



WEB COPY



W.A.No.2513 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON :13.02.2024

JUDGMENT PRONOUNCED ON :07.03.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

Writ Appeal No.2513 of 2022

Muthuvijaya Rani

.. Appellant

Versus

1.The Commissioner of Land Administration (FAC)
Chepauk, Chennai – 5.

2.The Special District Revenue Officer
Land Acquisition
Chennai – Kanniyakumari Industrial Corridor Project
Plot No.74, Vijayaragavan Nagar
Jageer Ammapalayam, Salem – 636 302.

3.The Divisional Engineer (H)
Tamilnadu Road Sector Project – II
Salem.

4.The Divisional Engineer (H)
Chennai – Kanniyakumari Industrial Corridor Project,
Vaigai Street, Nedunchalai Nagar
By-Pass Road, Salem – 5.

5.The Government of Tamil Nadu



W.A.No.2513 of 2022

Rep.by its Secretary
Highway and Smaller Ports Department
Fort St.George, Chennai – 9.

.. Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 11.10.2022 made in W.P.No.20156 of 2020.

For the Appellant	: Mr.N.Subramaniam
For the Respondents	: Mr.P.Muthukumar, AAG Assisted by Ms.Madonna Akashini Nelson for RR4 to 6 Mr.A.Edwin Prabakar State Government Pleader for RR1 to 3

JUDGMENT

(Judgment made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

A.The Appeal:

This Writ Appeal is filed against the Order of the learned Single Judge in W.P.No.20156 of 2020 dated 11.10.2022, by which the Writ Petition filed by the appellant was dismissed.



W.A.No.2513 of 2022

B. The Writ Petition:

2. In the Writ Petition, the appellant challenged the land acquisition proceedings under the Tamil Nadu Highways Act, 2001 (hereinafter referred to as 'the Act'). The prayer was to quash the notices dated 11.01.2020 and 20.07.2020, issued under Section 15 (2) and 15 (1) of the Act and consequently to direct the respondents to have a comprehensive study for combining the alignment proposed by the RR Wing of Highways Department on the southern side of *Rasipuram* SH-79 and the Bypass road for *Omalur-Sankari-Thiruchengode-Paramathy* Road in SH-86 in a comprehensive manner. Further details of the chainage are also mentioned in the prayer.

C. The Case in the Writ Petition:

3. The case of the petitioner is that the petitioner, her mother and two sisters have jointly own agricultural lands to an extent of 1.85.72 hectares in Survey Nos.36/2, 37/2 and 37/3 of *Elayampalayam* Village, *Tiruchengode* Taluk, *Namakkal* District. The lands are located abutting the *Rasipuram-Tiruchengode* road, i.e., State Highway No.79 approximately between km 70/985 to 71/170. While so, to form a bypass road to *Omalur-Sankari-*



W.A.No.2513 of 2022

WEB COPY

Thiruchengode-Paramathi in SH.86 under the *Chennai-Kanniyakumari* Corridor Project, (hereinafter referred to as the CKICP) to bypass the *Thiruchengode* town, the land belonging to the petitioner was sought to be acquired, vide notice dated 11.01.2020 under Section 15 (2) of the Act. Under the bonafide intention that the land is being taken for public purpose, the petitioner did not object to the same and therefore, subsequently a notification under Section 15 (1) of the Act was issued on 20.07.2020.

3.1 Thereafter, the petitioner was called upon to attend the award inquiry on 08.08.2020 under Section 19 (2) of the Act, by a notice dated 30.07.2020. In the award inquiry, she informed her expected compensation amount as Rs.5,000/- per sq.ft., as market value. Once again, a notice dated 03.10.2020 under Section 19 (5) of the Act was served on the petitioner to attend further inquiry on 20.10.2020. Only during the said hearing, the petitioner came to know that the alignment has been shifted on the eastern side from the junction point of *Thiruchengode-Namakkal* road SH-94 and *Rasipuram-Thiruchengode* road, i.e., SH-79, due to the influence of adjacent landowners.

3.2 A detailed study as per the procedure has to be conducted while



W.A.No.2513 of 2022

forming the road and a notice under Section 15 (2) of the Act should be issued.

On further inquiry, the petitioner came to know that originally the alignment which was finalised by a private consultant for the bypass road was with the proposal to cut the *Rasipuram* road at Ch.71/280. However, subsequently, the alignment has been shifted to Ch.71/185. The same was under a false notion that the bypass road proposed earlier by RR wing merges the *Rasipuram* road at Ch.71/185, whereas, the RR wing proposal meets the *Rasipuram* road only at Ch.71/270. Thus, the shifting of alignment to Ch.71/185 severely affects the properties of the petitioner to an extent of 1.5 acres, while it avoids the properties adjoining the western side. This is on extraneous considerations, to protect the adjoining landowners. Further, the shifting of alignment is done under the guise of avoiding Staggered T alignment. It would be more appropriate to have the alignment at Ch.71/270 which would reduce the length and cost of acquisition, etc.. This aspect has not at all been considered by the respondents. Therefore, the present Writ Petition is filed, challenging the acquisition proceedings.

D. The Case of the Respondents:

4. The Writ Petition was resisted by the respondents by filing a



W.A.No.2513 of 2022

counter affidavit. It is stated that to regulate the increasing volume of traffic and facilitate the efficient movement of goods and people, it is proposed to widen and strengthen SH-86 in *Omalur-Sankari-Thiruchengode-Paramathi* (SH-86) stretch, under the CKICP with the financial aid from the Asian Development Bank. For the aforesaid project, it was proposed to acquire approximately an extent of 12986 sqm. dry lands in 8 fields in *Elayampalayam* Village, *Thiruchengode Taluk, Namakkal District*, which includes the petitioner's land.

4.1 A notice in Form-A under Section 15 (2) of the Act was published in the English and Tamil newspapers on 10.01.2020. By the said notice, the persons interested in the said lands were called upon to show cause as to why their lands should not be acquired for the public cause.

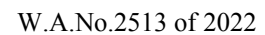
4.2 Individual show-cause notices were also served. The petitioner received the notice on 11.01.2020. The petitioner did not raise any objections. The objections received from the other landowners were forwarded to the requisitioning body, viz., the Divisional Engineer (H), *Chennai-Kanniyakumari*



W.A.No.2513 of 2022

Industrial Corridor Project, Salem, for his remarks. After obtaining the remarks, an inquiry under Section 15 (2) of the Act was conducted on 21.02.2020, at the office of the Special Tahsildar Unit, *Thiruchengode*. Thereafter, the objections of the landowners along with the remarks were forwarded to the Commissioner of Land Administration (Land Acquisition) by a communication dated 14.02.2020. After due scrutiny of the materials, the said authority in the exercise of powers conferred under Section 15 (3) of the Act, upon satisfying that the said lands have to be acquired for the project, passed the order under Section 15 (1) of the Act, vide proceedings dated 20.07.2020, which was published in Tamil Nadu Government Gazette Extraordinary No.290.

4.3 The petitioner thereafter attended the Section 19 (2) inquiry held on 08.08.2020 along with her mother. Even during the said inquiry, the petitioner did not raise any objections relating to alignment. The consultant has marked the ending of the bypass alignment at 71/270 (old chainage of Sh.79). During the verification by the departmental officials, it was observed that the alignment was not merging with the bypass alignment already fixed by



4.4. The land acquisition proceedings have been completed and a major portion of the work has also been carried out. Since the above issue relating to alignment has been specifically raised, by an interim order dated 08.09.2022, the learned Single Judge directed the Chief Engineer, CKICP, to file a report as to whether the proposed alignment for the widening of SH.95, *Mohanur-Namakkal-Senthamangalam-Rasipuram* is approved by the competent authority. In response thereof, an affidavit was filed on 13.09.2022 stating that the Board of Engineers in its meeting held on 26.02.2018 decided that the alignment committee comprising of the Superintending Engineer (H), concerned wing and Superintending Engineer (H), Construction & Maintenance of the respective circle were sufficient to approve the alignment. The Committee had inspected the site and approved the alignment proposal on 01.10.2019.



W.A.No.2513 of 2022

E. The Decision of the Learned Single Judge:

5. In the above background, the learned Single Judge considered the case of the parties and by the Order in appeal dated 11.10.2022 found that the sum and substance of the petitioner's case is that the shifting of the alignment is done without conducting comparative and comprehensive study, only to benefit the adjacent land owner. The learned Single Judge after considering the Judgment of the Hon'ble Supreme Court of India in *Power Grid Corporation of India Ltd. Vs. Century Textiles & Industries Ltd. & Ors.*¹ and the Judgment of this court in *T.Thirumalai Vs. The District Collector & Ors.*² held that the technical matters are best left to experts and the Court cannot sit in the chairs of the expert and arrive at a conclusion whether the decision taken is proper, so long as the decision is within the domain of legality and rationality.

5.1 The learned Single Judge held that the technical expert, the Chief Engineer, upon inspection and submission of the report, had chosen shifting of alignment in a particular manner and therefore, the said decision of the expert cannot be interfered with. There is no material to conclude that the shifting of alignment is to benefit the adjacent landowners. The petitioner being a Civil

¹ (2017) 5 SCC 143

² (2016) SCC OnLine Mad 15421



W.A.No.2513 of 2022

Engineer, though could labor and find out the lacunae in the project, but could not make out any grounds on which the Court can hold the shifting of the proposal as unjustifiable or technically not feasible. Further, a report has also been filed by the committee, which had inspected and approved the alignment. On a cursory glance, it cannot be said that the X-type or scissors type of alignment proposal was totally incorrect as the other alignment that was originally proposed shall also be visualised. Therefore, finding no merits in the contention of the petitioner, the Writ Petition was dismissed.

F. The Submissions :

6. We have heard *Mr N.Subramaniyan*, learned counsel appearing on behalf of the appellant; *Mr P.Muthukumar*, learned Additional Advocate General appearing on behalf of respondents 4 to 6 and *Mr. A.Edwin Prabakar*, learned State Government Pleader appearing on behalf of respondents 1 to 3.

F.1: The Contentions of *Mr. N. Subramanian*, the Learned Counsel for Appellant:

7. The alignment meeting point with *Rasipuram-Thiruchengode* (SH.79) was arbitrarily shifted from Km.71/270 to Km.71/185. Because of the



W.A.No.2513 of 2022

same, the extent of acquisition of the appellant's land had increased to 1.25 acres while it would have been only 0.50 acres, as per the original alignment. He would submit that on 17.09.2013, RR Wing of the Highways Department proposed the bypass for *Rasipuram-Thiruchengode-Erode* road (SH.79) on the southern side of Thiruchengode, to bypass *Thiruchengode* Town. The said alignment was approved on 17.09.2013 by the alignment committee. The central line of the approved alignment meets the *Rasipuram-Thiruchengode* road (SH.79) at Km.71/270. From the minutes of the alignment committee, it would be clear that the said alignment No.2 at Km.71/270 was the one that was approved by the alignment committee. From the drawing filed by the respondents, it would be clear that the said alignment confirms an angle of 48° with SH.79.

7.1 In the year 2018 again the Highways Department proposed another bypass under the CKICP Wing on the northern side to provide a bypass to *Omalur-Thiruchengode-Paramathy* to bypass *Thiruchengode*, which also meets SH.79 @ Km.71/270 with the said alignment width of acquisition is only 30 meter, which does not affect the appellant's property much.



W.A.No.2513 of 2022

WEB COPY

7.2 While so on 28.08.2019, the Chief Engineer on a false premise that both the bypasses do not meet at the same point and hence staggered intersection is to be formed and suggested that to avoid staggered alignment, 4-legged junction in the same meeting point has to be made as per the IRC specifications.

7.3 As per the counter affidavit filed in the Writ Petition, the reason for shifting the CKICP alignment is due to a shortage of length of the highway by 85 meters due to the improvement of curves in SH.79 from Km.54/100 to Km.171/300. Because of this, Km.71/270, the meeting point of RR Wing bypass had become actually to Km.71/185. He contends that the CKICP bypass alignment to meet SH.79 at Km.71/270 is without taking note of the shortage of length that resulted in confirming of staggered intersection. On 10.10.2018 as suggested by the Chief Engineer, the alignment committee approved the revised alignment to Km.71/185.

7.4 On a perusal of the minutes of the alignment committee it would reveal that the type of intersection of CKICP is conceived as a 'T' junction, i.e.,



W.A.No.2513 of 2022

right-angled junction and not an 'X' shaped intersection as stated by the respondents in the counter affidavit. However, the approved drawing would show that the alignment formed only a 'Y' shaped intersection and not a 'T' junction as approved by the committee.

7.5 The appellant did not make any objections to the notification dated 20.07.2020 under Section 15 (1) of the Act and to the notice dated 30.07.2020 under Section 19 (2) of the Act, thinking that the lands were needed for public purposes. Only on 20.10.2020, during the award inquiry, the appellant came to know about the shifting of alignment. Only thereafter on 28.11.2020, she made a representation seeking the copies of alignment and details of approval etc., under the Right to Information Act, 2005. In fact, at the relevant point of time, even the information was refused by the respondents. The present Writ Petition is filed mainly on the ground that the shifting of alignment is malicious and the same is made under the guise of note of the Chief Engineer. It is also pleaded that at the intervention of this Court, on an earlier occasion, the alignment was corrected in a similar matter. The Writ Petition was not even furnished with a detailed project report.



W.A.No.2513 of 2022

WEB COPY

7.6 Adverting to the counter affidavit filed, he would submit that in paragraphs Nos.7 (v) and 12 the change in chainage is due to improvements of curves in the sledge Km.51/400 to Km.71/300 and hence the shortage in length has occurred. Both the alignment meeting points have to be merged for the continuity of the RR bypass, and CKICP bypass for traffic safety. The appellant has filed a specific rejoinder to the counter that the shifting of CKICP to Km.71/185 leads to an 'X' shaped intersection, which is in violation of engineering standards and again will lead to the question of safety and also costs more to the public exchequer. The alleged ground of reduction of length of SH.79 due to improvements carried out in SH.79 from Km.54/100 to Km.71/300 is false. Shifting of alignment to avoid a staggered intersection defies logic and shifting results in an 'X' shaped intersection. As per the IRC Special Publication 41-1994 only a right-angled intersection alone is to be provided. An application was also filed in W.M.P.No.3313 of 2021 before the learned Single Judge to produce the copy of the site plan, which was produced on 09.02.2024 only during the hearing of the appeal. The appellant could not even peruse and argue about the same. The Traffic Engineering Book containing the engineering principles to be followed at intersections, clearly



W.A.No.2513 of 2022

mandates to realign the 'X' shaped intersection into a staggered or right-angled one. The contention to the contrary by the respondents by relying upon the report of the Director, HRS, whereby Clause 2.4.1 (1) of IRC Special Publication 41, which is relied upon has to be read with figure 11.25 and the same is applicable only for realignment of existing intersections and not for new formation.

7.7 The learned Single Judge dismissed the Writ Petition without rendering any finding as to the above issues. Even the report filed by the Director on 09.02.2024 pending the appeal before this Court, in paragraph No.7, relying upon Clause 2.4.1 (1) of the IRC Special Publication 41, wherein it is stated that the angle of intersection being 70° i.e., above 60° 'X' shaped intersection need not be altered to form a right-angled intersection. Therefore, the reasons mentioned in the counter affidavit are false, arbitrary, and malafide shifting of alignment is proved by the appellants.

7.8 Even though this Court would not act as an Appellate Authority, when it *ex-facie* clear that the shifting of alignment results in an 'X' shaped intersection, then in judicial review, the said arbitrary decision has to be



W.A.No.2513 of 2022

reversed. The decision-making process was also arbitrary. The safety of the commuting public is given a go-by. Only because it is pleaded that the decision has been taken by the experts, this Court would not turn a blind eye, when the decision taken is irrational, unreasonable and not by considering the relevant factors. When the process falls foul of Article 14 of the Constitution of India, this Court should interfere. The only reason mentioned by the respondents for shifting the alignment is that curve improvements were undertaken during 2016 – 2018, and the meeting point was fixed without taking into account the reduction in length. Therefore to avoid the staggered intersection, the meeting point needs to be shifted from Km.71/185 to Km.71/270.

7.9. The appellant has filed a rejoinder demonstrating before this Court that there was no such curve improvement to an extent of 85 meters. There was no such shifting of Km. stones. The appellant also filed W.M.P., seeking directions to the respondents to produce the file before this Court. However, the learned Single Judge did not pass orders on the same. The adverse inference has to be drawn against the respondents.

7.10 Even if the chainage has to be changed to a four-line



W.A.No.2513 of 2022

intersection, the same can only be done as per the IRC guidelines, which should be a right-angled intersection and not an 'X' shaped intersection. The learned Judge ought to have considered the fact that despite factual disputes being raised, the original files relating to the alignment were never produced and the learned Single Judge also did not adjudicate the issue on merits. Even during the course of hearing, when this Court had directed the Director to file a report as to the alignment, only the Joint Director filed a report, which does not speak about the safety aspects of an 'X' shaped intersection. When this Court directed the 6th respondent to file a report, the Director HRS had filed a report dated 06.02.2024 on 09.02.2024. The report justified the alignment holding that the staggered intersection is not suitable and an 'X' shaped intersection does not require realignment, as it is of 70° i.e., more than 60°. The report contains two drawings. In the first drawing, the meeting angle at Km.71/270 is not at all mentioned. The RR Wing bypass meets at Km.71/200 angle of 48° and not at an angle of 70° as claimed in the Chief Engineer's inspection note dated 28.08.2019. The angle of the meeting point of RR Wing bypass with SH.79 and the intersection angle is shown as 70°. The shifted alignment also encroaches into a water course/body.



W.A.No.2513 of 2022

WEB COPY

7.11. Even as per the respondents, the curve improvements were stated to have been made during the years 2016 to 2018. The original bypass alignment was finalized only after 14.08.2018. Therefore, it cannot be contended by the respondents that the bypass alignment was approved without taking into consideration the length of SH-79 due to curve improvements. The said reasoning is false. The respondents are liable to be prosecuted for perjury. Even in the counter affidavit filed by the Divisional Engineer, (NABARD & RR Wing) dated 06.02.2019, there was no whisper as to the shifting of chainage from Km.71/270 to Km.71/185. Now, on 09.02.2024, the respondents have filed a booklet before this Court, which contains two drawings titled 'CKICP Project-Thiruchengode bypass drawings'. The first drawing dated 13.12.2022 reveals that the RR Wing bypass meets the SH.79 @ Km.71/200 and not at Km.71/185. The above drawings were suppressed before the learned Single Judge.

7.12 A perusal of the above drawings proves that the selection of chainage at Km.71/185 by the Chief Engineer is on extraneous considerations to favour the other landowners. Even now, the entire file is not produced before



W.A.No.2513 of 2022

this Court despite C.M.P.Nos.19615 of 2022 and 492 of 2023 being filed. This Court should call for the files to examine whether the curve improvements were carried out during 2016 – 2018 which reduced the road length or not. Even as per the map, shifting of CKICP alignment from Km.71/270 should have been carried out only to Km.71/200, which is the meeting point of the RR Wing bypass to have continuity. Therefore, the decision of the Chief Engineer on 28.08.2019 is arbitrary and is categorically made carefully to place the alignment at the edge of the adjoining property thereby saving it from acquisition is patently malicious.

7.13 If the CKICP bypass is fixed at Km.71/200, the same would result in shifting of the centre line by 15 meters towards the west and consequently, the centre line of the land acquisition should also be shifted to west wide and this would naturally reduce even the extent of the area of land acquisition of the appellant. The proposed 4-legged intersection is 'X' shaped 48° and not 70° as claimed in the reports of the Joint Director / Director of HRS and therefore, the reports are nothing but false evidence. The drawing produced by the 4th respondent before this Court on 09.02.2024 showing that the RR



W.A.No.2513 of 2022

Wing bypass makes a 48° angle with SH.79 at Km.71/200 and the CKICP bypass joins SH.79 at Km.71/185 at 70° is contrary to the common angle of 50° for both bypasses depicted in the drawing, which is produced along with the paper book filed in support of the Writ Appeal. The drawings depicting two intersection angles for a single 4-legged intersection are not by the engineering standards and specifications while forming a new road. Thus, it can be clear that the respondents prepared a false drawing contrary to the approved one, which is annexed on Page No.64 of the type set of papers in the Writ Appeal to depict the angle of intersection falsely at 70° with an ill intention to invoke Clause 2.4.1 (i) of IRC Special Publication 41-1994 to defeat the Writ Appeal. The said action would amount to perjury and also would amount to criminal contempt of this Court.

7.14 Even otherwise, the reliance placed on Clause 2.4.1 (i) of IRC is untenable and misleading in as much as it would not apply while forming a new road. It is clear that the 6th respondent has failed to inspect the site and has not referred to the technical opinion given by the Chief Engineer, NABARD and RR Wing, vide its letter dated 02.05.2018. Further, the approval committee



W.A.No.2513 of 2022

has approved the re-alignment, considering that the CKICP only forms a 'T' junction with SH.79 at Km.71/185, but it forms a 'Y' junction. This Court should direct the respondents to form only a right-angled intersection. The intention of the appellant is not just saving the lands and the instant case is that the appellant's lands were not required for a bonafide public purpose, whereas against the public interest, maliciously her lands are being taken away, which also instantly enhances risk and a new bypass being formed unscientifically without carrying the norms or prudence. Therefore, he would pray that the appeal be allowed and the land acquisition proceedings be quashed and also pass further orders, initiating criminal proceedings, for the offence of perjury committed by the respondents and take *suo motu* cognisance of criminal contempt. In support of his submissions, the learned counsel relied upon the Judgment of the Hon'ble Supreme Court in ***Mohan Singh Gill Vs. State of Punjab***³ more specifically relying upon paragraph No.18, where the Hon'ble Supreme Court went into alignments and factually found that the same was erroneous.

F.2: The Contentions of Mr P. Muthukumar, the Learned Additional

³ (2015) 8 SCC 345



8. The alignment in respect of the formation of the bypass is the decision of the experts. The decision is taken after considering the situation on the ground, by making a site inspection, feasibility and the relevant rules and norms. The observations contained in the engineering manual, as well as the Indian Road Congress guidelines, are only guiding factors and are not absolute rules to be mandatorily followed. The alignment committee takes into consideration the particular road, the nature of traffic, local needs etc., while deciding on the bypass. Except for the appellant's lands, work is almost completed and the appellant is trying to make out a case only on the suspicion as if the alignment is made to help the adjacent landowners. The pleading as to malafide is taken without even making the Chief Engineer as the party and also individually impleading the person against whom the malafide is alleged nor the adjacent landowners were made as a party. When the pleading as to the malafide is not proved, then the entire arguments advanced on behalf of the appellant is nothing but requesting this Court to act as a super expert to pronounce upon the various details and nitty-gritty of the drawings and



W.A.No.2513 of 2022

decisions of the experts.

8.1 The individual land owner to safeguard his land cannot question the wisdom of the experts by proposing to suggest ostensible better ways to form the road. Every landowner who suffers feels the same way. There is no error in fixing or re-aligning the bypass. When the land is required for public purposes, the appellant has no other option than to give way. As a matter of fact, in the instant case, the appellant did not even file any objections to the acquisition proceedings. When the entire papers relating to the acquisition were available for inspection, without making any objection at the time of acquisition, subsequently and belatedly, the objection cannot be made. It can be seen that the original alignment was a staggered 'T' junction, on account of the huge traffic of heavy vehicles, that would have proven risky for road safety. When the curve reductions are carried out on the ground resulting in the meeting points falling short of length, the alignment is made to the best possible extent, to make the junction a 4-legged one to ensure the smooth flow of the traffic and maximize the safety.



W.A.No.2513 of 2022

WEB COPY

8.2 The appellant is only trying to file affidavits after affidavits and try an extract inconsequential inconsistency in the responses and make out a non-existent case. The actions of the respondents are neither arbitrary nor malafide. In the absence of the same, this Court cannot sit over on an appeal over the decision of the experts. The other mandatory provision as per the Act is duly complied with and no other legal ground being made out. The learned Single Judge has rightly dismissed the Writ Petition, in deference to the opinion of the experts and the appeal does not deserve any consideration. The reports whichever have been called for by this Court are filed by the authorities and all the reports and drawings are produced before this Court and nothing is withheld before this Court. Therefore, he would submit that the appeal is without any merits.

G. The Discussion & Findings :

9. The crux of the allegations made by the appellant is that the shifting of alignment of the *Tiruchengode* bypass by the CKICP wing is

(a) malafide to avoid the lands of the adjacent owners of the appellant's land being affected by the land acquisition;

(b) made against public interest and road safety norms.



W.A.No.2513 of 2022

WEB COPY

9.1. As far as the allegation of malafide is concerned, the appellant has not specifically made an allegation against any individual and added them as a party. The appellant prays inference of malafide intention on the ground that firstly, different reasons are mentioned for alignment at different points of time in different affidavits. Secondly, such reasons, even as adduced by them, can never be true. Therefore, the appellant wants to infer that the alignment was done only with the malafide intention of serving private interests. By pointing out to the two drawings submitted along with the report of the 6th respondent on 09.02.2024, the learned counsel would submit that it can now be seen from the drawing that the centre point of meeting of the RR Wing bypass is at 71/200 and not at Km.71/185. Therefore, the reasonings originally mentioned in the counter-affidavit and the Chief Engineer's inspection note are all false. But, it can be seen in the second drawing which is submitted before this Court, the centre of the meeting point is 71/185. Therefore, it cannot be stated that the meeting point of the RR bypass road is only at 71/200, but, adbest, it can only be stated that there are discrepancies between the two drawings. The said two drawings are annexed as Annexure – I and Annexure -



W.A.No.2513 of 2022

II to this Judgment. The overall map in respect of the *Tiruchengode* town, CKICP bypass from *Sankari* to the intersection of SH-79 and the *Tiruchengode* bypass on the southern side proposed by the RR Wing is demonstrated by the map in Annexure – III. It can be seen that by the very nature of the proposals, it is not possible to form a right-angled intersection.

9.2. As a matter of fact, the appellant proposes the intersection which is roughly shown in the map annexed as Annexure – IV to this Judgment. Even to the naked eye, it would be clear that even the proposal as shown by the appellant, would not be a right-angled intersection. Therefore, we are unable to infer malafide that a right-angled intersection was possible, but, for extraneous reasons, it was not made. Once a right-angled intersection is not possible, given the ground conditions, directions and curve of the bypass road proposed by the CKICP and the RR Wing, it is not possible to infer malafide merely on the incorrect statements made in the counter-affidavit, where there is a discrepancy as to the mentioning of the chainage and the meeting point of the joining of both the roads.



WEB COPY

9.3 On the other hand, a perusal of the curve of the road i.e., *Tiruchengode* bypass road proposed by the RR Wing would show that the improvement of curves is very much possible in the said road resulting in a reduction of length or realignment of the meeting point. In this regard, this Court, during the hearing, directed the 6th respondent to file a report as to the alignment. Paragraphs Nos.3 to 7 of the report reads as follows:-

“3. Regarding the alignment, it is submitted that suitable direction had already been given by the Chief Engineer (H), Chennai – Kanyakumari Industrial Corridor vide the Inspection Notes dated 28.08.2019 to shift the previous alignment in order to avoid staggered junction.

4. Also, in the Para 14 of Sl. No. 5 of Minutes of the Review Committee Meeting held on 24.09.2019 comprising of Project Director, TNRSP II, Chief Engineer (H), Construction & Maintenance, Chief Engineer (H), Planning, Designs & Investigation, Chief Engineer (H), TNRSP II and Chief Engineer (H), Chennai – Kanyakumari Industrial Corridor Project it was approved as follows, “*To avoid staggered junction at the end of Tiruchengode Bypass and to shift the alignment from Km 71/282 to 71/185 of MRTE road SH 79 which merges with the proposed Tiruchengode Bypass by RR wing and to propose a four legged junction improvement design as per IRC*”.

5. The shifted alignment had also been approved by the alignment committee comprising of Superintending Engineer (H), Construction & Maintenance, Salem and Superintending Engineer (H), Chennai – Kanyakumari Industrial Corridor Project, Trichy on 01.10.2019.

6. Now, it is submitted that on examining the particulars received from the Project Director (Highways), Chennai – Kanyakumari Industrial Corridor Project, Chennai – 25, it is observed if the previous alignment was retained, it would result in staggered junction, which will be accident-



WEB COPY



W.A.No.2513 of 2022

prone due to the following reasons.

- i. As per Fig. 2.4 of *IRC Special Publication 41 – 1994 : Guidelines for the Design of At-Grade Intersection in Rural & Urban Areas*, Staggering shall be done only for *lightly trafficked cross roads*. But, the approved bypass alignment (bypass to SH 86 – Omalur – Sankari – Tiruchengode – Paramathy Road) crosses another State Highway (SH 79). Since both the roads are equal importance in traffic point of view, the bypass road shall not be treated as lightly trafficked road. Hence, realignment in the form of staggered intersection could not be adopted at this location.
- ii. Cl.2.1 of IRC SP 41 – 1994 states, “*all the intersection movements shall be obvious to the drivers, even if he is stranger to the area. Complex design which require complicated decision-making by drivers should be avoided. There should be no confusion and the path to be taken by the drivers should be obvious*”.

If the above said junction is designed as staggered one, the traffic of the both bypass road and SH 79 will be mixed for a short distance, resulting in traffic congestion and accidents. Also, while crossing this junction, the vehicles moving in the bypass initially turn left towards SH 79, before turning right again to the bypass route within a short distance of 85m. Sometimes, this may cause the vehicles to travel more distance at SH 79, if not having noticed the neighbouring junction and this forces the strayed vehicles to take U-turn at somewhere else in SH 79. This may cause chaos among drivers, particularly during night times. Considering the very short distance between the two junctions, the staggered junctions in the bypass route is confusing and accident-prone and hence shall be avoided.

7. It is also submitted that Cl.2.4.1 (i) of IRC Special Publication 41 – 1994 states, “*the intersecting roads shall meet at or nearly at right angle. However, angle above 60 degree do not warrant realignment*”. Since the approved bypass alignment joins the SH 79 – Malliyakarai – Rasipuram – Tiruchengode – Erode Road at 70 degree, realignment is not necessary. Hence, the shifted alignment proposed by the CKICP wing is found to be safer than the previous alignment.”



W.A.No.2513 of 2022

WEB COPY

9.4 Thus, the reasoning by the experts that both the roads that form the intersections are roads with heavy traffic and therefore staggered junctions may not be appropriate cannot be termed as arbitrary or perverse. As regards the angle, from Annexure-I itself, if one sees the road to *Tiruchengode* town and the road being *Tiruchengode* bypass proposed by RR Wing, the same would be 48° , while one sees *Tiruchengode* bypass road on the northern side from *Sankari* up to the SH-79 proposed by the CKICP wing and the road to *Rasipuram*, the angle would be 70° . Therefore, when the respondents mean the other side of the junction as 70° as it is the shifting of the said junction that is now in question, we are unable to agree with the learned counsel for the appellant that it is only 48° and therefore, the reliance placed on Clause 2.4.1 is erroneous.

9.5 Even though the final alignment is X-shaped, considering the previous alignment, when it results in traffic of both roads mingling for a distance and then separating by way of staggered T's when compared to the present alignment, the contention of the experts that it is in tune with Clause –



W.A.No.2513 of 2022

2.1 of IRC SP to the effect that “*the intersection movement shall be obvious to the drivers, even if he is stranger to the area. Complex design which require complicated decision-making by drivers should be avoided. There should be no confusion and the path to be taken by the drivers should be obvious*” can be accepted. The appellant, on the contrary, relies upon a textbook titled Traffic Engineering and Transport Planning by *Dr.L.R.Kadiyali*, Khanna Publishers – Seventh Edition, 2007, more specifically, on paragraph No.11.10.4 which reads as follows:-

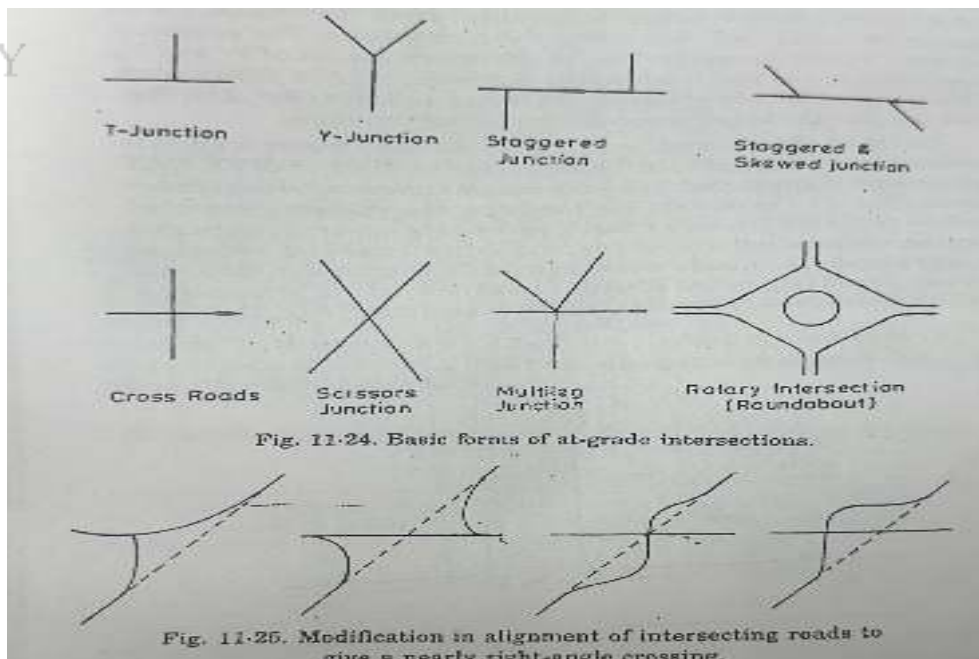
“11.10.4. Alignment and vertical profile

In view of the conflict and hazard involved at intersections, the alignment and vertical profile of the intersecting roads should permit the drivers to discern the danger and make the manoeuvres necessary for safety. This requires that the alignment be as straight and gradients as low as practicable.

It is desirable that the intersection roads meet at or nearly at right angles. For this purpose, it may be necessary to modify the alignment of the roads as shown in Fig. 11.25.



WEB COPY



9.6 Thus, even going by the same, it is desirable that both the staggered junction and the X-type scissors junction be met at right angles. In the present case, the bypass proposed by the RR Wing of the *Tiruchengode* town on the southern side itself is like a semi-circle and the angle of the meeting point of the bypass proposed by the CKCIP on the northern side i.e., from *Sankari* town to the joining of SH-79 is in such a direction that it can either be a staggered Y & T junction or be a scissors junction. Between the staggered Y & T junction and Scissors junction, considering the nature of the traffic and the situation on the ground, when the experts say that the present



W.A.No.2513 of 2022

alignment is better than the staggered junction, there is no material before us to disbelieve or discredit the same. Therefore, we are unable to countenance the submissions made by the appellant. We agree with the view taken by the learned Single Judge that the Court cannot sit on an appeal over the decisions of the experts.

9.7 When the curve of the new alignment has been made for a long distance, it is impossible to fathom that it is tailor-made to save one particular landowner. We are not finding fault with the appellant for not raising the objections initially and labouring much to get into the details of the alignment and drawings. But, the appellant merely points out the discrepancies based on her expertise and knowledge. The overwhelming public purpose of building the bypass roads as proposed and the public interest with the major portion of work of the alignment being completed, outweigh those debatable alternatives now being suggested.

H. The Result:

10. In view thereof, we see no grounds to interfere with the order of the learned Single Judge dismissing the Writ Petition. Accordingly, this Writ



W.A.No.2513 of 2022

Appeal fails and is dismissed. No costs. Consequently, C.M.P.Nos.19610, 19613 and 19615 of 2022, 492 and 711 of 2023 are closed.

(S.V.G., C.J.,)

(D.B.C., J.,)

07.03.2024

Jer

Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The Commissioner of Land Administration (FAC)
Chepauk, Chennai – 5.

2.The Special District Revenue Officer
Land Acquisition
Chennai – Kanniyakumari Industrial Corridor Project
Plot No.74, Vijayaragavan Nagar
Jageer Ammapalayam, Salem – 636 302.

3.The Divisional Engineer (H)
Tamilnadu Road Sector Project – II
Salem.

4.The Divisional Engineer (H)



W.A.No.2513 of 2022

Chennai – Kanniyakumari Industrial Corridor Project,
Vaigai Street, Nedunchalai Nagar
By-Pass Road, Salem – 5.

5.The Secretary
Government of Tamil Nadu
Highway and Smaller Ports Department
Fort St.George, Chennai – 9.



WEB COPY



W.A.No.2513 of 2022

**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.,**

Jer

Pre-Delivery Judgment made in
Writ Appeal No.2513 of 2022

07.03.2024



WEB COPY

TIRUCHENGODE BYPASS DRAWING SUPERIMPOSED WITH NABARD & RR ALIGNMENT



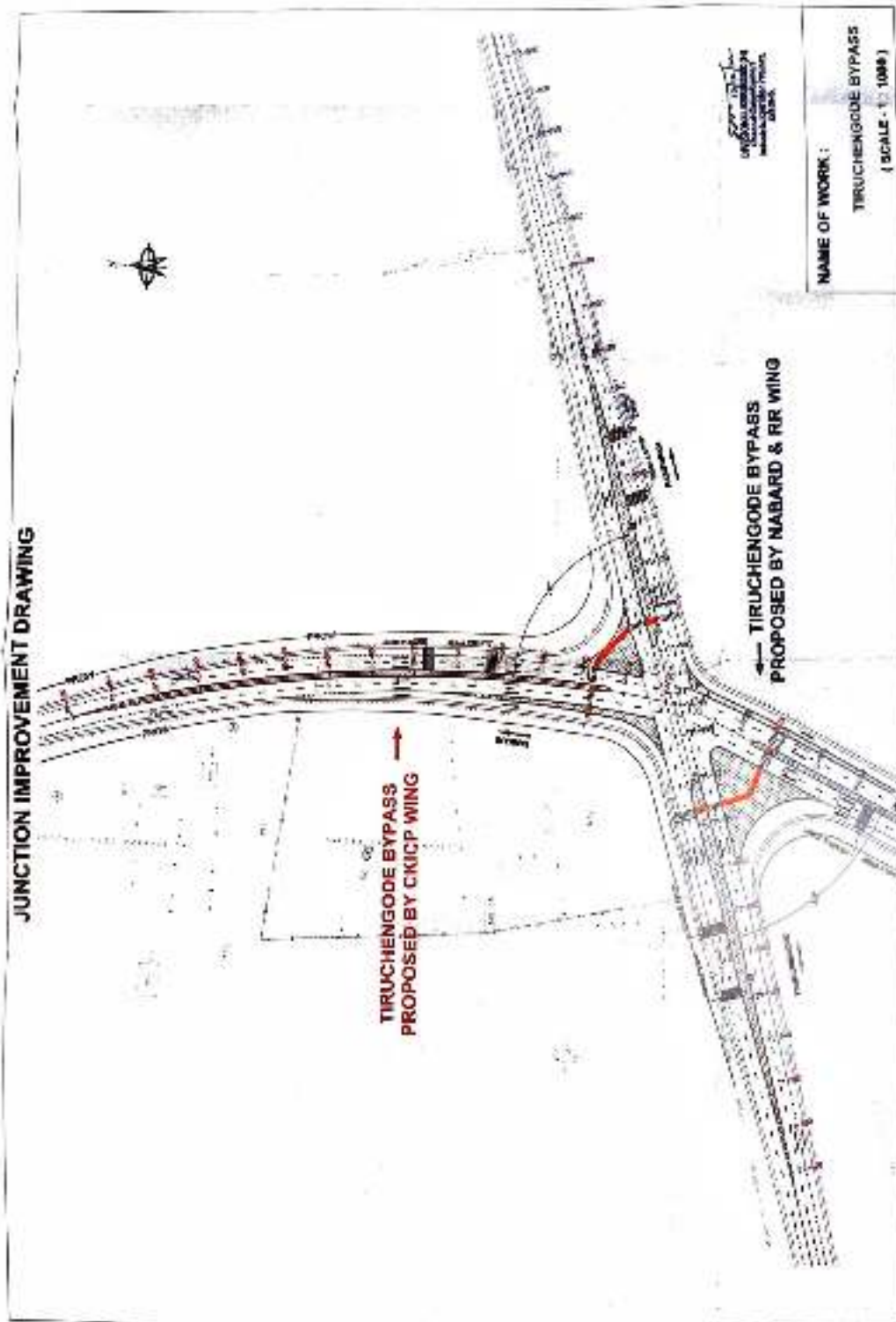


WEB COPY



W.A.No.2513 of 2022

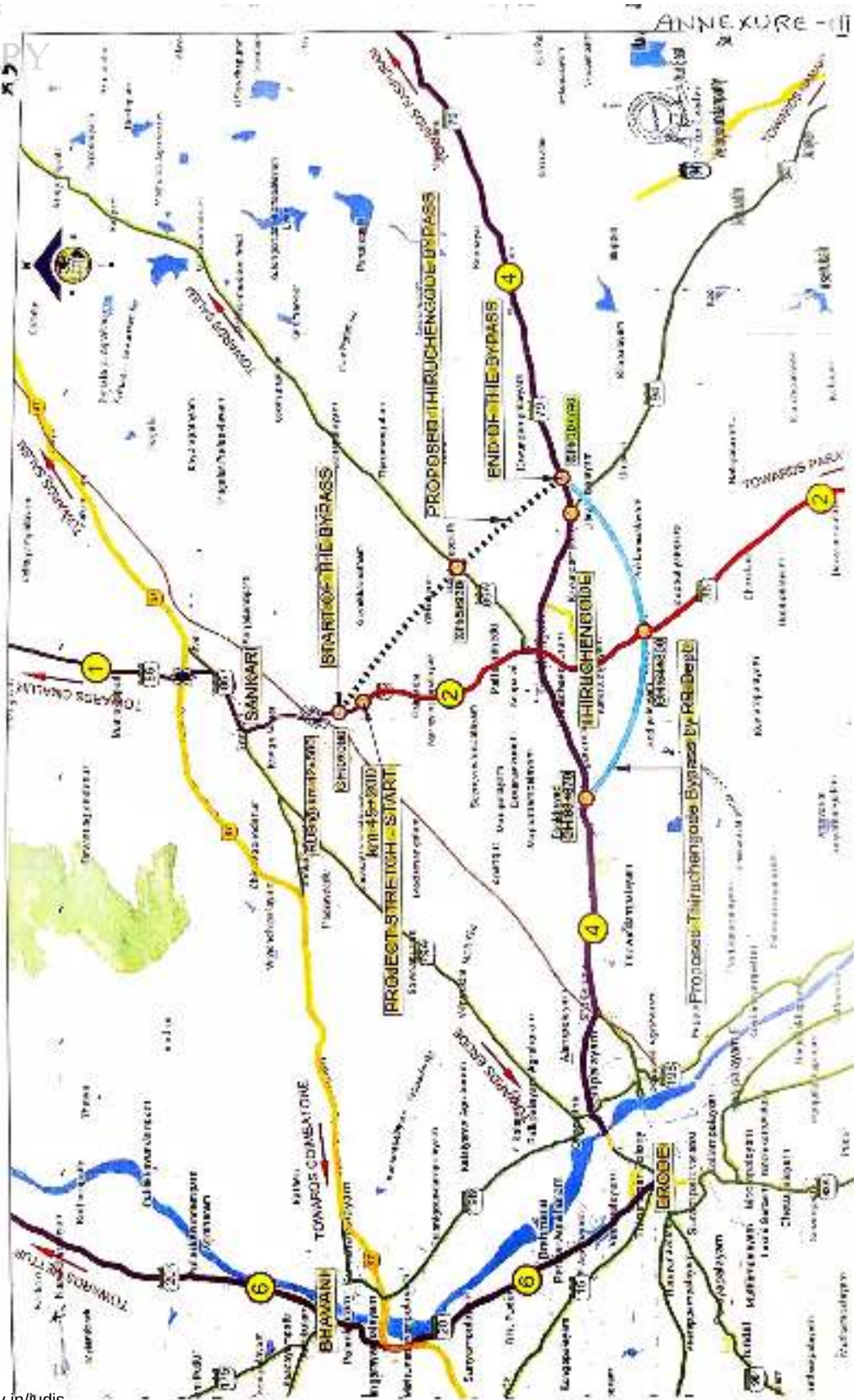
ANNEXURE -I





W.A.No.2513 of 2022

WEB COPY





W.A.No.2513 of 2022

WEB COPY

ANNEXURE - IV

