IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 12650 of 2025

S.Natarajan

Petitioner(s)

Vs

1. The Secretary To Government
Industries Department,
Secretariat, Fort St.George,
Chennai-600 009

2.Commissioner of Land
Administration
Office of the Commissioner of Land
Administration,
Chepauk, Chennai-600 005

3.The District Collector
Thoothukudi,
Office Of The District Collector,
Thoothukudi District

4.The Land Acquisition Officer And
District Revenue Officer
Thoothukudi,

Office Of The Land Acquisition Officer
And District Revenue Officer,
District Collectorate Campus,
Thoothukudi District

5.The Airport Director
Tuticorin Airport,
Office Of The Airport Director,
Thoothukudi

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent herein to consider the petitioner's representation dated 17.10.2024, to recalculate the compensation amount without deduction of 33.33% in the petitioner's total compensation amount towards development charges and consequently directing the respondents herein to disburse the difference amount accrued an account of correctly calculated compensation amount as laid down in G.O.(MS)No.411 Revenue and Disaster Management Department dated 6.8.2020 without any kind of deduction whatsoever.

For Petitioner(s): Mr.A.S. Balaji

For Respondent(s): Mr.A.Selvendran
Special Government Pleader
for R1 to R4

ORDER

This writ petition has been filed for issue of writ of mandamus directing the 1st respondent to consider the petitioner's representation dated 17.10.2024 to refund 33.33% development charges deducted from the award amount within a stipulated time fixed by this Court.

2. Heard Mr.A.S. Balaji, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader for respondents 1 to 4.

3. The properties belonging to the petitioner was acquired under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. An award was passed determining the amount of compensation at Rs.725/- 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 WP No.35735 etc., of 2024 dated 25.11.2024 and it pertains to the same project. 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 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 petitioners 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 1/3rd amount of market value that has been deducted towards the development charges 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.

21-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
ssr

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N.ANAND VENKATESH J.

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