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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No.146 of 2022

and

W.M.P. (MD) No.108 of 2022

Jayalakshmi

... Petitioner

-vs-

- 1.The District Collector
Thanjavur District, Thanjavur
- 2.The Commissioner
Pattukottai Municipality, Thanjavur
- 3.The General Manager
Southern Railways
NGO Annexe
George Town
Chennai-600 003
- 4.The Senior Divisional Engineer
Co-ordination
Southern Railway
Tiruchirapalli District
- 5.The Revenue Divisional Officer
RDO Office
Pattukottai, Thanjavur
- 6.The Tahsildar
Taluk Office
Pattukottai Municipality
Thanjavur

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents to construct the subway in LC No.94 railway km.114/800-900 between Pattukottai to Peravurani at Kondappanayakan Pallayam, Thanjavur District, on the representations dated 18.09.2021 and 22.10.2021.

For Petitioner : Mr.Thirumahilmaran.P.

For Respondents : Mr.S.R.A.Ramachandran

Addl. Government Pleader for R1, R5 & R6



O R D E R

[Order of the Court was made by DR.G.JAYACHANDRAN, J.]

The petitioner, who is an individual, has filed this writ petition under the garb of public interest litigation to issue a writ of mandamus forbearing the respondents from constructing the subway in LC No.94 railway km.114/800-900 between Pattukottai to Peravurani at Kondappanayakan Pallayam, Thanjavur District.

2. The case of the petitioner is that she is a resident of Kondappanayakan Pallayam Street, Pattukottai Town. The Railway Department has proposed to construct a subway near Nadiamman Kovil Road, Anna Nagar. The said proposal was objected by the general public and therefore, the project was kept in abeyance for sometime. Again, it is understood that the second respondent has revived the proposal to construct subway in spite of the serious objections. According to the petitioner, there is no necessity to construct any subway in that locality and if any such subway is constructed, the width of the road would be reduced and it would cause inconvenience to the students of the nearby school and other general public. Further, representation of the petitioner, dated 22.10.2021 endorsed by the other general public, has not been considered till date by the respondents and therefore, a writ of mandamus is to be issued forbearing the Railway Department from constructing any subway in the proposed location.

3. This Court, on perusing the representation of the petitioner, is of the view that the writ petition has been filed under the garb of public interest litigation with an intention to prevent the Railway Authorities from constructing a subway for the safety of the general public and to curtail any untoward accidents cannot be entertained.

4. It is always open to the Railway Authorities to choose a suitable place to construct a subway and in the event the width of the road getting narrowed down on account of such construction, there is no doubt the Local Authorities will ensure extension of the width of the road. Hence, the construction of subway cannot be stalled on the basis of presumption and assumption. Hence, this writ petition is against the interest of the general public.

5. In any event, this writ petition is disposed of with the following directions to the Railway Authorities:

- Before proceeding with the project, opinion of the experts must be obtained;
- While constructing subway, the safety of the pedestrians and others should be taken care by the Authority concerned. They should ensure that



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there will not be any stagnation of rainwater in the subway;

- The Authority concerned should also ensure proper lighting, ventilation and monitoring of passerby in the subway;
- No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The District Collector,
Thanjavur District, Thanjavur.
- 2.The Revenue Divisional Officer,
RDO Office,
Pattukottai,
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- 3.The Tahsildar,
Taluk Office,
Pattukottai Municipality,
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- 4.The General Manager
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NGO Annexe,
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5.The Senior Divisional Engineer
Co-ordination
Southern Railway
Tiruchirapalli District.

6.The Commissioner
Pattukottai Municipality, Thanjavur

+1 CC to M/s.P.THIRUMAHILMARAN, Advocate (SR-662[F]
dated 06/01/2022)

+1 CC to M/s.SPL.GP (SR-767[F] dated 07/01/2022)

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NSN (CO)

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