

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.22561 of 2018
and
W.M.P.No.26418 of 2018

K.C.Ruthirakumar ... Petitioner

vs.

1.The General Manager
Southern Railways
Chennai - 600 003

2.The Divisional Railway Manager
Salem Division
Salem - 636 005

3.The District Collector
Salem District
Salem - 636 001

4.The Revenue Divisional Officer
Attur Taluk
Attur, Salem District - 636 102

5.The Tahsildar
Attur Taluk

Salem District - 636 102 ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the respondents, their agents or subordinates to provide direct way to the western side Panchayat Road which runs through the agricultural lands in Attavanai Kottampadi and Mettupalayam and reaches to the check dam by giving sufficient slope as per the norms, and for transporting vehicles without any inconvenience, while constructing the sub-way and approach roads in the unmanned level crossing (LC-141) in Salem-Viruthachalam Railway line forthwith.

For Petitioner : Mr.P.Jagadeesan
For R1 & R2 : Mr.P.T.Ramkumar,
Stdg. Counsel for Southern Railways
For R3 to R5 : Mr.T.N.Rajagopalan
Government Pleader

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Instant writ petition has been filed seeking for a direction to the respondents, their agents or subordinates, to provide direct way to the western side Panchayat Road, which runs through agricultural lands in Attavanai Kottampadi and Mettupalayam and reaches to the check dam by giving sufficient slope, as per the norms, and for transporting vehicles without any inconvenience, while constructing the sub-way and approach roads in the unmanned level crossing (LC-141) in Salem-Viruthachalam Railway line forthwith.

2. The case of the petitioner is that, in Salem District, Attur Taluk near Kothampadi, there is a Panchayat Road from NH-68 and reaches to Jari Kothampadi, Attavanai Kothampadi and other rural areas through unmanned railway crossing No.LC-141 on Salem-Vriddhachalam Railway line. After crossing the railway track on the southern side, within a distance of 15 meters from the railway track, the said Panchayat Road splits into two panchayat roads. One such road proceeds on the southern side to Jari Kothampadi Village, the other road proceeds on the western side, runs through the agricultural lands, within the jurisdiction of Attavanai Kothampadi and as well as lands situated in Mettupalayam Village. The said road is runs up to the check dam constructed across the surplus water river from "panai eri" which is one of the biggest lakes in Salem District.

3. It is the further case of the petitioner that, a year back, Southern Railway, started to construct a sub-way, at a height of 12 feet under the railway track in the unmanned level crossing (LC-141) on Salem to Vriddhachalam railway line. The local people agitated for the same on the ground that heavy vehicles could not pass through the sub-way as the proposed sub-way is only 12 feet and there are no other roads to reach their residences and the check dam. Considering the grievance of the public, the Railway officials decided to construct the sub-way with sufficient height. The Southern Railways started to construct the sub-way with 20 feet height and provided direct way only to the Panchayat Road, which proceeds on the southern side. In other words, there is no provision to approach the panchayat road branches towards the western side, which reaches

the check dam.

4. It is the further case of the petitioner that, in order to construct 20 feet height sub-way on both sides of the panchayat road, which proceeds on southern side, thick concrete walls would be constructed and as a result of which, the panchayat road branches towards western side, would be closed. Petitioner further contended that direct access is provided only to the Panchayat road, which proceeds on the southern side. Access to panchayat road branches on the western side would be totally closed by the construction of the walls on both sides of the road. As on date, the construction of sub-way under the railway track alone completed. On both sides of the sub-way, formation of the road is under progress. As the height of the sub-way is about 20 feet, the panchayat road would have to be re-laid by giving sufficient slope on both sides of the sub-way and re-laying would be done by removing the earth by several feet.

5. It is the further case of the petitioner that there are about 100 families living in their agricultural lands in Mettupalayam and Attavanai Kothampadi, who are all using the western side Panchayat Road. There are about 350 acres of agricultural lands, wherein Topinac, Sugarcane and cotton etc. are being cultivated. As a result of construction of the sub-way, approach to the Panchayat road would be closed and the general public of the said villages would be seriously affected. They will not be able to transport their agricultural produces and the other vehicles like school vans, farm vehicles, fire service vehicles, vehicles loading the harvesting machines etc. It is the further contention of the petitioner that the check dam was damaged sometime ago, due to heavy water flow and the same was reconstructed by transporting the materials and machineries through the western panchayat road. Therefore the direct way to the western panchayat road is very essential.

6. It is the further contention of the petitioner that on behalf of public of Jari Kothampadi and Attavanai Kothampadi Village, he sent a representation on 27.02.2018 to the respondents requesting them to provide direct way to both the Panchayat roads. But, without considering the grievance of the villagers, Southern Railway proceeded to construct sub-way and the roads on both sides of the sub-way, in such a way to block the western side panchayat road. It is the further contention of the petitioner that earth work is being done for the purpose of forming the roads on both sides of the sub-way. If both sides of the road walls are constructed, western side panchayat road, would be totally closed. Hence, for the inaction on the part of Southern Railway on the request of the public of Jari Kothampadi and Attavanai Kothampadi Village, instant writ petition has been

Railway/Salem

9. Placing on record the above letter dated 03.09.2018 addressed to Mr.P.T.Ramkumar, Standing Counsel for Railways and the submission, the writ petition is disposed of. However, there shall be no order as to cost. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

asr

To

- 1.The General Manager
Southern Railways
Chennai - 600 003
- 2.The Divisional Railway Manager
Salem Division
Salem - 636 005
- 3.The District Collector
Salem District
Salem - 636 001
- 4.The Revenue Divisional Officer
Attur Taluk
Attur, Salem District - 636 102
- 5.The Tahsildar
Attur Taluk
Salem District - 636 102

+1cc to Mr.P.Jagandeesan, Advocate SR.No.61189

+1cc to Mr.P.T.Ramkumar, Advocate SR.No.61517

+1cc to Government Pleader SR.No.61087

W.P.No.22561 of 2018
and
W.M.P.No.26418 of 2018

GMV (26/09/2018)