

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17/6/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.16577 of 2019

I. Karunanithi

... Petitioner

Vs

1. The Government of Tamil Nadu
rep. By its Secretary
Highways Department
Fort St. George
Chennai 600 009.

2. The District Collector
Kanchipuram District.
Kanchipuram.

3. The Divisional Engineer
Highways department
Ezhilagam
Chennai 600 005.

4. The Commissioner
Pallavaram Municipality
Chromepet
Chennai 600 044.

5. The Special Tahsildar
Inner Ring Road Scheme
Pallavaram Taluk
Chromepet
Chennai 600 044.

... Respondents

Prayer Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to take immediate action on the representation of the petitioner dated 3/12/2018.

For petitioner ... Mr.Amar D.Pandiya

For respondents ... Mr.E.Manoharan
Additional Government Pleader
for R.R.1 to 3 and 5
Mr.P.Srinivas for R.4.

O R D E R

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

Instant writ petition has been filed, to direct the respondents, to take immediate action, on the representation of the petitioner, dated 3/12/2018.

2. Petitioner is a member of Legislative Assembly, for the legislative constituency of Pallavaram. In Radha Nagar main road, there is a railway track running across the road. Public are permitted to cross the railway track, in order to reach G.S.T road, from Nemilicherry through Radha Nagar main road and vice versa. Railway level crossing is managed manually by the railway administration. Further, Radha Nagar main road is only 20 feet width. During the peak hours, public are forced to wait for a long time, in order to cross the railway gate. That apart, road is also very less in width. Due to the said reason, there is an unusual congestion and traffic, in the locality.

3. Public made several representations to the authorities concerned requesting them to widen the road and also to make an alternative arrangement for the railway level crossing. The Commissioner, Pallavaram Municipality, Chennai, fourth respondent, acted on the representation of the public and passed a resolution, dated 29/6/2007, and requested the Government, to construct a subway, in order to cross the railway level crossing and also requested to widen Radha Nagar main road.

4. Government have accepted the resolution and also sanctioned a sum of Rs.14.70 crores. Railways started their work for sub-way. On 4/3/2010, Government have published a Notification, for acquisition of land. Based on the said Notification, on 29/3/2010, an enquiry was conducted, in which objections of the public were heard and considered. Government have accepted the objections in part, thereby, the width of the road is reduced to 4.0 meters from 5.5. meteres, which was originally considered, for acquisition.

5. On 19/12/2010, another Notification was published. On 16/3/2011, Notification, under Section 15 (1) was published and compensation was fixed. On 21/12/2011, the Special Tahsildar, Pallavaram Taluk, Chromepet, Chennai, fifth respondent issued notice to the individual land owners, whereby the owners were requested to surrender possession. At that stage, some of the people whose lands were subjected, for acquisition, filed W.P.No.4522 of 2012 batch, before this Court and challenged the acquisition proceedings and that on 12/10/2018, the same was dismissed. After the dismissal of the writ petition, public

approached the respondents, to take further action, in the abovesaid process. As there was no response from the respondents, petitioner, on 3/12/2018, sent a representation, to the respondents. Since the representation of the petitioner has not been disposed of, petitioner has filed the instant writ petition, praying for the relief, as stated supra.

6. Heard Mr.Amar D.Pandiya, learned counsel for the petitioner, Mr.E.Manoharan, learned Additional Government Pleader for the respondents 1 to 3 and 5 and Mr.P.Srinivas, learned counsel for the fourth respondent.

7. Today, when the matter came up for admission, on instructions, from Divisional Engineer (H), CMDP, Division I, Guindy, Chennai, Mr.E.Manoharan, learned Additional Government Pleader for the respondents 1 to 3 and 5 submitted that the work of construction of limited use sub-way, in lieu of the existing level, crossing No.27 at KM25/3-4 near Chromepet Railway Station, at Radha nagar Main road, is a railway works program, planned to be executed by both Highways Department and Railways Department, on cost sharing basis. Railways has completed the railway portion of the limited use subway, under railway track, within their boundary, in the year 2012 itself. On either side, approach to the railway subway has to be formed by the Highways Department for which land acquisition was initiated in the year 2010 itself. Following all the acquisition procedure, as per Tamil Nadu Highways Act, 2001, on 31/1/2012, an award was pronounced. Land owners refused to receive the compensation, the land acquisition compensation, and a sum of Rs.6.46 crores was deposited in the Subordinate Court, Tambaram.

8. Learned Additional Government Pleader further submitted that 26 numbers of land owners filed writ petition No.4522 of 2012 and 25 others also challenged the acquisition proceedings. 26 cases were dismissed, on 16/11/2018, by a learned Single Judge, vide order, dated 16/11/2018. Some of the land owners filed appeal in W.A.No.2823 of 2018. Appeal was dismissed, on 20/2/2018, granting time till 28/2/2019 to the land owners, to vacate and handover physical possession of the subject lands therein. Based on the abovesaid order, notices were issued to the land owners by the Highways Department to vacate the premises, on or before 1/3/2019. Land owners in W.P.No.4763 of 2019 filed an application, for extension of time, for vacating the premises. No extension was given.

9. That apart, Mr.E.Manoharan, learned Additional Government Pleader also drew the attention of this Court to writ petition No.4414 of 2019 filed by one C.Jayaraj, for a mandamus, directing the respondents therein, to complete the pedestrian subway constructed at L.C.No.27 Chromepet - Radha Nagar main

road, in terms of G.O.Ms.No.245 Highways (S.X.U-2) dated 5/12/2003, granting Administrative sanction for the construction of a pedestrian subway by laying and completing the approach road and pathway on the side of Radha nagar main road on the east and GST road on the west without in anyway modifying the usage of the said subway from pedestrian subway to limited use vehicular subway.

10. He further submitted that after hearing the learned counsel appearing for the parties, this Hon'ble Court, on 1/3/2019, dismissed the writ petition No.4414 of 2019,. Paragraph 25 of the order made in W.P.No.4414 of 2019 is as follows:-

"What remains to be considered is the formation of approach road. There shall be a direction to the Secretary to the Government, Highways Department, Government of Tamil Nadu, Chief Engineer (Metro), Highways Department, HRS Complex, Guindy and Divisional Engineer (Highways), Chennai Metropolitan Development Scheme, Schemes Division - I, Chennai 32/respondents 1, 3 and 4 respectively, to form the approach road/approach ramps, within 18 months from today and while doing so, ensure that vehicular traffic and pedestrian traffic is well channelised. Commissioner, Pallavaram Municipality/fifth respondent herein is directed to extend the fullest cooperation for the purpose of formation of the approach roads."

11. Learned Additional Government Pleader further submitted that accordingly, physical possession of the subject lands was taken, existing buildings have been demolished, estimate has been prepared and submitted for administrative sanction. He further submitted that after obtaining sanction from the Government, tender would be called for and work will be commenced at the earliest. Submission of the learned Additional Government Pleader is placed on record.

12. Further contention of the learned Additional Government Pleader is that during the period of model code of conduct, administrative sanction could not be granted. Now that the model code of conduct is not in force, Secretary to the Government Highways Department, Government of Tamil Nadu, Chief Engineer (Metro) and other authorities, referred to in paragraph 25 of the order, made in W.P.No.4414 of 2019 dated 1/3/2019, are directed to implement the orders in letter and spirit, as the project is pending from 2003.

13. As orders have already been issued, by this Court, there is no need to consider the representation of the

petitioner, dated 3/12/2018. Accordingly, writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Secretary
Government of Tamil Nadu
Highways Department
Fort St. George
Chennai 600 009.
2. The District Collector
Kanchipuram District, Kanchipuram.
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Inner Ring Road Scheme
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+1 cc to The Government Pleader, Sr.No. 50107
+1 cc M/s.Amar D.Pandiya, Advocate, Sr.No. 48977
+1 cc to Mr.P.Srinivas, Advocate, Sr.No. 49255

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SAI(CO)
CSL/26.06.2019