

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2025

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THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WA No. 2842 of 2024

AND

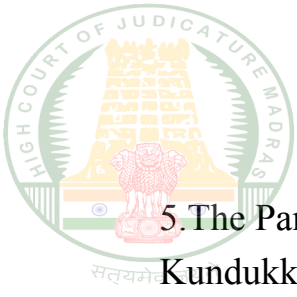
CMP NO. 20891 OF 2024

N.Dharmambal

Appellant(s)

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 636455, 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 636351,
Kadaiyampatti Taluk,
Salem District.

Respondent(s)

WA No. 2842 of 2024

PRAYER

To set aside the order passed by the learned Judge in WP No.23663 of 2024 dated 16.08.2024 on the file of this Court and allow this Writ Appeal.

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For Appellant(s): M/s.M.R.Jothimanian

For Respondent(s): Mr.V.Jeevagiridharan AGP

JUDGMENT

(Judgment was delivered by S.M.Subramaniam J.)

The writ order dated 16.08.2024 passed in W.P.No.23663 of 2024 is under challenge in the present writ appeal.

2. The petitioner states that he owns an agricultural land in Kundukkal Village, Kadaiyampatti Taluk, Salem District. In front his properties, a road situated in Survey No.59/2 leads to Jodukuli and Chinnathirupathi. The relief



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sought for in the present writ petition is to forbear the respondents from constructing an Overhead Tank on the land classified as “Padhai/Road” situated in S.No.59/2, Kundukkal Village, Kadaiyampatti Taluk, Salem District.

3. The appellant submitted an objection to the construction of an Overhead Tank adjacent to his land. The learned Single Judge considered the issues and dismissed the writ petition. The learned counsel for the appellant would rely on the observations made by the learned Single Judge in Paragraph 5., which reads as under:

“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 site is under the control of the fourth respondent and does not affect the road. Therefore, the objections raised by the petitioner cannot be



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considered, and the Writ Petition is devoid of merits and liable to be dismissed.”

4. May that as it be, the appellant has no right to seek an order of injunction from this Court to prevent the construction of Overhead Tank on a property that admittedly belongs to the panchayat. No doubt, the petitioner may given an application, and it for the authorities to take a policy decision.

5. Regarding the issue on hand, the Additional Divisional Engineer Construction and Maintenance, Highways, Omalur filed a counter affidavit, which reads as under:

“3. I humble submit that, the said survey No.59/2 is located at Km 17/4 (in the left side) of the Kamalapuram – Chinnathirupathy – Jodukuli road (MDR 1127) which is maintained by the Omalur (H) Sub Division, Edappady (H) Division. Now the road is in Intermediate Lane (5.50m Width). As per the Government Policy the above said road may be widened to Double lane (7.0m Width) in the upcoming years since it is a Major District Road (MDR). For



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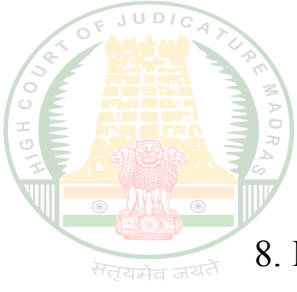


that sufficient land width available within the highways boundary. Beyond the Highways boundary the land available in the same survey number belongs to the Block development office.

Hence, I humbly submit that, as per the revenue records the land mentioned by the appellant belongs to the Block Development officer, Kadayampatty as it is evident from the letter of Thasildar, Kadayampatty vide Lr.1244/2024/A3/Dated 26.07.2024.”

6. Thus, the policy decision taken by the respondents to construct an Overhead Tank is for the benefit of the people residing in that locality. Admittedly, the Overhead Tank is not going to be constructed in the land belonging to the appellant.

7. In the present case, the objections were considered by the authorities and they have found that sufficient land is available, even for widening of highway. However, the appellant has not established even a semblance of a legal right to obstruct the public welfare scheme for the construction of an Overhead Tank in a public place or a particular place.



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8. In view of the above, we do not find any infirmity in respect of the writ order passed, and consequently, the Writ Appeal stands dismissed. The connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

03-03-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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**S.M.SUBRAMANIAM
J.
AND
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