by rerouting the overhead line to underground cable, as per the specifications and designing now placed before this Court, at the earliest possible.

27. Therefore, the respondents/competent authorities are directed to accord all necessary permission and extend co-operation to the petitioner-CMRL to complete the project in all respects, in the interest of public and the said exercise is directed to be completed by the respondents/competent authorities, within a period of two months from the date of receipt of a copy of this order.

28. With the above direction, the Writ Petition stands allowed. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

05.04.2023

Index: Yes
Speaking order.
Neutral Citation: Yes
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To
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Govt. of Tamil Nadu,
Environment, Climate Change & Forest Department,
Fort St. George,
Chennai, Tamilnadu – 600 009.

2. The Chairman,
Tamil Nadu Transmission Corporation
(TANTRANSCO)
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S.M.SUBRAMANIAM, J.

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