



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2017

CORAM :

WEB COPY

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

W.P(MD)Nos.24633 of 2016 and 1080 of 2017
and
W.M.P(MD).Nos.17762 of 2016 and 916 of 2017

S.Ramakrishnan ... Petitioner in W.P.24633/16

V.Ratha ... Petitioner in W.P.1080/17

vs.

1.The General Manager,
Southern Railway
1st Floor, N.G.O.Main Building,
Park Town,
Chennai - 600 003.

2.The District Collector,
Office of the District Collector,
Ramanathapuram District.

3.The Divisional Manager,
Southern Railway,
Madurai Division,
Madurai.

... Respondents 1 to 3
in both petitions

4.The Senior Section Engineer
(Constructions)
Southern Railway,
Madurai Division,
Madurai.

... Respondent No.4 in
W.P.1080/2017

Prayer in W.P.No.24633 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents No.1 to 3 from putting up a subway under L.C.No.493km@ 605/800-900 situating at L.Karungulam Village, Ettivayal Post Ramanathapuram District



and consequently, directing the respondents to take necessary action to put up gates and appoint sufficient number of employees to man the level crossing within the time stipulated by this Court.

Prayer in W.P.No.1080 of 2017 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from putting up a subway under L.C.No.494 situating at Landai Village, Ramanathapuram District and consequently, directing the respondents to take necessary action to put up gates and appoint sufficient number of employees to man the level crossing within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani in both petitions

For Respondents : Mr.M.Govindan,
Spl.G.P for R2

Mr.S.Manohar, for RR1, 3 and 4

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J)

W.P(MD).No.24633 of 2016 has been filed by one S.Ramakrishnan, representing the interest of the villagers of L.Karungulam in Ramanathapuram District.

2.According to the writ petitioner, his village is situated on the southern side of N.H.49 and in between the village and the said of National Highway, there runs a railway track connecting Rameshwaram and Madurai. The villagers have to regularly cross the said railway track for all their purposes. Therefore, the railway authorities proposed to create a subway. The villagers raised objections saying that creation of subway would not be in their interest and instead, a manned railway crossing should be put up. Since, their representation was not acted upon, the present writ petition has been filed for forbearing the railway authorities from putting up a subway under L.C.No.493km @ 605/800-900 situated at L.Karungulam Village, Eattivayal Post, Ramanathapuram District.

3.Similarly, W.P(MD).No.1080 of 2017 has been filed by one Radha representing the interest of the villagers of Periyathamaraikudi. His village is also situated on the southern side of N.H.49 and they have to cross the unmanned railway crossing namely, L.C.No.494 to reach the National Highway for all their purposes. They are also aggrieved by the construction of subway under L.C.No.494. Instead, they want a manned railway crossing by putting up a gate and appointing sufficient number of employees to man the same.



4.The respondents / railways have filed their counter affidavit dated 18 March 2017. In the counter affidavit, the railways have taken the stand that a policy decision has been taken to eliminate all unmanned level crossings by 2020 for safety reasons. According to the respondents, the construction of subway is only in the interest of general public. It has been averred in the said counter affidavit that water culverts passing through railway crossings will be provided with siphon arrangements so as to ensure free flow of water. It is being asserted by the respondents that the channel water will not enter into the subway as apprehended by the writ petitioners. A road culvert will also be provided on both sides of the level crossing approach road. If during rainy season, water enters the subway, proper arrangements will be made to pump out the water.

5.Heard the learned counsel for both parties.

6.These writ petitions were filed quite a few months back. There were no interim order granted in these writ petitions. When the cases were taken up for final disposal, the learned counsel appearing for the railways informed the Court that tenders were called for and agreement was entered with M.R.HI-Tech Engineers Private Ltd., for a sum of Rs.18,04,13,362/-. This agreement involves 9 level crossings. It was further stated that the substantial public money was already spent and work is in progress. Taking note of the subsequent developments, it is not possible to grant any relief as prayed for in these writ petitions. Besides these are matters involving technical study. In the very nature of things, it is not possible for this Court to interfere in such matters involving civil construction. In the counter affidavit, the railway authorities has specifically assured that the apprehension raised by the villagers will certainly be taken note of and addressed.

7.We place on record the said submission. Since the construction of subway has already commenced and is in progress, it is not possible to grant relief as prayed for in these writ petitions.

8.These writ petitions are dismissed with the above observations. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar



To

The District Collector,
Office of the District Collector,
Ramanathapuram District.

+2 ccs to Mr.S.Malaikani, Advocate, SR.Nos.66218 and 66219

+2ccs to Mr.S.Manohar, Advocate, SR.Nos.66422 and 66423

+One cc to The Special Government Pleader, SR.No.66593

skm/Arul

RL/7C/4P/KK/SAR1/26/7/2017

WP(MD)Nos.24633 of 2016 and 1080 of 2017
and
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