



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.09.2019**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P.(MD).No.13983 of 2018

Vairamuthu

... Petitioner

Vs.

- 1.Union of India,
Represented by Ministry of Railways,
Rail Bhavan,
New Delhi.
 - 2.The State of Tamil Nadu,
Represented by the District Collector,
Pudukkottai District.
 - 3.The Deputy Chief Engineer,
Gauge Conversion-II/TPJ
Southern Railway,
Chennai-60008.
 - 4.The Director,
Rural Development and Panchayat Raj,
Panagal Maligai, Abdul Razzak Street,
West Saidapet, Chennai-600 015.
 - 5.The Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai-600 009.
- ... Respondents

*(R4 and R5 are suo motu impleaded vide
order dated 13.02.2019)*

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 3rd respondent in No.315/1/1/pub/CN/Vol.xv, dated 19.06.2018 set aside the same and consequently direct the respondents to provide/construct subway in Tiruvarur-Pattukottai-Karaikudi Broad-Gauge Railway line for accessing the public to reach between Puduvakottai, Melakudieruppu, Sanganathi, Samban Odai, Veerandan, Surakudi Villages and MDR 653 (Aranthangi- Peravurai Road) based on the recommendation of the 2nd respondent vide his proceedings No.Na.Ka.No.C3/15274/2016 dated 12.01.2018 within stipulated time fixed by this Court.



For Petitioner : Mr.R.M.Arun Swaminathan
For R2, R4&R5 : Mr.A.K.Baskara Pandian
Special Government Pleader
For R1 and R3 : Mr.C.Vakeeswaran

O R D E R

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(Order of this Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.R.M.Arun Swaminthan, learned counsel appearing for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing on behalf of the respondent Nos.2, 4 and 5 and Mr.C.Vakeeswaran, learned counsel appearing for the respondent Nos.1 and 3.

2.This writ petition has been filed to set aside the order dated 19.06.2018, by which, the request made for construction of sub-way was rejected by Railway administration. In this writ petition, directions were issued to the respondents on 09.11.2018 and 13.02.2019. The directions are as follows:

"The Railways took a decision for conversion of the meter-gauge section between Pattukottai to Karaikudi. In the process of construction of the broad gauge, the existing road was closed. The local people were not in a position to have access to the main road as the track height was increased by 20 feet from the ground level. The representation submitted by the petitioner and the other local people was considered by the Railways. The Railways informed them that it is for the State Government to bear the expenditure for construction of sub way. The amount was estimated at Rs.2.5 crores. When a request was made to the Collector pursuant to the direction issued by this Court, the Collector informed the parties that it is for the Railways to construct the sub way by spending money.

2.The petitioner has come up with this writ petition challenging the communication sent by the Southern Railway, informing him that sub way can be provided incase amount is deposited by the State Government.

3.We are informed that on account of the increase in the height by 20 feet, the people from nearby seven villages were not in a position to enter the main road. Since the construction of the sub way is in larger public interest, the Collector must take up the issue with the Government. The Government must take a decision to bear the expenditure for the construction of sub way in public interest.

4.We therefore, direct the District Collector, Pudukottai, the second respondent herein to take up the



public interest projected by the petitioner and other villagers and pass appropriate orders. The decision taken shall be communicated to this Court by 28 November, 2018.

5.Post the writ petition on 28 November, 2018."

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"As per the earlier order dated 09.11.2018, passed by the Court, the District Collector, Pudukkottai District, wrote a letter dated 31.01.2019, to the Director, Rural Development and Panchayat Raj, Panagal Maligai, Abdul Razzak Street, West Saidapet, Chennai-600 015, informing him about the payment of Rs.2.5 crores (approximately) to the Railways for the purpose of making sub-way or level crossing at Melakudieruppu area, Pudukkottai, Aranthangi Taluk.

2.Since the recommendation has been made by the District Collector, Pudukkottai on 31.01.2019, the Director, Rural Development and Panchayat Raj is directed to forward the same to the Government and the Government shall take a decision on or before 01.04.2019.

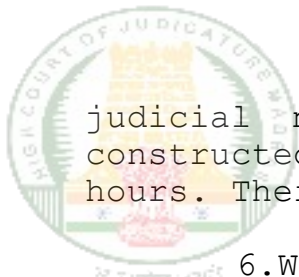
3.In view of the above, the Director, Rural Development and Panchayat Raj, Panagal Maligai, Abdul Razzak Street, West Saidapet, Chennai-600 015 and the Additional Chief Secretary, Rural Development and panchayat Raj Department, Fort. St.George, Chennai-600 009 are suo motu impleaded as respondents 4 and 5. Mr.A.K.Baskarapandian, learned Special Government Pleader takes notice for respondents 4 and 5.

4.Registry is directed to make necessary amendments in the cause title and call the matter on 02.04.2019."

3.Pursuant to the directions issued by this Court on 13.02.2019, the Southern Railway Deputy Chief Engineer/II/Gauge Conversion/II, Tiruchirappalli, has addressed the Project Director, District Rural Development Authority, Pudukkottai, vide letter dated 01.08.2019, wherein stating that the Railway administration has agreed to construct the sub-way and there was some correspondence with regard to the sanction of funds which appears to have attained finality.

4.The learned counsel appearing for the Railway administration submits that the sub-way will be constructed at the earliest, subject to other factors, such as weather condition etc.

5.Considering the plight of the local public, we direct the Railway administration to make every endeavour to complete the sub-way work at the earliest, preferably within a period of six months from the date of receipt of a copy of this order. We also take



judicial note of the fact that very recently, a sub-way was constructed by the Southern Railway in record time of less than 24 hours. Therefore, if there is a will there is a way.

6. With the above direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector,
The State of Tamil Nadu,
Pudukkottai District.

2. The Deputy Chief Engineer,
Gauge Conversion-II/TPJ
Southern Railway,
Chennai-60008.

3. The Director,
Rural Development and Panchayat Raj,
Panagal Maligai, Abdul Razzak Street,
West Saidapet, Chennai-600 015.

4. The Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George, Chennai-600 009.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-86453[F] dated
13/09/2019)

+1 CC to M/s.RM. ARUNSWAMINATHAN, Advocate (SR-86515[F] dated
13/09/2019)

W.P. (MD).No.13983 of 2018
12.09.2019

ns

JM/01.10.2019/4P/7C