



W.P.No.19124 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 16.07.2025

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

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R.Rajan

.. Petitioner

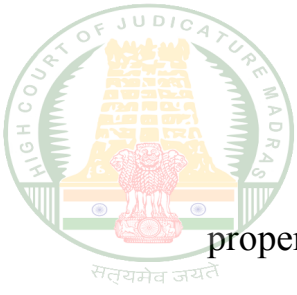
v.

1. The Project Director
National Highways Authority of India
Prabhanagar Extension
Gandhipuram
Thanjavur 613 004

2. The Regional Officer
National Highways Authority of India
SRI Tower 3rd Floor
DP-34(SP), Industrial Estate
Guindy, Chennai 600 032

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to make necessary arrangements for alternative drainage system to let rain water from the National Highways No.36 and the road margins at Pappakudi Village near the land of the petitioner to any Government water courses nearby, instead of letting the rain water into the water pond within the land of the petitioner in Survey No.362/1 subdivided as Survey No.362/1B at Pappakudi South Village, Udayarpalayam Taluk, Ariyalur District and thereby desist from in any manner infringing with fundamental right to



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property of the petitioner.

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For Petitioner :: Mr.S.Mohan

For Respondents :: Mrs.S.R.Sumathy
Standing Counsel

ORDER

This writ petition has been filed for issuance of a mandamus directing the respondents to make necessary arrangements for alternative drainage system to let rain water from the National Highways No.36 and the road margins at Pappakudi Village to any other Government water course nearby, instead of letting the rain water into the water pond within the land belonging to the petitioner in Survey No.362/1, which has been subdivided as Survey No.362/1B at Pappakudi South Village, Udayarpalayam Taluk, Ariyalur District.

2. The first respondent has filed a counter affidavit. The first respondent has taken the following stand in the counter affidavit:-

“9. I humbly submit that the water pond "SavadiKulam as called by the petitioner, exist in Survey No.362/1 at



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the Left hand side (LHS) of Km 89+973 of the project stretch. The said SavadiKulam exist for a length of 60 mts from Km 89+965 to 90+625 and is located at a distance of 10 mts away from the ROW of NHAI.

10. I humbly submit that in this location originally there exist one pipe culvert and the same has since been improved as Box Culvert in the same location during construction as per NHAI norms. It is submitted that this road stretch for 20.5 Mts main carriageway (9.5 Mts LHS + 1.5 Median + 9.5 Mts RHS) along with 7.5 Mts Service Road on both LHS & RHS. As such the road stretch has been widened as per the norms and the road level has not been heightened or changed since it is only the widening portion. It is submitted that there exist private land approximately with a distance of 10 Mts between the Tank and the ROW of NHAI. Copy of drawing is submitted herewith for kind perusal of this Hon'ble Court.

11. I humbly submit that topography of the terrain in this location is naturally upwards on the RHS side than the leftern side. During rains the upstream water from RHS



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will go by the LHS which is in the downstream portion normally. The said water tank is not inexistence within the ROW of NHAI and it is located in the private land in Survey No. 362/1B away from the ROW of NHAI. This pond was created by the petitioner for his own use and it is the rain fed tank for all along the time. The water source for this tank is only through the rain water and this has not been created due to construction of newly formed road.

12. I humbly submit that the petitioner himself has admitted that he is using the water from the tank for irrigating his land for many years. There is no other water course for storage of water in the Tank except to fill the tank through rain water all along these years and there are no other water coarse to fill the tank.

13. I humbly submit that no diversion of water course has been made by NHAI to drain water into his land. It is submitted that the petitioner has himself admitted that the pond and his land are existing in low lying area and as such the rain water will normally flow into his land in such way the Tank has been constructed even before the



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construction of this road stretch.

14. I humbly submit that the averments made by the petitioner that the NHAI has failed to drain the rain water from the Highways and the road margins to the water courses on the Northern & Southern side for about 1 Km from his land to the river taking water to Veeranam Eri is not correct. It is submitted that while the petitioner has created a Rain fed tank for his personal use to irrigate his land through the rain water filled in this tank has himself to make arrangements to drain the excess water from the tank as well as from his agriculture land naturally. The system of filling of water in the Pond through the rain water is all along exist customary for a long period and is not created now due to construction of the road stretch. It is also to submit that formation of earthen drains on the side of road is in progress to drain off the normal rain water gets collected from the National Highway lane.

15. I humbly submit that the road stretch originally exist in this location and this has been widened to an extent of 20.5 Mts as per the Design and Drawings as approved by the DPR Consultant. It is also submitted that no other



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representations from any other land owners has been received by this Respondent in this regard. It is not fair to blame NHAI to make alternative arrangements to drain the excess water going to his irrigated tank since NHAI started providing earthen drain to drain the Rain water collected from the NHAI land.

16. I further submit that as stated above the road stretch has been constructed as per the approved Plan & Profile based on the DPR. It is submitted that the Project Highway work between Sethiyathope Cholapuram has been completed by June 2024 as stipulated in the Contract Agreement and being used by the general public from 30.06.2025 onwards. Any changes at this stage of construction will result a huge loss to the exchequer of NHAI.

17. I further submit that as per the IRC requirements the Project Highway is to be designed and developed in line with the "Manual of specifications & standards for the four laning of Highways through Public Private Partnership (IRC SP-84:2014). Further the DPR is a tentative guideline for design, estimation & costing of



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the project and to formulate the Concession agreement.

NHAI prepares DPR as a preliminary document for assessment of projects. The DPR evolves many times before the final formulation of design & drawings, concession agreement, land acquisition, etc. The resultant project highway also evolves many times based on various public demands/representation, wherever necessary etc even during the construction stage.”

3. Heard the learned counsel for petitioner and the learned standing counsel for respondents.

4. In the considered view of this Court, the only grievance that has been expressed by the petitioner is that the Highways Department should not let in rainwater from the highways and the road margins into the property belonging to the petitioner in Survey No.362/1B. The Highways Department is giving their justification as to why the rainwater flows into the land belonging to the petitioner. If there is a natural course and the water goes into the land belonging to the petitioner, where the petitioner is in fact maintaining a pond, the petitioner will not have any grievance. However,



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the Highways Department cannot make an alignment and let in rainwater flow into the land belonging to the petitioner. The petitioner has the right to maintain his land and the Highways Department cannot intrude into the rights of the petitioner by carrying on with activities, which results in the rainwater drained into the land belonging to the petitioner.

5. In the light of the above discussion, there shall be a direction to the Highways Department to ensure that the Highways Department does not let in / drain rainwater into the land belonging to the petitioner from Highways No.36 and the road margins.

6. This writ petition is disposed of in the above terms. Consequently, W.M.P.No.21415 of 2025 is closed. No costs.

Index : yes/no
Neutral citation : yes/no

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N.ANAND VENKATESH,J.

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