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W.A.No.3548 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2025

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

W.A.No.3548 of 2025

and

C.M.P.No.29281 of 2025

Subramani

... Appellant

-Vs-

1. Palanisamy

2. The District Collector,
Salem,
Salem District.

3. The District Revenue Officer,
Salem,
Salem District.

4. The Block Development Officer (Village Panchayat),
Omalur Taluk,
Salem.

5. The President,
Pagalpatti Village,
Omalur Taluk,
Salem.

... Respondents

PRAYER : Appeal filed under Clause XV of Letters Patent, against the order dated 21.01.2025 in W.P.No.39911 of 2024.



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For Appellant : Mr.T.Ganesan
For Respondents : Mr.D.Nandagopal for R1
Mr.S.Yashwanth
Addl. Government Pleader for R2 & R3
Mr.E.Veda Bagath Singh
Spl. Government Pleader for R4 & R5

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra-Court appeal has been directed against the order dated 21.01.2025 made in W.P.No.39911 of 2024.

2. The first respondent, namely, Palanisamy approached the writ Court and filed the said writ petition seeking writ of mandamus directing the respondents 1 to 4 therein to remove the mini water tank comprised in the patta land of the writ petitioner in Survey No.5/2B of the Village called Pagalpatti Village, Omalur Taluk, Salem District.

3. During the hearing, a report was filed on behalf of the Tahsildar, Omalur Taluk and it has been recorded by the learned Judge through the impugned order at paragraph No.3 which reads thus:

“3.A status report had been filed by the Tasildhar, Omalur Taluk, as directed by this Court. In the status report, it had been stated as follows:



7.It is hereby submitted that, following inspection, it was determined that the mini water tank associated with S.No.5/2B, pertaining to the patta land of the petitioner, has not been utilized by the villagers for the past three years. It is noted that the villagers do not access the mini water tank located on the petitioner's land; instead, they are benefiting from the Upper Water Tank in the aforementioned village.

8.The mini water tank, located on the patta land identified as S.No.5/2B, is reported to be in a state of disrepair and no longer serves a functional purpose for the villagers. It appears that the tank has fallen into dilapidation and is not being utilized by the community for their water needs. In the light of this condition, it has been decided that the tank will be removed in compliance with legal regulations. This process will ensure that all necessary protocols are followed for the proper decommissioning and removal of the structure.”

4. In view of the said stand taken by the Revenue Tahsildar in consultation with the Block Development Officer, the water tank which was originally used for drinking water purpose had become dilapidated and for the past more than three years, no villagers are using the mini water tank and it has become a useless piece and dilapidated also. It is also the stand of the Revenue Tahsildar that it has been located only in the patta land belonging to the writ petitioner, i.e., in Survey No.5/2B.



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5. Therefore, procedurally a removal of such tank would be undertaken by the Tahsildar as well as Block Development Officer concerned.

6. This has been recorded by the learned Judge, therefore, the writ petition was allowed by giving a direction to the authorities concerned to remove the mini water tank which is already in a dilapidated condition within a period of three months from the date of receipt of a copy of that order.

7. The present appellant is not a party to the said writ proceedings and subsequently, he wanted to challenge the said order by filing third party appeal, after getting leave from this Court, he moved the present writ appeal.

8. Heard Mr.T.Ganesan, learned counsel appearing for the appellant who would submit that he is one of the villagers and it is his stand that the mini water tank which is in question is still being used by the village people, therefore, it shall not be removed as directed by the writ Court.

9. We are not impressed with the said submission made by the learned counsel appearing for the appellant for the simple reason that the present appellant who claims to be one of the villagers cannot take on behalf of the entire villagers a stand to state that the tank is being utilized by the village



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people. No one has come before us and either before Block Development Officer or any other authority stated that the mini water tank is being utilized by the village people.

10. Since it is a categorical assertion on the part of the Tahsildar which has been recorded as stated *supra* that it has become a dilapidated one and it is being not used by the village people for more than three years and it has to be removed properly by adopting the procedure, the said statement given by the Tahsildar cannot be disputed merely by making a statement across the bar by the learned counsel appearing for the present appellant for which absolutely there has been no basis.

11. At one point of time, the learned counsel even without getting any instructions from the present appellant, i.e., third party, stated that the present appellant is ready and willing to provide some place to the Block Development Officer concerned by way of patta land belonging to him wherein the mini water tank can be placed.

12. However, when we specifically posed a question whether this concession given by the learned counsel appearing for the present appellant on the basis of the instructions he received from the appellant, he said emphatically, No.



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13. Normally this kind of concession cannot be given by the counsel without getting instruction that too a written instruction from a party. When that being the position, it is only to be taken as a deliberate attempt to settle the personal score between the present appellant and the writ petitioner, i.e., first respondent in the concerned village. This kind of personal feud cannot be settled by filing a writ appeal that too at the cost of the interest of the village people, therefore, we are not inclined to entertain this appeal and therefore, it is liable to be dismissed, accordingly, this Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14. It is stated by the learned Government Pleader appearing for the official respondents that the order of this Court has been complied with and the mini water tank has already been removed. The said statement made by the learned Government Pleader is taken on record.

(R.S.K., J.) (S.S.A., J.)
11.12.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

1. The District Collector,
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Salem District.
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