



WEB COPY



W.P.No.20613 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.20613 of 2019 and
WMP.No.19834 of 2019

1.P.Periyasamy
2.Arukkani

... Petitioners

Vs.

1.The District Collector,
Namakkal District
2.The Land Acquisition Officer
cum Special Tahsildar,
Salem-Karur Broad Gauge Railway Project,
Namakkal District

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire record in respect of Memorandum dated 4.6.2019 passed by the 2nd respondent in O. Mu. No. 21/2019 (A) and quash the same with consequential direction directing the 2nd respondent to pay a sum of Rs.59,160/- as compensation, 30 % solatium and 12 % additional amount together with interest for the Well, as per the Valuation Report of the



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Executive Engineer, P.W.D., Namakkal, dated 17.08.1999, for the Well

acquired in the petitioner's land comprised in Survey No.110/3A1 of Kondichettipatti Village, Namakkal Taluk and District for formation of the Salem-Karur Broad Gauge Railway Line within the stipulated time

For Petitioners : Mr.S.Senthil

For Respondents : Mr.M.R.Gokulkrishnan,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 04.06.2019 thereby denying the request made by the petitioners seeking compensation for the open well / borewell, solatium and together with interest as per the valuation Report of the Executive Engineer, P.W.D., Namakkal, dated 17.08.1999.

2. The petitioners owned the land comprised in Survey No.110/3A1 of Kondichettipatti Village, Namakkal Taluk and District. In the said land, one open well was in existence for irrigation purpose of the said land. While being so, the second respondent issued notification under

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Section 4(1) of Land Acquisition Act (hereinafter called as 'the Act') for

formation of Salem-Karur Broad Gauge Railway line in Kondichettipatti

Village of Namakkal District. Enquiry under Section 5 (A) of the Act was

dispensed with in view of the urgency clause under Section 17(4) of the

Act. Declaration under Section 6 of the Act was approved and published

in the Government gazette. In order to determine the compensation, the

land under acquisition was treated as dry land by the second respondent

and the value as compensation was determined at Rs.59,160/- per hectare.

Accordingly on 04.06.2001, award No.32/2000-2001/Unit-I was passed.

As per the award, no compensation was awarded for open well situated in

the said land. Therefore, the petitioner made request for compensation,

solatium together with interest for the open well situated in the very same

land. However, it was rejected on the basis of GO.Ms.No.952 Revenue

Department dated 04.12.1998 issued on the basis of the order passed by

the Hon'ble Supreme Court of India in the case of ***O.Janardhan Vs.***

Special Deputy Collector reported in ***(1994) 6 SCC 456***. It is relevant to

extract the relevant portion of the said judgment hereunder:

“10.....Hence, the advantage which an agricultural land may have because of the irrigation facility it had from the irrigation well, could only



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enhance the value of agricultural land depending upon the water yield from the well. Again when the agricultural land, the irrigation of which was possible from the water of the irrigation well, is acquired, the value of the land so acquired will have to be determined taking into consideration the irrigation facility it had from the well. In this situation the irrigation well in an acquired agricultural land, cannot have a value apart from the value of the agricultural land itself....”

3. On the strength of the above judgment, the Government passed order in GO.Ms.No.952 Revenue Department dated 04.12.1998 thereby ordering that separate compensation needs to be paid to the irrigation wells which are situated in the agricultural lands acquired.

4. On perusal of the aforementioned judgment and the Government order, it is revealed that when the compensation was awarded to the agricultural land, taking into consideration the irrigation facility, the irrigation well in such acquired agricultural land cannot have any value apart from the value of agricultural land. But in the case on hand, the petitioners' land cannot to be treated as agricultural land with irrigation facility. Therefore, by citing the Government order in



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GO.Ms.No.952 Revenue Department dated 04.12.1998, the claim of the

petitioners was rejected. Further, the respondent treated the petitioners' land at par with other adjacent lands which were classified as dry land and the same have no irrigation facilities such as open well or borewell. Therefore, the above Government order is not applicable to the land which is classified as dry land.

5. Admittedly, the petitioners' land was compensated under the head of dry land. As per the award dated 04.06.2001, the subject land was treated as dry land for determining compensation. Therefore, the Government order is not at all applicable to the case on hand. Further, there is no separate classification as punjai land with irrigation facility or without irrigation facility in the Government order. The Hon'ble Supreme Court of India laid down that the compensation has to be awarded to the agricultural land taking into consideration the irrigation facility is available in that land. However, the Government order is silent about the available irrigation facility in the form of well.



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6. In view of the above, the impugned order cannot be sustained and the same is liable to be set aside. Accordingly, the impugned order dated 04.06.2019 is set aside. The second respondent is directed to pay compensation, solatium together with applicable interest for the borewell situated in the acquired petitioners' land comprised in Survey No.110/3A1 of Kondichettipatti Village, Namakkal Taluk and District within a period of eight weeks from the date of receipt of this order.

7. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

11.09.2025
(3/5)

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

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Namakkal District
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G.K.ILANTHIRAIYAN, J.

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