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W.P.No.35735 of 2024 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.Nos.35735, 35740, 35744, 35747, 35748 & 35751 of 2024
and
W.M.P.Nos.38596, 38600, 38604, 38606, 38608, 38609, 38612, 38613,
38616, 38617, 38618 and 38620

[W.P.No.35735 of 2024]

S.Subramanian

Vs.

... Petitioner

1.The Additional Chief Secretary/
Commissioner Of Land Administration,
Ezhilagam,Chepauk, Chennai -600 005.

2.The District Collector/Land Acquisition Officer,
(Project Of Formation Of
New Broad Gauge Railway Line
Between Chinnasalem And Kallakurichi,
Kallakurichi District.

3.The District Revenue Officer,
Kallakurichi, Kallakurichi District.

4.The Special Tahsildar(Land Acquisition),
Southern Railways,
Kallakurichi, Kallakurichi District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India

<https://www.mhc.tn.gov.in/judis>



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praying for issuance of a writ of Certiorarified Mandamus, Call for the records of the 2nd respondent in Award No. 11 in Na.Ka.AA1/2674/2019 dated 20.06.2024 so far as the in Serial No. (i) with respect to deduction of 1/3rd market value to determine towards development charges so far as the Petitioner is concerned and quash the same and consequently direct the 2nd respondent to release the amount deducted towards 1/3rd development charges to the Petitioner and all other compensatory benefits which the Petitioner is allowed along with Interest @ 15 percentage per annum from 20.06.2024 till the date of payment under the provision of the Right to Fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(Act 30 of 2013).

For Petitioner : M/s.Dhakshyini Reddy, Senior Counsel
for M/s.P.Rajavel in all the Writ Petitions.

For Respondents : M/s.A.Selvendran, Special GP,
for R1 to R4. in all the Writ Petitions.

COMMON ORDER



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The above Writ Petitions are filed for the following reliefs:

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"Call for the records of the 2nd respondent in Award No.11 in Na.Ka.AA1/2674/2019 dated 20.06.2024 so far as the in Serial No. (i) with respect to deduction of 1/3rd market value to determine towards development charges so far as the Petitioner is concerned and quash the same and consequently direct the 2nd respondent to release the amount deducted towards 1/3rd development charges to the Petitioner and all other compensatory benefits which the Petitioner is allowed along with Interest @ 15 percentage per annum from 20.06.2024 till the date of payment under the provision of the Right to Fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(Act 30 of 2013)."

2. The contention of the petitioners are that their lands had been acquired for the formation of a New Broad Gauge Railway line between Chinnasalem and Kallakurichi. The petitioners are primarily aggrieved by the 1/3rd deduction made towards development charges in the award dated 20.06.2024. Therefore, the petitioners had submitted their objections



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against the acquisition of the land. The petitioners would submit that they are also aggrieved by the amount of compensation granted and proposed to seek its enhancement. However, the present Writ Petitions are restricted to the 1/3rd deduction made towards development charges.

3. Heard the counsels on either side.

4. The deduction of 1/3rd towards development charges that too in the case of Railway work has been the subject matter of several decisions of this Court. A learned Single Judge of this Court in his order dated 07.12.2023, in ***W.P.(MD) Nos.19772 & 14369 of 2021*** was considering the very same deduction towards development charges.

5. The learned Single Judge relied upon a judgment of the Hon'ble Supreme Court reported in ***2007 (9) SCC 447 - Nelson Fernandes and Others Vs. Special Land Acquisition Officer, South Goa and Others*** wherein the Hon'ble Supreme Court had observed as follows:-

"30. We are not, however, oblivious of the fact that normally 1/3 deduction of further amount of compensation has been directed in some cases. However, the purpose for



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which the land acquired must also be taken into consideration. In the instant case, the land was acquired for the construction of new BG line for the Konkan Railways. This Court in Hasanali Khanbhai & Sons & Ors. Vs. State of Gujarat, 1995 2 SCC 422 and L.A.O. vs. Nookala Rajamallu, 2003 (10) Scale 307 had noticed that where lands are acquired for specific purposes deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise. Therefore, the order passed by the High Court is liable to be set aside and in view of the availability of basic civic amenities such as school, bank, police station, water supply, electricity, highway, transport, post, petrol pump, industry, telecommunication and other businesses, the claim of compensation should reasonably be fixed @ Rs.250/ per sq. mtr. with the deduction of 20%. The appellant shall be entitled to all other statutory benefits such as solatium, interest etc. etc. The appellants also will be entitled to compensation for the trees standing on the said land in a sum of Rs. 59,192 as



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fixed. I.A. No. 1 of 2006 for substitution is ordered as prayed for."

6. This Judgment has been followed in a later judgment of the Hon'ble Supreme Court in the case of ***C.R.Nagaraja Shetty Vs. Special Land Acquisition Officer and Estate Officer and another in Civil Appeal No.1173 of 2009*** dated 24.02.2009.

7. Ultimately, the learned Single Judge had observed as follows:

" It is clear from the above judgment that where the lands are acquired for laying a railway line, there is no scope for deducting 1/3rd amount towards development charges."

8. In the light of the above, the Writ Petitions are allowed, the order deducting 1/3rd towards development charges is set aside and the amounts deducted towards 1/3rd development charges along with all the other compensatory benefits arrived at in the award shall be paid to the petitioners as expeditiously as possible. However, not later than a period of 4 months from the date of receipt of a copy of this Order. The learned



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counsel for the petitioners also informed the Court that they are moving necessary applications for enhancing the award. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

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