

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.32248 & 32254 of 2018
and W.M.P.Nos.37500 & 37502 of 2018

Zamruth ... Petitioner W.P.No.32248/2018

Anthonyammal ... Petitioner W.P.No.32254/2018

Vs.

1.The Divisional Railway Manager,
Southern Railway,
Bharathiyar Salai,
Thillai Nagar,
Nr.Railway Junction,
Tiruchirappalli - 620 001.

2.The Senior Section Engineer (Works) (P.Way),
Southern Railway,
Vellore Cantonment,
Vellore.

3.The Inspector of Works (IOW) (P.Way),
No.15, Thiruppanalvar Street,
Southern Railway,
Villupuram - 605 602.

Respondents in both W.Ps

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents to reconstruct the superstructure demolished by them on 09.11.2018 in the petitioner property comprised in Survey No.352, Field Nos.36 & 27, Door Nos.58B & 50, Hussain Bura Street, Ditter Line, Vellore, Vellore District by adopting unlawful method and without following due process of law and consequently direct the respondents to pay fair and just compensation to the tune of Rs.5,00,000/- for mental agony, sufferings and pain.

For Petitioner : Mr.B.Vijay
(in both W.Ps)

For Respondents: Mr.P.T.Ramkumar
(in both W.Ps) Standing Counsel for Railways

R1 - Tribunal

C O M M O N O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

Since the issue involved in both the Writ Petitions are identical, the Writ Petitions are disposed of by this common order.

2.The petitioners have filed the Writ Petitions to issue Writs of mandamus to direct the respondents to reconstruct the superstructure demolished by them on 09.11.2018 in their property comprised in Survey No.352, Field Nos.36 & 27, Door Nos.58B & 50, Hussain Bura Street, Ditter Line, Vellore, Vellore District by adopting unlawful method and without following due process of law and consequently, direct the respondents to pay fair and just compensation to the tune of Rs.5,00,000/-.

3.It is the case of the petitioners that the respondents had unlawfully demolished the superstructure without issuing any notice to the petitioners with regard to the alleged encroachment.

4.The 2nd respondent filed his counter stating that as per Para 827 of Indian Railway Works Manual 2000, for making any construction within 30 meters from the railway boundary, No Objection Certificate has to be obtained from the Competent Authority. This stipulation is made in order to ensure no obstruction is caused to the Railway Tracks and any construction made within 30 meters should not affect the cables of signal system made by the Railways. According to the 2nd respondent, the petitioners have put up temporary construction in an unauthorized manner within the Railway boundary. Further, the 2nd respondent has stated that sufficient opportunities were given to the petitioners to remove their encroachments before taking action to evict them. Further, on 10.11.2018, the petitioners gave a representation seeking 15 days time to vacate the Railway land encroached by them. In spite of the time given, they did not vacate the Railway land and hence, the temporary construction put up by the petitioners were removed in their presence.

5.The learned counsel appearing for the respondents has also annexed the representation dated 10.11.2018 given by the petitioners and other people requesting the respondents to grant 15 days to vacate the encroached land.

6.The learned counsel for the petitioners submitted that the petitioners have affixed their signature for a different purpose. However, the petitioners have not established the said contention in any manner whatsoever. Further, the factum of the representation dated 10.11.2018 has not been disclosed in the affidavit filed in support of the Writ Petitions by the petitioners. The petitioners are not entitled to encroach the Railway land, which would affect the free flow of trains.

7.In these circumstances, we are not inclined to entertain the Writ Petitions. Accordingly, the same are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Divisional Railway Manager,
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No.15, Thiruppanalvar Street,
Southern Railway,
Villupuram - 605 602.

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.2857

+2ccs to Mr.B.Vijay, Advocate, S.R.No.3076

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.2858 (dt.22/02/2019)

W.P.Nos.32248 & 32254 of 2018
and W.M.P.Nos.37500 & 37502 of 2018

SR(CO)

rrs 01/02/2019