



W.P.No.15125 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15125 of 2020

And

W.M.P.No.18881 of 2020

S.M.Shanmugam

... Petitioner

Vs.

1.The District Collector,
Erode District,
Erode – 638 011.

2.The Tahsildar
Modakurichi Taluk,
Erode District.

3.The Divisional Railway Manager,
Southern Railway Division,
East Railway Colony,
Suramangalam,
Salem,
Tamil Nadu – 636 005.

4.The Senior Section Engineer
Salem Railway Division,
Karur Junction,
Karur – 639 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to consider



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the representations made by the petitioner herein and others received by the third respondent on 28.07.2020 and the first respondent herein on 28.09.2020 and to form an U turn and link road at the Southeast End of the under bridge to reach the existing cart track in S.F.Nos.170/4 and 171/1 of Nanjai Uthukuli Village, Modakurichi Taluk, Erode District to enable the petitioner herein and the other Agriculturist who own lands in S.F.Nos.170/6, 7, 8, 17 and 18, 171/2 to 171/15 of Nanjai Uthukuli Village, Modakurichi Taluk, Erode District.

For Petitioner : Mr.V.P.Sengottuvel
Senior Counsel
for M/s.K.Indupriya

For Respondents : Mr.V.Manoharan for R1 and R2
Additional Government Pleader
Mr.P.T.Ramkumar for R3 and R4
Standing Counsel for Railways

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to consider the representations made by the petitioner and others received by the third respondent on 28.07.2020 and the first respondent on 28.09.2020 and to form an U turn and link road at the South East end of the under bridge to reach the existing cart track in S.F.Nos.170/4 and 171/1 of Nanjai Uthukuli Village, Modakurichi Taluk, Erode District to enable the petitioner and the other Agriculturist who



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own lands in S.F.Nos.170/6, 7, 8, 17 and 18, 171/2 to 171/15 of Nanjai Uthukuli Village, Modakurichi Taluk, Erode District.

2.The case of the petitioner is that the petitioner and other agriculturist who own lands in S.F.Nos.170/6, 7, 8, 17 and 18, 171/2 to 171/15 of Nanjai Uthukuli Village, Modakurichi Taluk, Erode District use the cart track in S.No.170/4 and 171/1 to reach their lands. Whiles, they came to know that the respondents 1 and 2 had permitted the third respondent to construct an under bridge. Hence, they approached the fourth respondent seeking to make adequate provision for them to approach the existing cart track and also submitted representation to the respondents 1 and 3, however, there is no response. Hence, this writ petition.

3.The learned Senior Counsel appearing for the petitioner submitted that pursuant to the order of this Court dated 13.02.2023 made in W.P.No.15125 of 2020, the first respondent convened meeting on 03.03.2023 and the petitioner's grievance was ventilated before the first respondent. Thereafter, the first respondent has filed a status report before this Court in which it is agreed that 'As the railway department agreed that they will remove the retaining wall that they



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have already constructed which blocks the said track to the width of the track and remove the soil so that the 10 feet high S.F.No.170/4 will have a smooth slope and build a retaining wall between the belt land and the track on both sides, and speed breaker may be provided in the road safety aspects.' Hence, this Court may record the status report filed by the first respondent and direct the respondents 1, 3 and 4 to execute the work as agreed in the status report.

4.The learned Standing Counsel appearing for the Railways did not dispute the facts submitted by the learned Senior Counsel appearing for the petitioner.

5.In view of the above, this Court feels it necessary to extract hereunder the relevant portion of the Status Report dated 10.03.2023 submitted by the first respondent:

"5) I submit that, the Senior Divisional Engineer (Co-ordination) on behalf of Divisional Railway Manager of Southern Railway Division, East Railway Colony, Suramangalam, Salem has submitted that the Subway (LUS) in lieu of Level Crossing LC No.7, at Railway km 7/000-100 between Erode and Chavadipalayam Railway stations is located at Railway land in



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SF.No.169 in Nanjai Uthukuli – A village, Modakurichi Taluk, Erode District. The subway built has been put to public use. To give access to the petitioner Sri.S.M.Shanmugam's land, the RCC retaining wall on Left hand side towards Karur end, for a length of 6.5 m, has to be dismantled, beyond the edge of Railway boundary from 8.8 m to 15.3 m, on SF.No.170/4, cart road (line sketch enclosed). The existing floor level of subway and the earthen cart road is about 3 m, hence suitable ramp is to be provided from the breaking point for usage. The above is the technical solution possible for the petitioner demands. Incidentally, the above activities are coming beyond railway boundary limits. Normally, Railways are not carrying out any activities beyond railway limits.

6) *I submit that, Thiru.S.M.Shanmugam, the petitioner residing at Chinniyampalayam, Nanjai Uthukkuli 'A' Village Modakurichi Taluk, Erode District has submitted the statement dated 03.03.2023 that he attended the meeting led by District Collector on the order of Hon'ble Madras High Court. He stated that he lives in the above address and has agricultural lands in Nanjai Uthukkuli 'A' Village. The said*



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agricultural land has southside road of the said village S.F.No.170/4. The track reached the eastern road in its north line. He was enjoying the path through it. But when railway underpass was constructed in the east side road, the path to his property was cutoff. So he filed a writ petition W.P.No.15125/2020 in Hon'ble High Court on 13.02.2023. In respect of above petition the meeting has been conducted by The District Collector, Erode with the Railway officials and Revenue authorities Tahsildar, Modakurichi, Village Administrative Officer to resolve the above issue. He submitted a request from his side to remove the wall erected by the Railways department on the said carriage way and make arrangements to visit his land by heavy carriage vehicles as usual. As the railway department agreed that they will remove the retaining wall that they have already constructed which blocks the said track to the width of the track and remove the soil so that the 10 feet high S.F.No.170/4 will have a smooth slope and build a retaining wall between the belt land and the track on both sides, and speed breaker may be provided in the road safety aspects. So the petitioner have considered it and agreed.



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7) *I submit that, as directed by Honourable High Court, the meeting was convened and were discussed elaborately with Senior Divisional Engineer (CO-ordination) on behalf of Divisional Railway Manager of Southern Railway Division, East Railway Colony, Suramangalam, Salem, Tahsildar, Modakurichi and other officials along with the petitioner. In this regard, present the following:*

(i)the railway department has accepted to give access to the petitioner's land, the RCC retaining wall on Left hand side towards Karur end, for a length of 6.5 m, will be dismantled, beyond the edge of Railway boundary from 8.8 m to 15.3 m.

(ii)The petitioner has been satisfied with the railway officials suggestions, which has explained accordingly."

6.The Status Report dated 10.03.2023 submitted by the first respondent is taken on record. Respondents 3 and 4 are directed to implement the statements in the status report filed by the first respondent, which was agreed by them, within a period of twelve weeks from the date of receipt of a copy of this order.



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7. With the above observations and directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

22.06.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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