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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.17503 of 2020

K.Selvaraj

... Petitioner

Vs.

1. The General Manager,
Southern Railway,
Park Town, Chennai - 600 003.
2. The District Collector,
Namakkal.
3. The Deputy Chief Engineer,
Southern Railway,
Salem - 5.
4. The Revenue Divisional Officer,
Namakkal.
5. The Tahsildar,
Rasipuram Taluk,
Namakkal District.
6. The Special Tahsildar (L.A.)
Salem to Karurbroadgage Scheme Unit -1,
Namakkal.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to provide right to passage to reach his land in S.No.60/5A2, 60/6A2 at Rasipuram from the Salem to Karur Railway Track through S.No.60/4 based on his representation dated 31.01.2020.

For Petitioner : Mr.V.Perumal

For Respondents 1 & 3 : Mr.P.T.Ramkumar
Standing Counsel for Railways,

For Respondents 2, 4 to 6: Mr.Yogesh Kannadasan,
Government Advocate



O R D E R

(The case has been heard through video conference)

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Writ petition has been filed seeking a direction to the respondents to provide right of passage to reach his land in S.No.60/5A2, 60/6A2 at Rasipuram, near the Salem to Karur Railway Track, through S.No.60/4 based on his representation dated 31.01.2020.

2. According to the petitioner he is the owner of the land in S.No.60/5A2 and 60/6A2. Earlier the respondents acquired the petitioner's land for forming Salem to Karur railway track, in S.No.60/4, thereby petitioner's right to reach his agricultural land was blocked. Hence the petitioner made a representation to provide pathway so as to enable him to reach his agricultural lands in Survey No.60/5A2 and 60/6A2 as there is no alternative pathway available to him. According to the petitioner his representation was not considered and hence he filed the present writ petition.

3. The respondents 1 and 3 filed a detailed counter wherein it is stated that the petitioner's representation dated 27.11.2001, requesting for way leave facility, was considered by the respondents and thereafter, joint survey was done and a feasibility report was also filed on 05.11.2015. In terms of Railway Board Order, an estimate was prepared calculating way leave charges for a period of 10 years as Rs.1,62,842/- for providing 1200 Sq.Mts of railway land as passage to the petitioner's land. The amount has been charged based on the Tamil Nadu guideline value for railways for providing pathway. It is further stated that the petitioner was advised to deposit Rs.10,000/- towards Plan and Estimate (P&E) charges. However, the petitioner failed to remit the charges. Therefore, reminder was sent to the petitioner on 31.05.2016 again followed by another reminder on 20.01.2017. But the petitioner failed to deposit the amount and also failed to appear before the Railways to countersign the GAD drawing and draft estimate.

4. In the above circumstances, further opportunity was given to the petitioner on 13.07.2017, directing him to remit Rs.10,000/- as P & E charges before 01.08.2017. As the petitioner failed to pay the P & E charges, his application was dropped on 18.12.2017 and all the above details are available in the web portal of the railways. Suppressing all these facts, the present writ petition has been filed.

5. Mr.V.Perumal, learned counsel appearing for the petitioner, on instructions, submitted that the petitioner is



always ready and willing to pay the P & E charges as levied by the railway authorities, but he has not received any communications from the railway authorities. Hence he was not in a position to deposit the amount. He further stated that the petitioner is ready and willing to deposit the P & E charges and the way leave charges, as demanded by the railways and the respondent railways may be directed to process the petitioner's application.

6. Mr.P.T.Ramkumar, learned standing counsel appearing for the railways, on instructions, submitted that even though the petitioner's application has been dropped, considering the fact that the petitioner is seeking way leave on the ground that there is no alternative way available to the petitioner, the petitioner may pay the amount within the time fixed by this Court and the railways is ready and willing to consider the application of the petitioner. He further submitted that counter affidavit has also been filed by the railways to the effect that the railways will consider the petitioner's request on payment of P & E charges.

7. Considering the submissions of the learned counsel on either side and also perused the records carefully.

8. Considering the pleadings and the submissions made by the respective learned counsel, as the petitioner is now ready and willing to pay the P & E charges and also the way leave charges, in such circumstances, the petitioner is directed to remit the P & E charges of Rs.10,000/- within a period of four weeks from the date of receipt of a copy of this order and countersign the GAD drawings and draft estimate, thereafter the Divisional Engineer/Central, Southern Railway, Salem is directed to process the application of the petitioner and pass suitable orders within a period of twelve weeks thereafter. It is also made clear that if the petitioner fail to pay the amount, the respondents need not give any further opportunity to the petitioner in this regard. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



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To

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1. The General Manager,
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Rasipuram Taluk,
Namakkal District.
6. The Special Tahsildar (L.A.)
Salem to Karurbroadgage Scheme Unit -1,
Namakkal.

+1cc to Mr.P.T.Ram Kumar, Advocate SR.29986
+1cc to Mr.V.Perumal, Advocate SR.30119
+1cc to the Government Pleader SR.30410

W.P.No.17503 of 2020

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