IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3523 of 2025
and W.M.P No.3906 of 2025

S.Ramalingam ... Petitioner

Vs.

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

2.The District Collector cum Land Acquisition Officer,
(Project of Formation of New Broad Gauge Railway Line
Between Chinnasalem and Kallakurichi
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 for issuance of a Writ of Certiorarified Mandamus, calling records of the 2nd respondent in passing Award No.11 in Na.Ka.AA1/2674/2019 dated 20.06.2024 so far as the 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 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% per annum from 20.06.2024 till the date of payment under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

For Petitioner : Mr.P.Rajavel

For Respondents : Mr.A.Selvendran
Special Government Pleader

<u>ORDER</u>

This writ petition has been filed challenging the impugned award passed by the 2nd respondent dated 20.06.2024 insofar as the deduction of 1/3rd amount of the market value towards development charges.

2.Heard Mr.P.Rajavel, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader for respondents.

3.The property belonging to the petitioner was acquired under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. An award was passed on 20.06.2024 determining the amount of compensation at Rs.4,520/- per sq.mt. The grievance of the petitioner is that 1/3rd amount out of the total market value was deducted towards development charges.

4.The above issue is squarely covered by the earlier order passed by this Court in W.P.No.35735 etc., of 2024 dated 25.11.2024 and it pertains to the same project. The relevant portions are extracted hereunder :-

> "......
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> *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.*
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> *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 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, high way, 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 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 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".

5.The petitioner will also be entitled for the very same relief since such relief has been granted by this Court for others falling under the same project and for whom, 1/3rd was deducted towards development charges.

6.In the result, this writ petition is allowed and the impugned award passed by the 2nd respondent dated 20.06.2024 is interfered insofar as the deduction of 1/3rd amount of market value towards the development charges. The amount that has been deducted along with all the other compensatory benefits arrived at in the award shall be paid to the petitioner within a period of four (4) months from the date of receipt of a copy of this order. This direction is issued without prejudice to the rights of the petitioner to seek for enhancement of the award. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes / No
Neutral Citation

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N. ANAND VENKATESH, J.

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