

**IN THE COURT OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,  
TIRUVALLUR AT POONAMALLEE.**

**PRESENT: THIRU. C.VIJAYAKUMAR, B.A.,B.L.,  
II ADDITIONAL DISTRICT AND SESSIONS JUDGE  
TIRUVALLUR AT POONAMALLEE**

**On this Wednesday, the 19<sup>th</sup> day of February 2025**

**I.A. No.1/2024 in L.A.O.P. No.127/2004**

Dr. Chellarani David, M/s. Grace Hospital

...Petitioner/Claimant

-Vs-

1. The Special Tahsildar

Land Acquisition (Unit IV)

Chennai Outer Ring Road Scheme

CMDA, Koyambedu,

Chennai – 600 107.

... 1<sup>st</sup> Respondent/ Respondent

2. The Member Secretary,

CMDA, Egmore,

Chennai – 600 008.

... 2<sup>nd</sup> Respondent/ Respondent.

This petition is coming before me for final hearing on 28.01.2025 in the presence of M/s. C. Franco Louis, J. Karthikeyan, C. Louis Franco, Treasa Louis and T. Balasubramaniam, learned counsel for Petitioner/Claimant, Mr. J. Franklin,

Additional Government Pleader, learned counsel for Respondents 1 and 2, on perusing the records and hearing oral and written arguments filed on both sides, and having stood over under this Court's consideration till this date this Court passed the following :

**ORDER**

The Petitioner filed this petition under 151 of CPC prays to Re-open the evidence of Petitioner/Claimant to enable the Petitioner/Claimant to examine Er. R. Periyaswamy, Chartered Engineer and Registered Valuer, as Petitioner/Claimant's second witness.

**2) The Crux of Affidavit filed by the Petitioner /Claimant are as follows:**

The Petitioner, having been examined in chief and cross-examined on 16.08.2024, seeks to reopen evidence following the Respondent's submission of Ex.R.1 on 10.09.2024. This document, containing structural valuation details, necessitates the examination of Er. R. Periyasamy, a Chartered Engineer and Registered Valuer, as the Petitioner's second witness. The Petitioner contends that denying this request would cause grave prejudice, while no harm would come to the Respondent as their cross-examination has yet to commence. Therefore the Petitioner/Claimant prays to reopen the evidence of Petitioner/Claimant, to enable the Petitioner/Claimant to

examine Er. R. Periyaswamy, Chartered Engineer and Registered Valuer, as Petitioner/ Claimant's second witness.

**3) The Crux Counter filed by the 1<sup>st</sup> Respondent and adopted the same by the 2<sup>nd</sup> Repondent are as follows :**

The Respondent, well-versed in the case details, submits this Counter Affidavit after reviewing the Land Acquisition Officer's award. The Respondent denies the Petitioner's claims, except for admitted facts, and demands strict proof. The Petitioner's land (0.10.0 hectares in Nemilicheri Village) was acquired for the Outer Ring Road Project, with a 4(1) Notification issued on 05.01.2000. Compensation was set at Rs.670/- per cent, plus statutory amounts. Despite receiving notices, the Petitioner did not accept the award and sought court intervention under Section 18 of the Land Acquisition Act. The compensation, totaling Rs.22,13,579/-, includes land, structures, trees, solatium, and additional market value. The Land Acquisition Officer had fixed the land value at Rs.670/- per cent. The Petitioner, having not accepted the amount, initiated legal proceedings but failed to adhere to statutory procedures. The Petition lacks merit, as the Land Acquisition Act does not support examining a Chartered Engineer after significant delay. The building value was already assessed by the Public Works Department

and approved by authorities. The Outer Ring Road Project serves public interest, and the Petitioner's claim is unreasonable. Given the lapse of time, the Petitioner's request is untenable and should be dismissed. Therefore, the Respondent prays to dismiss the above I.A. filed by the Petitioner/claimant.

4) The point for consideration is whether this petitions is allowed or not ?

5) **Point:**

Heard both sides and perused the documents.

6) The Petitioner filed this petition under 151 of CPC prays to Re-open the evidence of Petitioner/Claimant to enable the Petitioner/Claimant to examine Er. R. Periyaswamy, Chartered Engineer and Registered Valuer, as Petitioner/Claimant's second witness. The Land Acquisition Officer sent a reference to this court under section 18 of LA act 1894 with regard to the land in S.No.167/2A2 of 0.10.0 Hectares in Nemilicherry village, Poonamallee Taluk, Thiruvallur District along with the construction of clinic in the name of Grace Hospital.

7) On behalf of the claimant side, CW.1 was examined and Ex.C.1 to C.15 were marked and the claimant side evidence was closed. On behalf of the Land Acquisition Officer (Land Acquisition Officer) Thiru. R. Manikandan was

examined as RW.1 and Ex.R.1 was marked through him. In this circumstances, the Claimant filed this petition to reopen the claimant side witness for the purpose of examining the additional claimant side witness to examine Er. R. Periyaswamy, Chartered Engineer and Registered Valuer. The learned Government Pleader object to allowed this petition that the Executive Engineer, Public Work Department carefully examined already and has fixed the Building value of the claimants hospital viz., M/s. Grace Hospital fixed as Rs.14,15,994/.Hence the examination of another engineer is not tenable. Section 23 of the Land Acquisition Act provides for the matters to be considered in determining compensation. Under this section, the fourth mandate states that the court must consider the following criteria

**fourthly**, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

As per the above provision the damages sustained by the land owner which affecting the immovable property is relevant to decide the main reference. In this circumstances the Hon'ble Supreme Court in the case of **K.K. Velusamy vs N. Palaanisamy on 30 March, 2011** reported in 2011 AIR SCW 2296 The Supreme

Court held that courts have the inherent power to allow additional evidence at any stage of the proceedings if it is necessary to meet the ends of justice. The Court emphasized that procedural technicalities should not hinder the pursuit of substantial justice, especially when the evidence is material and relevant to the case.

8) On considering the both side contentions in the light of the Hon'ble Supreme Courts above directions, The primary objective of the court is to ensure substantial justice. The testimony of Er. R. Periyaswamy, a Chartered Engineer and Registered Valuer, is crucial for the claimant's case as it pertains to the valuation of the land and the construction of the clinic. Though the step by step calculation of the PWD Engineer to arrive the valuation is available, the evidence of the proposed witness will be helpful for this Court to decide the compensation issue effectively. His expertise could provide a fair and accurate assessment, which is essential for a just determination of the compensation amount. Allowing the petitioner to examine Er. R. Periyaswamy would not cause any significant prejudice to the Land Acquisition Officer . The Land Acquisition Officer would have the opportunity to cross-examine the witness and present any counter-evidence if necessary.

9) The court can also impose conditions to ensure that the proceedings are not

unduly delayed. The principles of natural justice demand that both parties be given a fair opportunity to present their case. The claimant should not be denied the chance to present crucial evidence that could substantiate their claim, especially when such evidence is material to the case.

**10)** In light of these reasons, the court may allow the petition to reopen the claimant side evidence for the purpose of examining Er. R. Periyaswamy, Chartered Engineer and Registered Valuer, as it would serve the interests of justice and ensure a fair and accurate determination of the compensation. The Point is answered accordingly.

In the result, this petition is allowed. No cost.

Dictated by me to the Steno-typist, typed by him in the Computer, corrected and pronounced by me in the Open Court on the 19<sup>th</sup> day of February 2025.

**II Additional District and Sessions Judge,  
Tiruvallur at Poonamallee.**

**Witnesses and Exhibits on the both sides : Nil**

**II Additional District and Sessions Judge,  
Tiruvallur at Poonamallee.**

**Draft /Fair Order  
I.A. No.1/2024  
in L.A.O.P. No.127/2004  
Date : 19.02.2025  
II ADC., Poonamallee.**