



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No. 709 of 2017
and
W.M.P(MD) .Nos.583 & 7789 of 2017

S.Nagarajan

.. Petitioner

Vs.

1. The District Collector,
Ramanathapuram District.
2. The Divisional Railway Manager,
Southern Railways,
Madurai Division,
Madurai.
3. The Chief Engineer,
Southern Railways,
Madurai Division,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from constructing the subway in L.C.No.497-611/600/700SQD-RMD Kooriyur Village, Puththanenthal Panchayat, Ramanathapuram District and consequently direct the respondents to set up a manned level crossing in L.C.No.497-611/600/700SQD-RMD Kooriyur Village, Puththanenthal Panchayat, Ramanathapuram District.

For petitioner : Mr.T.Antony Arulraj

For R1 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

For R2 & R3 : Mr.S.Manohar



O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

This writ petition has been filed in public interest. The petitioner is a permanent resident of Kooriyur Village, Ramanathapuram District. The said village is connected with the National Highways through an unmanned Railway Level Crossing (L.C.No.497-611/600/700SQD-RMD). It is the case of the writ petitioner that if a subway is constructed, it would cause manifold hardship to the villagers. There are two water channels running parallel on both sides to a railway track. If the subway is constructed, the free flow of water will be affected. That apart, during rainy season, water will get stagnant in the subway and the villagers would be completely cut off. Since the villagers are essentially dependent of agriculture, they cannot mount their agricultural implements on heavy vehicles and transport them. This is because the height of the subway will be limited and there cannot be any movement of heavy vehicles. Therefore, the villagers have been protesting against the move of the authorities to construct the subway. Since the authorities appear to be going ahead, this writ petition has been filed for forbearing them from constructing the subway in question. Instead, the villagers want the respondent to setup a manned level crossing.

2. Heard the learned counsel for the parties.

3.The learned Standing counsel for the railways would contend that in the matters such as this, the view taken by the authorities cannot be interfered with by this Court, in exercise of jurisdiction under Article 226 of the Constitution of India. The earlier orders passed by this Court were also placed for perusal. The learned Standing counsel would further contend that a policy decision has been taken by the Ministry of Railways to eliminate all the unmanned railway Level Crossings by 2020. While such a policy is undoubtedly in public interest, the respondents cannot ignore the voice of concern raised by the learned counsel for the petitioner. The Railway authorities cannot be heard to say that they would go ahead with the construction of subway unmindful of the issues raised by the local villagers. While, the Railway authorities are justified in eliminating unmanned Level Crossing, they have to necessarily take into account, all the issues raised by the writ petitioner. In other words, if the villagers are put to hardship, on account of the action of the respondents 2 and 3, the petitioner would always be at liberty to move before the Court.

4. The learned Standing counsel for the Railways submitted that they would consider the representation submitted by the writ petitioner. The consideration cannot be mechanical. It has to reflect the concerns expressed in this writ petition and meet them. The second respondent is directed to dispose of the writ



petitioner's representation, dated 10.01.2017, within a period of four weeks from the date of receipt of a copy of this order.

5. This Writ petition accordingly disposed of. No Costs. Consequently, connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar (CS-IQ)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District.
2. The Divisional Railway Manager,
Southern Railways,
Madurai Division,
Madurai.
3. The Chief Engineer,
Southern Railways,
Madurai Division,
Madurai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 79329
+ 1 CC TO Mr.T.ANTONY ARUL RAJ, ADVOCATE IN SR No. 79151
+ 1 CC TO Mr.S.MANO HAR, ADVOCATE IN SR No. 79358

RMK/PJL
TE/KKR/SAR-II : 15/11/2017 : 3P/7C

ORDER MADE IN
W.P.(MD)No. 709 of 2017 and
W.M.P(MD) .Nos.583 & 7789 of 2017
14.09.2017