



Writ Petition No.6630 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED 27.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.6630 of 2025

Saraswathi
W/o.Baskaran

...Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St.George, Chennai - 600 001.

2.The District Collector/Arbitrator,
Kancheepuram District.

3.The Special District Revenue Officer,
Land Acquisition,
Collector Office Complex,
Kancheepuram District.

4.The Commissioner of Land Acquisition,
Chennai Kanyakumari Industrial Highway Project,
Chepauk, Chennai - 600 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent herein to pass orders on merits and in accordance with law on the petitioner's representation dated 20.10.2024 regarding refund of the 33.33% of the award amount for the



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lands that was acquired for the Uthiramerur bypass road project, which withheld as Development charges that in the light of the orders passed in W.P.(MD) No.12803 & 20504 of 2021 dated 7.12.2023 within a time frame as deem fit.

For Petitioner : Mr.G.Bala

For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing the first respondent to pass orders on merits and in accordance with law on the petitioner's representation dated 20.10.2024 regarding refund of 33.33% of the award amount for the lands that was acquired for the Uthiramerur bypass road project, which was withheld as Development charges in the light of the orders passed in W.P.(MD) No.12803 & 20504 of 2021 dated 07.12.2023.

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



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3. The property belonging to the petitioner was acquired for Uthiramerur Bypass Road Project. An award was passed on 31.08.2023 determining the amount of compensation at Rs.13,068.02/- per sq.mt. However, on 21.06.2024, the award amount has been refixed as Rs.9,690/-. The grievance of the petitioner is that 33.33% was retained towards development charges.

4. The above issue is squarely covered by the earlier order passed by this Court in WP No.35735 etc., of 2024 dated 25.11.2024. The relevant portions are extracted hereunder :-

"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 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



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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."



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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 circumstances and for whom, 1/3rd was deducted towards development charges.

In the result, this writ petition is allowed. 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.

27.02.2025

Neutral citation : Yes/No

Index : Yes/No

Speaking Order / Non Speaking Order
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N. ANAND VENKATESH, J.

gm

To

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