IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2025

CORAM:

THE HONOURABLE **MR. JUSTICE MOHAMMED SHAFFIQ**

W.P.Nos.16342, 16343 & 16345 of 2021
and
W.M.P.Nos.17315, 17316 & 17317 of 2021

M.Manickam ... Petitioner in W.P.16342/2021

M.Balasubramaniam ... Petitioner in W.P.16343/2021

Karunambal Vanavarayar ... Petitioner in W.P.16345/2021

Versus

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Highways Department,
Fort St. George,
Chennai – 600 009.

2.The Principal Secretary/ Commissioner of Land Administration,
Land Administration Department,
Chepauk, Chennai – 600 005.

3.The Special Deputy Collector, (Land Acquisition),
Tamil Nadu Urban Development Project-III,
Alandur, Chennai – 600 016.

4.The Special District Revenue Officer,
Land Acquisition,
Highways Department,
Alandur, Chennai – 600 016. ...Respondents in all Wps

Prayer in WP.No.16342 of 2021: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to Award No.1 of 2020 dated 23.11.2020 in so far as deduction of the compensation of 33.33% to the tune of Rs.5,99,99,831.61 out of the compensation awarded in respect of 5450 sq.m/58,663.80 sq.ft. In Survey No.406/80B, Okkiyam – Thorapakkam Village, Sholinganallur Taluk and direct the respondents herein to pay a sum of Rs.5,99,99,831.61 towards the compensation payable to the petitioner and Rs.8,49,69,581/- towards solatium at 100% and interest from the date of notification under Section 15(2) till date of award together with subsequent interest thereon till date of payment.

Prayer in WP.No.16343 of 2021: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to Award No.1 of 2020 dated 23.11.2020 in so far as deduction of the compensation of 33.33% to the tune of Rs.7,15,59,432.20 out of the compensation awarded in respect of 6500 sq.m/69,966 sq.ft. In Survey No.406/79B, Okkiyam – Thorapakkam Village, Sholinganallur Taluk and direct the respondents herein to pay a sum of Rs.7,15,59,432.20 towards the compensation payable to the petitioner and Rs.10,13,39,867/- towards solatium at 100% and interest from the date of notification under Section 15(2) till date of award together with subsequent interest thereon till date of payment.

Prayer in WP.No.16345 of 2021: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to Award No.1 of 2020 dated 23.11.2020 in so far as deduction of the compensation of 33.33% to the tune of Rs.6,27,52,117.47 out of the compensation awarded in respect of 5700 sq.m/61,354.80 sq.ft. In Survey No.406/78B, Okkiyam – Thorapakkam Village, Sholinganallur Taluk and direct the respondents herein to pay a sum of Rs.6,27,52,117.47 towards the compensation payable to the petitioner and Rs.8,88,67,269/- towards solatium at 100% and interest from the date of notification under Section 15(2) till date of award together with subsequent interest thereon till date of payment.

Appearance in W.P.Nos.16342 and 16343 of 2021:

For Petitioner	:	Mrs.A.L.Ganthimathi, Sr. Counsel for Mr.AR.Karthik Lakshmanan
For Respondents	:	Mr.M.Suresh Kumar, AAG assisted by Mr.A.Selvendran, Special Government Pleader.

Appearance in W.P.No.16345 of 2021:

For Petitioner	:	Mr.Naveen Kumar Murthi

for Mr.V.P.K.Gowtham

For Respondents : Mr.M.Suresh Kumar, AAG
assisted by Mr.A.Selvendran,
Special Government Pleader

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COMMON ORDER

These writ petitions have been filed for issuance of a writ of certiorarified mandamus, calling for the records relating to Award No.1 of 2020 dated 23.11.2020 in so far as deduction of compensation of 33.33% towards development charges.

2. The petitioners are the absolute owner of the lands and the said lands were sought to be acquired by the respondents for the purpose of forming link road and construction of bridge across Buckingham Canal connecting Rajiv Gandhi Road at Neelangarai in Okkiyam – Thorapakkam Village, Sholinganallur Taluk, Chennai district by fixing the compensation.

3. The learned counsel for the petitioners submitted that in the case

of linear acquisition the deduction for development charges may not be permissible. In this regard reliance was sought to be placed on the judgment in W.P.No.(MD).No.12803 of 2021 dated 07.12.2023. The relevant portion are extracted as hereunder:-

"5. The issue involved is no longer res integra and it is squarely covered by the judgments of the Hon'ble Apex Court and also the Division Bench of this Court.

6. The first judgment to be relied upon is Nelson Fernandes and Others vs. Special Land Acquisition Officer, South Goa and Others reported in 2007 (9) SCC 447 and the relevant portions are extracted hereunder:-

"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."

7. The next judgment that can be taken note of is C.R.Nagaraja Shetty vs. Special Land Acquisition Officer and Estate Officer and Another reported in 2009 (5) LW 64 and the relevant portions are extracted hereunder:-

"We cannot ignore the fact that the land is acquired only for widening of the National Highway. There would, therefore, be no question of any such development or any costs therefore. In the reported judgment in Nelson Fernandes and Others Vs. Special Land Acquisition Officer, South Goa and Others in 2007(9) SCC 447, this Court has discussed the question of development charges. That was a case, where, the acquisition was for laying a Railway line. This Court found that the land under acquisition was situated in an area, which was adjacent to the land already acquired for the same purpose, i.e., for laying Railway line. In paragraph 29, the Court observed that the Land Acquisition Officer, the District Judge and the High Court had failed to notice that the purpose

of acquisition was for Railways and that the purpose is a relevant factor to be taken into consideration for fixing the compensation. The Court relied on judgment in Viluben Jhalejar Contractor Vs. State of Gujarat reported in 2005(4) SCC 789, where it was held that the purpose for which the land is acquired, must also be taken into consideration in fixing the market value and the deduction of development charges. Further, in paragraph 30, the Court specifically referred to the deduction for the development charges and observed:-

"30. We are not, however, oblivious of the fact that normally 1/3rd deduction of further amount of compensation has been directed in some cases. However, the purpose for which the land is 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..................... In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise."

The Court made a reference to two other cases, viz., Hasanali Khanbhai & Sons Vs. State of Gujarat and Land Acquisition Officer Vs. Nookala Rajamallu reported in 1995 (5) SCC 422 and 2003(12) SCC 334 respectively, where, the deduction by way development charges, was held permissible. The situation is no different in the present case. All that the acquiring body has to achieve is to widen the National Highway. There is no further question of any development. We again, even at the cost of repetition, reiterate that no evidence was shown before us in

support of the plea of the proposed development. We, therefore, hold that the High Court has erred in directing the deduction on account of the developmental charges at the rate of Rs.25/- per square feet out of the ordered compensation at the rate of Rs.75/- per square feet. We set aside the judgment to that extent."

8. The judgment of the Division Bench of this Court in Project Director, National Highways Authority of India vs. M.Vijayalakshmi and Another reported in 2020 SCC Online Mad 1119 can also be relied upon and the relevant portions are extracted hereunder:-

"75.Deduction towards development charges from the compensation awarded to the land loser was held to be permissible when it was established by positive evidence that such development charges are justified. The expenditure to be incurred should come from the need of development contemplated and the expenditure which is likely/reasonably required for such development. In none of the cases before us, there was any positive evidence placed by NHAI to justify deduction towards development charges. Deduction towards development charges cannot be on ipse dixit, but required to be established by positive evidence. NHAI, by relying on the decisions to state that development charges can be as high as 70% can in no manner improve their case. As pointed out, no evidence was placed by NHAI to justify deduction of development charges.

76.In Nelson Fernandes And Ors. vs. Special Land Acquisition Officer, South Goa And Ors. reported in (2007) 9

SCC 447, the Hon'ble Supreme Court discussed the question of development charges. In the said case, lands were acquired for laying a Railway line. It was found that lands which were acquired were adjacent to the land which was already acquired for the same purpose, which fact was not noticed by the Land Acquisition Officer, District Court and the High Court and that the purpose of acquisition is a relevant factor to be taken into consideration while fixing compensation. Similar view was taken in Viluben Jhalejar Contractor vs. State of Gujarat reported in (2005) 4 SCC 789.

77. In C.R.Nagaraja Shetty (supra), the acquisition was for widening of the National Highway. The High Court deducted Rs.25/- per square feet for development charges. On appeal by the land loser, the Hon'ble Supreme Court pointed out that when lands are acquired for public purposes like setting up of industries, setting up of housing colonies or other such allied purposes, the acquiring body would be entitled to deduct some amount from the payable compensation on account of development charges, however it has to be established by positive evidence that such development charges are justified. With regard to acquisition of land for widening of the existing National Highway, it was held that land is acquired only for widening of the National Highway, there would, therefore be no question of any such development or any costs thereof. In the said case, there was no evidence placed by the acquiring body before the district Court that it would incur development charges. This decision would come to the aid and assistance of the land losers before us, which leads us to hold that deduction towards development charges is not sustainable and *accordingly, the same are set aside."*

9. It is clear from the above judgments that 1/3rd towards development charges cannot be deducted insofar as the linear projects are concerned and particularly, where the acquisition was made for laying and doubling of the broad gauge railway line from Villupuram to Dindigul. In view of the same, the deduction of 1/3rd towards development charges in the award passed by the third respondent dated 25.01.2021, in both the writ petitions is hereby set aside. There shall be a direction to the third respondent to re-work the compensation by adding 1/3rd development charges that was deducted and the total compensation shall be paid to the petitioners within a period of six weeks from the date of receipt of a copy of this order".

4. He also further submitted that as a matter of fact there has been a communication dated 06.01.2021 issued by the Principal Secretary/Commissioner of Land Administration, Land Administration Department, Chepauk, Chennai to all District Collectors wherein the following instructions have been issued and the relevant portion is extracted as below:-

"2. In this office reference 1st cited, it has been instructed that if the guideline values do not consist of any agricultural land value and the guideline values are mentioned in sq.ft/sq.mt., then minimum of 1/3rd (33.33%) amount of compensation must be compulsorily deducted towards

development charges from the total amount of compensation so determined. Further it has been clarified that this deduction shall not apply in case of Linear Acquisitions such as the one undertaken in State Highways Roads where lands to be acquired are abutting the existing State Highways Roads".

5. In the light of the above order of this Court in W.P.No.(MD).No.12803 of 2021 dated 07.12.2023 as well as the letter/ communication dated 06.01.2021, deduction of compensation of 33.33% towards development charges cannot be sustained, it was submitted by the learned counsel for the petitioner and it was not seriously resisted by the learned Additional Advocate General.

6. In view of the above factual matrix of the case and the ratio laid down by this Court in the order set out in paragraph Nos.5 to 9 *supra*, this Court is of the considered view that the order passed by the respondents dated 23.11.2020 are liable to be set aside and the same are set aside.

7. In the result, these writ petitions are disposed of directing the respondents to pay the remaining 33% which has been deducted within a period of sixteen weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are also closed.

30.07.2025

Speaking order : Yes/No
Index : Yes/No
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To

1.The Secretary to Government,
State of Tamil Nadu,
Highways Department,
Fort St. George,
Chennai – 600 009.

2.The Principal Secretary/ Commissioner of Land Administration,
Land Administration Department,
Chepauk, Chennai – 600 005.

3.The Special Deputy Collector, (Land Acquisition),
Tamil Nadu Urban Development Project-III,
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4.The Special District Revenue Officer,
Land Acquisition,
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MOHAMMED SHAFFIQ, J.

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