IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 9335 of 2025 & WMP No. 10492 of 2025

N.Sambangi

Petitioner(s)

Vs

1. The District Collector cum
Arbitrator,
Office Of The Collectorate,
Krishnagiri District.

2.Competent Authority And Special
District Revenue Office (LA)
National Highways 948A, STRR,
Thenknikotai Road,
Arul Vajaram Complex Dinnur,
Hosur Taluk, Krishnagiri District

3.The Project Director (NH 844)
National Highways Authority of India
PIU – Krishnagiri,
259/1, Salem Main Road,
Near KAKC Petrol Bunk,
Krishnagiri District.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned award dated 13.04.2023 in Na.Ka. No.327 / 2023 / L1 passed by the 2nd respondent so for as with regard to serial no. 6 in the tabulation with respect to deduction of 1/3 market value towards development charges for the petitioner's property and quash the same as illegal direct the 2nd respondent to release the amount deducted towards development charges with all other benefits with appropriate interest at the rate of 15 percent per annum from the date of award till the date of payment under the provisions of Right to Fair Compensation Transparency in Land Acquisition Rehabilitation Resettlement Act, 2013.

For Petitioner(s):	Mr.R.Ramesh Raja
For Respondent(s):	Mr.A.Selvendran Special Government Pleader for R1 and R2 Mrs.S.R.Sumathi Standing Counsel for R3

ORDER

This writ petition has been filed challenging the impugned award passed by the 2nd respondent dated 13.04.2023 insofar as the deduction of 1/3 rd amount of the market value towards development charges.

2.Heard Mr.R.Ramesh Raja, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader for respondents 1 and 2 and Mrs.S.R.Sumathi, learned Standing Counsel appearing on behalf of the 3rd respondent.

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 13.04.2023 determining the amount of compensation at Rs.5440.81/- 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 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 13.04.2023 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 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.

24-03-2025

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

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