



W.P.No.23663 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.23663 of 2024

and

W.M.P. No. 25889 of 2024

N.Dharmambal

... Petitioner

Vs

1. The District Collector and
Inspector of Panchayats,
Salem District,
Salem.
2. The Assistant Director (Panchayats),
O/o. The District Collector,
Salem District, Salem.
3. The Assistant Divisional Engineer,
Construction and Maintenance,
Rural Roads,
Omalur – 636 455,
Salem District.
4. The Block Development Officer,
Village Panchayat,
Kadaiyampatti Panchayat Union,
Kadaiyampatti,
Kadaiyampatti Taluk, Salem District.



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5. The Panchayat President,
Kundukkal Village Panchayat,
Kadaiyampatti Panchayat Union,
Jodukuli – 636 351,
Kadaiyampatti Taluk,
Salem District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from constructing Overhead Tank in the land classified as “Pathai/Road” which is situated in S. No. 59/2, Kundukkal Village, Kadaiyampatti Taluk, Salem District and consequently direct the respondents to consider the objection of the petitioner dated 26.07.2024 with regard to alternative site in S. No. 63/2, which is classified as “Tharisu”, situated in the same Village for construction of Overhead Tank.

For Petitioner : M.R.Jothimanian

For Respondents : Mr. V.Manoharan,
Additional Government Pleader
(for R1 to R3)

Mr. M.Muthusamy,
Government Advocate (for R4 & R5)



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ORDER

This Writ Petition has been filed to forbear the respondents from constructing an Overhead Tank in the land classified as “Pathai/Road” situated in Survey No. 59/2, Kundukkal Village, Kadaiyampatti Taluk, Salem District, and consequently direct the respondents to consider the petitioner's objection dated 26.07.2024 regarding an alternative site in S. No. 63/2, which is classified as “Tharisu”, situated in the same Village, for the construction of Overhead Tank.

2. Heard the learned counsel for both sides and perused the materials available on record.

3. The petitioner owns agricultural lands comprised in Survey Nos. 59/1B, 59/1C, 59/1E, and 59/1D, to an extent of 1.3 $\frac{3}{4}$ acres, situated at Kundukkal Village, Kadaiyampatti Taluk, Salem District. In front of his properties, a road situated in Survey No. 59/2 leads between Jodukuli and Chinnathirupathi. While that being so, the fourth and fifth respondents proposed to construct the overhead tank in the Pathai Poramboke comprised



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in Survey No. 59/2. Therefore, the petitioner submitted a representation before the first respondent, raising objections.

4. As such, the fourth and fifth respondents produced an FMB Sketch, which shows that the land comprised in Survey No. 59/2 is classified as “Pathai Poramboke”. In the said Pathai Poramboke, adjacent to the said land, there is a road between Jodukuli and Chinnathirupathi. The subject land measures 89.50 sq.mts. Therefore, the third to fifth respondents proposed to construct overhead tank for the purpose of supplying drinking water to the general public. The petitioner produced photographs showing that they are proceeding with the construction of the overhead tank.

5. The fourth respondent also produced photographs and submitted that the proposed site is situated adjacent to the road leading to the petitioner's house and land, and it does not affect the road or the access to the petitioner's land. Since the proposed site is classified as Pathai Poramboke, they also obtained permission from the third respondent through communication dated 08.08.2024, which reveals that the proposed



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site is under the control of the fourth respondent and does not affect the road. Therefore, the objections raised by the petitioner cannot be considered, and the Writ Petition is devoid of merits and liable to be dismissed.

6. In the result, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

16.08.2024

Index:Yes/No
Neutral Citation/Yes/No
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2. The Assistant Director (Panchayats),
O/o. The District Collector,
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4. The Block Development Officer,
Village Panchayat,
Kadaiyampatti Panchayat Union,
Kadaiyampatti,
Kadaiyampatti Taluk, Salem District.

5. The Panchayat President,
Kundukkal Village Panchayat,
Kadaiyampatti Panchayat Union,
Jodukuli – 636 351,
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G.K.ILANTHIRAIYAN, J.

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