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W.P.No.30507 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 24.04.2025

ORDERS PRONOUNCED ON : 22.05.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

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and

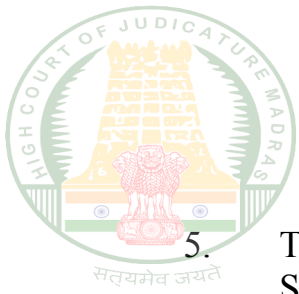
W.M.P.Nos.33124 and 38430 of 2024

Kavitha

... Petitioner

Vs.

1. The Secretary to Government,
Rep. by its Principal Secretary to Government,
Highways and Minor Ports (HR2) Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Collectorate Building,
Coimbatore – 641 018.
3. The Chief Engineer,
Highways Projects,
Tamil Nadu State Highways Department,
No. 3, Sardar Patel Road,
Guindy, Chennai - 25.
4. The Superintending Engineer,
Highways Department,
Tamil Nadu State Highways,
Project Circle,
Coimbatore.



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5. The Divisional Engineer,
State Highways Department (Special Project),
Coimbatore – 641 018.

6. KNR Constructions Limited,
Rep. By its Managing Director,
Mr.Narasimha Reddy,
KNR House, 3rd and 4th Floor,
Plot No. 113, 114, Phase -1,
Kavluri Hills Jubilee Hills Road No. 36,
Hyderabad – 500 033.

... Respondents

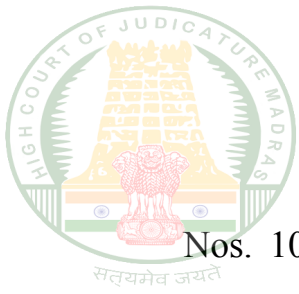
Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, forbearing the respondents 2 to 6 from their men, agents servants or any other persons acting through them to constructing the pillar for execution of up-ramps in front of petitioner's property vide town survey No.1058/2 and 1058/4 part as per amended plan and direct the respondents to execute the up-ramps as per the original plan.

For Petitioner : Mr.Shunmuga Sundaram, Senior Counsel
assisted by Mr.S. Saravana Kumar

For R1 to R5 : Mr.P.S.Raman, Advocate General
assisted by Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

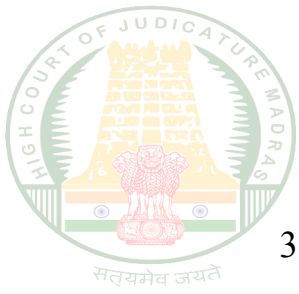
This writ petition is filed for a mandamus forbidding respondents 2 to 6, or any person acting on their behalf, from constructing the pillar for the execution of up-ramps in front of the petitioner's property in Town Survey



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Nos. 1058/2 and 1058/4 (part), as per the amended plan, and to direct the respondents to execute the up-ramps according to the original plan.

2. The case of the petitioner is that she is the owner of the aforementioned property, admeasuring 13,068 square feet, acquired through a family arrangement-cum-partition dated 30.01.2002. Subsequently, the petitioner's title was confirmed by a Decree in O.S.No.115 of 2004 dated 19.03.2004, passed by the II Additional Subordinate Judge, Coimbatore. The Honourable Minister for Highways and Minor Ports, on 04.08.2016, announced the work of "Construction of elevated highway along Avinashi Road in Coimbatore City from Uppilipalayam to Chinniyampalayam – Kalapatti Airport." The alignment of this work was approved by the Alignment Committee on 18.04.2018. The Technical Audit Committee approved the proposal for a pre-stressed concrete segmental box girder for the superstructure on 09.11.2019. The sub-estimates have been prepared for several works based on site conditions. The Government issued G.O.(Ms).No.62, Highways and Minor Ports (HS2) Department, dated 24.03.2020, approving the project, which commenced on 29.08.2020.



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3. The petitioner's property is located on the northern side of Coimbatore to Avinashi Road. The petitioner has a frontage of approximately 88 feet along the side road. A 10.10-kilometre, four-lane flyover from Goldwins to Uppilipalayam is currently under construction at an estimated cost of Rs.1,621.30 crores, with the work in progress. To connect to the aforementioned flyover, a service road facility had to be provided. Adjacent to the petitioner's property is a star hotel named "The Residency Towers," which has a frontage of more than 250 feet. According to the original plan, the pillars were to be spaced 30 metres apart, including one pillar in front of the petitioner's property and two pillars in front of the adjacent property. While the sixth respondent, KNR Constructions Limited, began digging the pit for the first pillar, the petitioner raised no objection as it was compliant with the plan. However, on 25.08.2024, the petitioner was shocked to see the contractor also digging on the southwestern side of her property to erect a second pillar. If two pillars were to be erected in front of the petitioner's property, she would suffer significant prejudice due to diminished market value concerning ingress, egress, and any means of enjoyment of the property.

4. The petitioner had previously filed a civil suit in O.S.No. 790 of 2024



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before the III Additional District Munsif, Coimbatore. The petitioner also filed

W.P. No. 28233 of 2024. However, it was withdrawn due to the pendency of the civil suit. Subsequently, the petitioner withdrew the suit with liberty to approach this Court. Accordingly, the petitioner has filed the present writ petition with the above prayer.

5. The writ petition was resisted by respondents 1 to 5 through a counter-affidavit filed by the fifth respondent, namely, the Divisional Engineer, State Highways (Special Projects), Coimbatore. In paragraphs 3 to 6, general details regarding the larger project are provided. It is stated that the Honourable Minister announced the project on 04.08.2016. Thereafter, through G.O.Ms.No.119, Highways and Minor Ports (HQ2) dated 30.11.2016, and at a cost of Rs.340.53 lakhs, a Detailed Project Report (DPR) was prepared for the current project. The structural design and drawings prepared by the DPR consultants were forwarded by the Execution Wing of the Highways Department to the Planning, Designs and Investigation Wing of the Highways Department for proof-checking to ensure structural adequacy.

6. The administrative sanction for the project, amounting to Rs. 1,621.30 crores, was granted by G.O.Ms.No.62, dated 24.03.2020. It is stated that the



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work is an iconic project, entirely funded by the Government of Tamil Nadu, and will be the longest flyover in the state at 10.10 kilometres, featuring four up-ramps and four down-ramps, near the Airport, Hopes, Nava India, and Anna Statue Junctions. The work is ongoing in the heart of Coimbatore city. As of the date of the counter-affidavit, it is stated that 80% of the project has been completed, and the bridge is expected to be opened to the public in the first quarter of 2025. The Chief Engineer (Highways) - Projects communicated the proposal prepared by the DPR consultants, including the site plan, General Arrangement Drawings, Geo-technical report with structural designs, and other relevant documents. The Planning, Designs, and Investigation Wing of the Highways Department has proof-checked the DPR and granted their approval via letter dated 23.04.2020.

7. In paragraph 7, the details of the project are provided. It states that the construction of the ramps involves two major components: one solid ramp and another viaduct portion. Regarding the Anna Statue up-ramp, the starting section is solid, extending 180 metres in length, while the remaining 240 metres consist of a viaduct section, supported by pillars of increasing height. Since the solid portion will completely block ingress and egress to properties, a service road is mandatory in that area. In the viaduct portion, up to a vertical



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clearance of 5.5 metres, a service road is essential. When the vertical clearance exceeds 5.5 metres, vehicles can directly pass through the ramp to access the main carriageway. It is stated that service roads have not been constructed where the clearance is more than 5.5 metres. A total of 91 ramp piers have been constructed or are being constructed along Avinashi Road. The original location of the subject pillars/piers and the reasons for their relocation are set out in paragraphs 8 and 9, and it is essential to reproduce the same as such:-

“ 8. It is submitted that the Anna Statue Up-ramp has nine Piers, from Pier No.P263a to P271a, of varying heights, ranging from 3.5 M to 9.5 M, in which, P263a, 264a & 265a (3 Nos.) are Portal Piers, which are connected with main Elevated Corridor, and the remaining Piers from P266a to P271a are independent Piers. Each Pier is having center to center span length of 30 M. In this Up-ramp portion, many commercial and residential apartment properties are situated with entry and exit within short distances. The Pier P265a (Portal Pier) was proposed on Eastern corner of Petitioner's property and Piers, P266a & P267a, were proposed in front of M/s. SAS Residency Hotel and Resort's property. The Pillars P265a, P266a, P267a were originally proposed at 30 M intervals.

9. It is submitted that it was proposed to provide Service Road along the Petitioner's property and Hotel Residency, having a frontage of 27.5 M and 56.0 M. respectively, for providing ingress and egress. The land was proposed to be acquired for providing Service Road and



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Footpath cum Drain in Hotel Residency property for an extent of 125.52 Sq.M. in Survey No.1057 and 31.50 Sq.M. in Survey No.1058/1, totaling to 157.02 Sq.M., and in the Petitioner's property for an extent of 39.04 Sq. M. in Survey No.1058/2 and 3.60 Sq.M. in Survey No.1058/4, totaling to 42.64 Sq.M. In the land acquisition area of Hotel Residency, an Underground Basement Floor exists. For forming Service Road and Footpath cum Drain at this location, the Basement Floor has to be dismantled and construction of a Retaining Wall with filling has to be made for forming the Service Road and Footpath cum Drain. For construction of Retaining Wall and its foundation, additional land acquisition was also required. Huge additional cost towards compensation was required for forming Service Road and Footpath cum Drain at this location.”

8. It is further stated that, pursuant to the aforementioned change, since the vertical clearance is more than 5.5 meters, there was no requirement to provide a service road. The petitioner's ingress and egress are also not affected. Therefore, to incorporate the said modification, the Divisional Engineer (Highways) - Special Projects Division, Coimbatore, requested the DPR consultant to redo the structural drawings. On 16.08.2023, the Chief Engineer (Highways) – Projects, requested a proof check of the designs and drawings for the relocated piers Nos. 266a, 267a, and 268a, citing site conditions. The drawings furnished by the Project Wing had been proof-checked for structural adequacy for the sub-structure (piers) and foundation



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of these ramp piers. The findings were communicated through letters dated 18.12.2023 and 30.01.2024, with the condition to verify the correctness of existing and proposed levels, vertical clearance and horizontal clearance, and safe bearing capacity before execution. Accordingly, it is pleaded that the relief sought in the writ petition cannot be granted, as the changes were made in public interest and the petitioner has not been adversely affected.

9. Subsequently, by an interim order dated 25.10.2024, the Chief Engineer, Highways – Planning, Designs, and Investigation, was directed to file a report regarding whether the pillars erected in front of the petitioner's property were based on any expert opinion, on or before 16.11.2024. On 07.11.2024, a report was filed, and the relevant portions are contained in paragraphs 8 to 11. It is stated therein that Pillar No. 266a directly blocks the existing ingress and egress of Hotel Residency, and that the relocation of the pillars provides the dual advantage of enabling access to both properties and avoiding the need for a service road and land acquisition. The said report was filed by the Chief Engineer, Highways – Projects. The paragraphs 8 to 11 of the report filed by the Chief Engineer, (Highways), Projects are extracted hereunder:

“8. It is submitted that the Pillars P265a, P266a, P267a were originally proposed at 30 M intervals. On the



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commencement of the work in this stretch, it was noticed that the Pillar P266a directly blocks the existing ingress/egress to Hotel Residency, which is situated adjacent to the Petitioner's property. It was proposed to provide Service Road along Hotel Residency and the Petitioner's property, having a frontage of 56.0 M and 27.5 M respectively, for providing ingress and egress from Hotel Residency property as well as the Petitioner's property. The Land was proposed to be acquired for providing Service Road and Footpath cum Drain in Hotel Residency property for an extent of 125.52 Sq.M. in Survey No. 1057 and 31.50 Sq.M. in Survey No.1058/1, totalling to 157.02 Sq.M., and in the Petitioner's property for an extent of 39.04 Sq.M. in Survey No.1058/2 and 3.60 Sq.M. in Survey No.1058/4, totalling to 42.64 Sq.M.

9. It is submitted that in the land acquisition area of Hotel Residency, an Underground Basement Floor exists. For forming Service Road and Footpath cum Drain at this location, the Basement Floor has to be dismantled and construction of a Retaining Wall with filling has to be made for forming the Service Road and Footpath cum Drain. For construction of Retaining Wall and its foundation, additional land acquisition was also required.

10. It is submitted that huge additional costs towards compensation was required for forming Service Road and Footpath cum Drain at this location. The land acquisition costs and additional construction costs for Retaining Wall, Service Road and Footpath cum Drain, were decided to be avoided at this location by shifting the



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Pillars P266a & P267a towards Eastern side. The Vertical Clearance for ingress & egress to the Petitioner's property and Hotel Residency is more than 5.50 M.

11. It is submitted that to avoid additional land acquisition costs, including compensation for the structures of Basement Floor, and expenses for building Retaining Wall, the location of the Pillars P267a & P266a were modified, resulting in one Pillar being placed in front of the Petitioner's property on Western side, without affecting the access to her property, but well within Highway boundary. This results in savings of land acquisition costs and at the same time, adequate lateral and vertical clearance is provided for entry and exit to both the properties - the Hotel Residency's property and the Petitioner's property.”

10. A second report dated 08.11.2024 was also filed by the Chief Engineer (Highways) – Planning, Designs, and Investigation. The only relevant portion of this report is paragraph 8, which is extracted hereunder for reference:

“8. It is submitted that the Chief Engineer (Highways) - Projects vide Lr. No. 3385/ W3/ 2016 dated 16.08.2023, had requested to Proof-Check the Designs and Drawings for the relocated Pier Nos.P266a, 267a & P268a citing site-conditions. The Drawings furnished by the Projects Wing had been Proof Checked for structural adequacy for the sub-structure (Piers)



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and foundation for these Ramp Piers and communicated vide Letter No. 0157/2019/D01, dated 08.12.2023 and 30.01.2024, with the condition to verify the correctness of the existing and proposed levels, vertical clearance and horizontal clearance, safe bearing capacity before execution.”

11. Therefore, it is evident that although the altered drawings were proof-checked, this was done on the condition that the correctness of the existing and proposed levels, vertical and horizontal clearances, and safe bearing capacity must be verified prior to execution. Subsequently, on 11.11.2024, a vacate application was also filed, and the affidavit filed in support thereof essentially reproduced the contents of the report filed by the Chief Engineer (Highways) Projects. The petitioner filed a reply affidavit in response to the report dated 07.11.2024. It is the petitioner's contention that the relocation of the pillars was done solely to serve the private interests of the adjacent property. While the adjacent property has a frontage of 183.7 feet (56 metres), only one pillar has been located in front of it, whereas two pillars are positioned in front of the petitioner's property.

12. A rejoinder affidavit was filed in response to the petitioner's reply. It is essential to extract paragraph 5 of the rejoinder affidavit herein:

“It is submitted that the allegations in para 2 of the



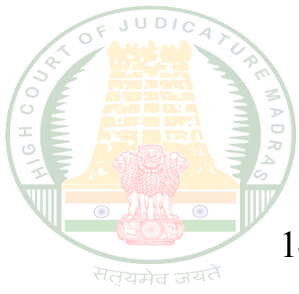
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Reply under Rejoinder are stoutly denied as deceptive. The Detailed Project Report (DPR) for the Elevated Highway was prepared by the Consultant and approved by the Execution Wing of Highways Department. Considering that the Project spans 10.1 Kilometres, certain modifications during the execution phase became imperative to align with the actual site conditions on ground. Specifically, it was identified that relocating certain pillars within the Highways boundary would result in substantial cost savings for the Government. The said modifications of pillar locations were carefully evaluated for stability and duly approved by the Competent Authority, ensuring adherence to safety and regulatory standards. No mala fide action had been done by any of the Officials, necessitating any cover-up, as misleadingly alleged by the Petitioner.”

13. Thereafter, the petitioner produced a letter dated 16.08.2023, which referred to a communication from M/s. Residency Towers, Avinashi Road, Coimbatore, dated 23.06.2023. Subsequently, the respondents also produced the aforementioned letter dated 23.06.2023. Upon reviewing the aforementioned letters, it is clear that the entire exercise commenced from the letter of M/s. Residency Towers. Therefore, when this Court orally inquired during the hearing as to why the counter affidavit filed did not disclose the same and chose to project other reasons, an additional affidavit was submitted by the Chief Engineer, (Highways) – Projects.



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14. Firstly, in paragraph No. 4, the Chief Engineer assures that there is no fear regarding the structural stability or safety of the construction. It is stated that there should be no concern over the structural stability or safety of the pillar distances. The relocation of pillars on other highways has been done even with spacing of up to 52 metres apart. There has also been realignment in the present project also. Secondly, an apology is offered for the incorrect representation made by the instructing authority to the State's Counsel, claiming that no representation was received from the hotel. It is now acknowledged that the very first representation was indeed received from the hotel because the pillar was originally scheduled directly in front of their entry gate. This situation would mean that the hotel would have only one gate for both entry and exit. Furthermore, it is stated that such an arrangement would be impermissible under the Planning Act and would cause tremendous traffic, as the hotel is one of the largest in Coimbatore City.

15. It is further stated that they provided the petitioner's counsel with two correspondences in which the representation was mentioned. There was no intention to mislead the Court in any way. The counter affidavit states that the original pillars were blocking the Hotel Residency and that shifting them was necessary to avoid the blockage. Therefore, there was no misrepresentation.

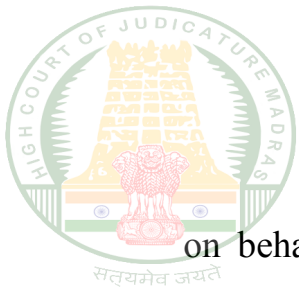


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The third subject covered in the additional affidavit refers to the petitioner's grievances. It is stated that the petitioner's access will not be affected in any manner and that the petitioner will retain 19.3 metres of access. Regarding the alleged decrease in the development value of the property, the respondents have submitted a certification from the local town planning authority affirming that whatever FSI was available to the petitioner's land prior to the erection of the pillar will remain unaffected. Since the elevated corridor will be at a height of 5.5 metres, fire or other rescue engines will also have ingress and egress. Therefore, the petitioner's concerns have been addressed. Sufficient efforts have been made to redesign the structure to ensure that structural stability remains unaffected.

16. A reply has also been submitted by the Superintending Engineer, Project Circle, that aligns with the additional affidavit. Furthermore, it is clarified that adhering to the original plan would require providing a service road through land acquisition. Additionally, due to the presence of a basement structure in the hotel, there would be extra costs to the State, among other complications.

17. I have heard *Mr. Shanmugasundaram*, the learned Senior Counsel appearing



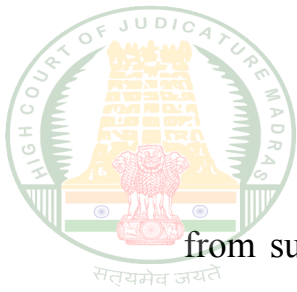
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on behalf of the petitioner, and *Mr. P.S. Raman*, the learned Advocate General

appearing on behalf of respondents 1 to 5.

18. *Mr. Shunmugansundaram*, the learned senior counsel representing the petitioner pointed out the letter provided by the adjacent owner. He would submit that public safety concerning the bridge is compromised, while private interests are being accommodated. When considering the private interest of the petitioner in relation to the adjacent owner, both parties should have been treated fairly. The learned senior counsel contends that the case presented by the respondents, even after the additional affidavit, is false. Therefore, he argues that this is a clear-cut case in which the respondents have acted in a high-handed and malafide manner, endangering human lives and the petitioner's valuable proprietary rights with a lesser frontage. Two pillars are situated on either side of the petitioner's building.

19. Per contra, *Mr P.S. Raman*, the learned Advocate General appearing for the respondents, taking this Court through the plans furnished by him, contends that the entire action, though initiated at the request of the said hotel, is not improper. There is nothing wrong with considering a genuine request



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from such a large property. It so happens that accommodating their interests also aligns with accommodating the public interest. As a matter of fact, the petitioner also became a beneficiary, as the land originally proposed for acquisition need not be acquired. It transpires that even if the original plan for land acquisition had to be pursued, there is a large basement for hotel residency that would now need to be cut off by a revetment wall and filled in before laying the service road, which would incur huge expenses for the Government. The petitioner's grievance regarding beneficial enjoyment or diminished value has been addressed, and there can be no grievance whatsoever from the petitioner. Structural safety is now guaranteed by the additional affidavit filed by the Chief Engineer. Therefore, he submits that this Court need not interfere in the matter.

20. I have considered the rival submissions made on both sides and reviewed the material records of the case.

21. The entire up-ramp is designed with pillars spanning 30 metres each. The original plan, submitted by the learned Advocate General, is annexed as **Annexure I**. The altered plan is outlined in **Annexure II**. According to the original plan, it is evident that Pillar No. 265a was located at one end of the



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petitioner's property, Pillar No. 266a was situated before the adjacent property, in front of one of their entrances. Pillar No. 267a was positioned in the centre of the adjacent property, and the next pillar, No. 268a, extended to the following property. All four pillars were evenly spaced over a span of 30 metres each. Now, according to the altered plan that is intended to be executed, Pillar No. 266a has been moved by nine metres, placing it also in front of the petitioner's property. Consequently, there are now two pillars situated in front of the petitioner's property.

22. The distance between Piers 265a and 266a is now reduced to 21 metres, compared to the original 30 metres. The distance between Piers 266a and 267a has been increased to 33 metres, and the distance between Piers 267a and 268a has been further increased to 36 metres.

23. First and foremost, the Court's concern is public interest. It is common knowledge that the pillars are located with structural load distribution in mind. If the piers are too far apart, the bridge deck may experience excessive bending and stress. On the other hand, if they are too close, it increases unnecessary construction costs. Therefore, the respondents, who are the experts, decided to place the pillars 30 metres apart, taking into account



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soil and specific earth conditions, including geotechnical studies. When realigning the pillars, the respondents are expected to conduct a detailed study to ensure the safety of the bridge. In this regard, aside from the additional affidavit filed before this Court, where in paragraph 4, the Chief Engineer (Highways)-Projects states that in several places, pillars are positioned at different distances on various bridges without issue, there is no any expert study undertaken. As a matter of fact, when the design is altered by the DPR, it is proof-checked by the Planning, Designs, and Investigation Department. The approval was communicated through letters dated 08.12.2023 and 30.01.2024, which contain specific conditions requiring verification of safe bearing capacity before execution. These letters explicitly impose such a condition.

24. A careful review of the file and the relevant communications shows that the designing authority agrees to the change on the condition that it is proof-checked. The proof-check authority consents on the condition that the safe bearing capacity is verified before execution. Now, before the Court, the Chief Engineer says, "Don't worry." If, tomorrow, the bridge falls due to the stress caused by the distance now being as long as 36 metres between two piers, on the day when human lives are lost, none of us concerned with this issue will be there. And yet, that final sentence is included in every

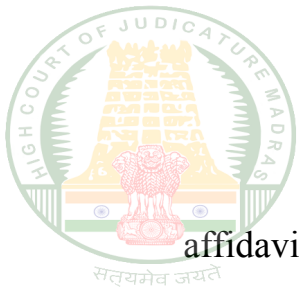


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communication from the authorities to pass the buck on to others. Before starting the erection at the altered place, no technical authority had conducted any study, and there is nothing in the file to suggest that the two piers with 36 meters will be fine and there will be no danger.

25. Therefore, in this case, I hold that by altering the pier distance from 30 metres to 36 metres, public interest is seriously compromised. When the project is valued at over Rs. 1,621.30 crores, a reason related to land acquisition of a few square metres and filling up of a basement is mentioned as an excuse. When the detailed project report is drawn up by the consultant after thorough inspection and spending Rs. 340.53 lakhs, and it has been stated that the project is proof-checked by the department at every stage after a thorough inspection of the site, the reason as if the respondents newly discovered that there is a basement or that land acquisition could be avoided, etc., is far from acceptance. The safety of the people using the bridge, as well as those standing underneath it, is of primary concern. Given the risk to human lives, the respondents cannot be permitted to alter or meddle with the location of the pillars.

26. Secondly, the reason that is stated by the respondents in the counter



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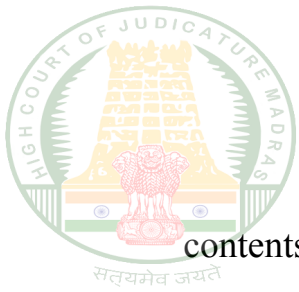
affidavit, rejoinder affidavit, additional affidavit, inspection reports, etc., is

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that by shifting the distance between the pillars to 36, 33, and 21 metres respectively, the height clearance before the properties in question has now become 5.5 metres. Firstly, the said averment lacks any logic as to how the height clearance increases with reference to three piers by relocation. Secondly, even for the sake of argument, if realigning the pillars does provide a 5.5 metre high clearance, there is still no explanation of how this would be possible only by placing two pillars in front of the petitioner's property. The petitioner is posing the question why not shift one or two meters on the side of the adjacent property itself for which there is no answer.

27. Thus, there is absolutely no logic presented in the counter affidavit or in the files that explains how achieving 5.5 meters of clearance is possible only by placing two pillars in front of the petitioner's property while avoiding the large frontage of the adjacent property by locating just one pillar there. Therefore, the respondents are merely attempting to provide erroneous reasoning.

28. Further, upon reviewing the file, it is evident that the entire episode begins with a letter from M/s. The Residency Towers. In fact, the complete



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contents are extracted below for reference:

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“Our hotel "The Residency Towers" is located along the Avinashi Road of Coimbatore city. We came to know that as a part of Avinashi Road Elevated Corridor, you are going to construct an up ramp starting near Anna Statue, in which a pier location, which has been marked at site, lies very nearer and in-front of our Hotel Gate. We have received notice from Revenue Department regarding Land Acquisition for the same. In this context, we wish to state that, we are ready to provide the required land for this Government purpose as per the norms. But when the pier is constructed in front of our Hotel gate, then the entrance will get blocked for movement of vehicle into our Hotel.

Hence we request that, the location of the ramp pier in front of our Hotel gate may kindly be shifted slightly away from gate, to facilitate free movement of vehicles to our Hotel.”

(Emphasis supplied)

29. Thus, it can be seen that the request made by M/s. The Residency Towers was very reasonable, and the private hotel acted fairly in its conduct. It merely stated that if the pier is constructed in front of the hotel gate, the entrance would be blocked; therefore, they only want to shift it slightly away from the entrance. They even assured that they would provide the required



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land to the Government as per the norms. Following the said letter, an endorsement was made to obtain reports from the authorities. Subsequently, the office of the Chief Engineer (Highways) Projects, Chennai, issued two communications dated 14.07.2023: one to the Superintending Engineer (H), Projects, Coimbatore, and another to the Divisional Engineer (H), Special Projects, Coimbatore. The contents of the letter are as follows:-

“The immediate attention of the Superintending Engineer (H), Projects, Coimbatore and the Divisional Engineer (H), Special Projects, Coimbatore are drawn to the reference letter cited above, wherein the hotel "The Residency Towers" have requested that the location of the ramp pier in front of the hotel gate be shifted slightly away from gate, to facilitate free movement of vehicles to hotel.

In this regard, the Superintending Engineer (H), Projects, Coimbatore is requested to submit a detailed report to this office on or before 20.07.2023 positively.”

30. Finally, after protracted communications, a letter dated 09.08.2023 was issued by the Divisional Engineer (H), Special Project Division, Coimbatore, to the Superintending Engineer (H), Project Circle, Coimbatore, which clarifies the reason why the respondents chose to alter the locations. The contents of that letter are extracted hereunder:

“I submit to state that the work of "Construction of Elevated Highway along Avinashi Road in Coimbatore City from Goldwins to Uppilpalayam km. 147/100-157/200



(SHU-52)" is under progress.

At present as per approved GAD the locations of Anna statue Up Ramp pier P266a lies exactly near the middle of the entry gate of the Hotel "The Residency Towers'. If the pier is constructed at this location, then this will block the entry of vehicles into the Hotel.

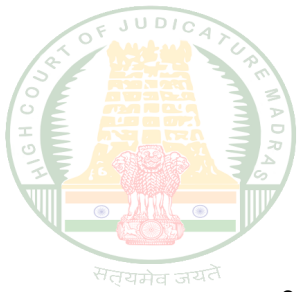
Also, representation from 'The Residency Tower' has since been received vide reference (2) cited above and in that letter, it has been requested to shift the location of the pier P266a, so as to have a clearance for entry of vehicles into the Hotel.

The same has since been considered and the Sub structure of piers P266a. P267a und P268a has been modified due to site constraints by shifting P266a by 9m towards P265a and shifting of P267a by 6m towards P266a and Sub structure design and drawings for the same have already been submitted for obtaining approval vide reference (3) cited above.

The details of proposed pier locations is given below.

Sl.No	Span	Existing Length (in m)	Proposed Length (in m)
1	P265a -266a	30	21
2	P266a -267a	30	33
3	P267a -268a	30	36

In this continuation, Super structure Design and Drawings for P266a-267a (33m) & P267a-268a (36m) was submitted for obtaining approval vide reference (5) cited above. Based on the Site condition and Representation received, the above modification has since been made. I submit the details above for favour of further action."



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31. I have reviewed the entire file. It does not contain any other content or correspondence regarding the 5.5 metre clearance or avoiding land acquisition. The averments made before this Court are entirely unsupported by any intra-office or inter-office communications found in the file. The reasons contained in the above communications were suppressed entirely in the counter-affidavit. The entire counter affidavit is a bundle of lies. The respondents have attempted to mislead this Court. Even in the additional affidavit, the apology offered seems to reinforce the false claim that no misrepresentation occurred. The relevant portion of that affidavit is extracted hereunder for ready reference:-

“There has never been any intention to mislead this Hon'ble Court in any way. In fact, in the Counter affidavit as well as in the Status Report, it has been referred that the original pillars were blocking the Hotel Residency, and in order to avoid the blockage, shifting the necessitated. Hence, there has been no attempt of any misrepresentation.”

32. I have reviewed the counter affidavit once more. I have already extracted paragraphs 8 and 9. In the reasons provided, there is absolutely no mention of the pillar being in front of the pathway of Hotel Residency. What is



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referred to in paragraph 9 is the provision of a service road to the petitioner's property and Hotel Residency. Deliberately and willfully, the entire exercise conducted by the respondents has been falsely concealed before the Court. It is unfortunate that even after a status quo order was granted and when the Court requested an inspection report from the Chief Engineer, and when a cursory examination of the file would clearly show that with reference to all communications concerning the relocation of these pillars the entire exercise was carried out solely at the request of the mentioned private party, the report deliberately and willfully suppressed this fact. Therefore, I find that, in the present case, the pillars have been moved solely to serve private interests. Between two competing private interests, I agree with the contention of the petitioner that the decision is unfair and discriminatory to the petitioner with a lesser frontage. Merely because the pillars are in the process of erection/completion, this cannot be taken advantage of. They must be razed to ground level, and according to the original plan, the pillars must be laid from the beginning.

33. As a matter of fact, the request of the said M/s. Residency Hotel is very fair. They only wanted movement of the pillar 'slightly away' and the respondents moved it for 9 meters to the next property. Even now, while

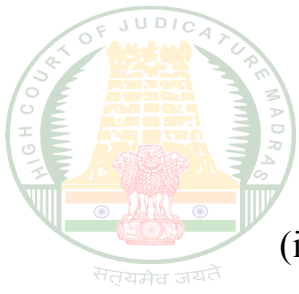


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positioning the pillars as per the initial span of 30 meters, it would be open for the respondents to consider the request for moving the pillar 'slightly away' (not 9 meters as is done now), if the same would help the other property without compromising on the safety. If a positive decision is to be taken, then a technical expert shall duly certify that nothing will happen to public safety by the exercise.

34. In view thereof, this writ petition is allowed on the following terms:-

(i) Pier Nos. 265a, 266a, 267a, and 268a shall be constructed according to the original design and drawings, with a span measuring 30 metres. The two pillars, namely 266a and 267a, shall be dismantled/razed down to ground level and reconstructed at their original locations or slightly away, even if partially or fully completed. After due application of mind and site inspection, the respondent authorities shall decide whether the service road needs to be constructed. If deemed necessary, it shall also be constructed according to the original design. The pillar in front of the gate of the adjacent property alone can be moved 'slightly away' on consideration of their request as stated in paragraph 32 above;



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(ii) The Divisional Engineer of the Highways Special Projects Division, Coimbatore, who filed the original counter affidavit dated 07.11.2024, and The Chief Engineer (Highways), Projects, who filed the report dated 07.11.2024 (the particular individual officers) shall each pay a cost of Rs.1000/- each to the Chief Minister's Welfare Fund as a truth costs from their personal money;

(iii) After construction, let the Piers No. 265a and 266a stand as 'Pillars of Truth'; there shall not be any other paintings, but the motto of the Government of Tamil Nadu shall be painted on them: "வாய்மையே வெல்லும்",

(iv) The Government of Tamil Nadu shall be at liberty to initiate an inquiry regarding the additional costs incurred due to the dismantling/razing down and reconstruction of the incorrectly located pillars and shall recover the said amount from the persons concerned. The Government shall also ensure that all the files relating to the project are maintained in proper form with proper indexing, pagination etc.

(v) The petitioner shall also be paid the costs of Rs. 10,000/- by the respondents. Consequently, connected miscellaneous petitions are closed.



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Neutral Citation: Yes
nsl

Note to the Registry:

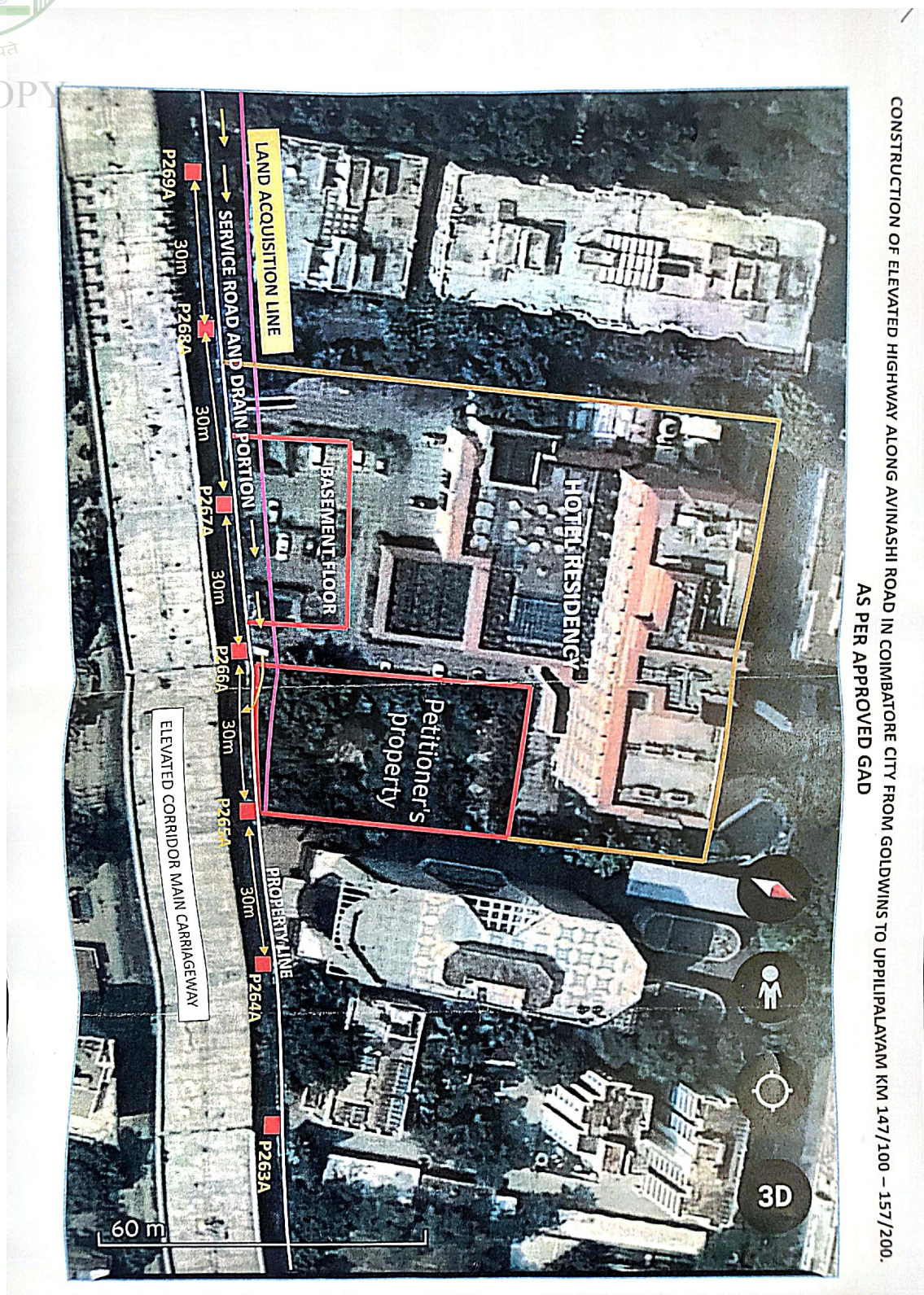
All necessary pages in the original file related to the relocation of the subject matter piers shall be photocopied and scanned. The documents shall be maintained with the original bundle, after which the original files can be returned. Scanned images shall also be uploaded along with the other scanned files of the writ petition.

ANNEXURE – I



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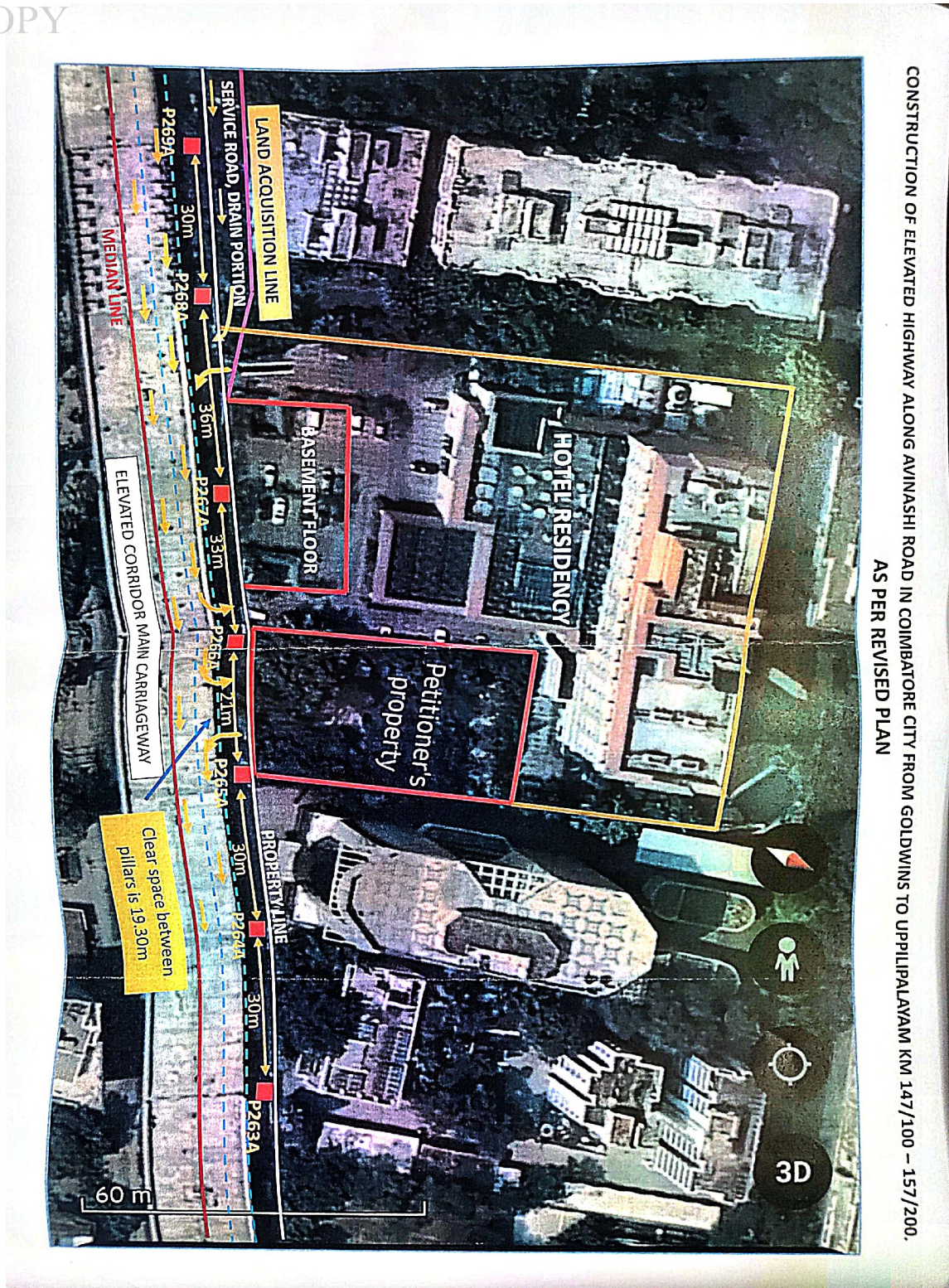




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ANNEXURE – II

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1. The Principal Secretary to Government,
The Secretary to Government,
Highways and Minor Ports (HR2) Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Collectorate Building,
Coimbatore – 641 018.
3. The Chief Engineer,
Highways Projects,
Tamil Nadu State Highways Department,
No. 3, Sardar Patel Road,
Guindy, Chennai - 25.
4. The Superintending Engineer,
Highways Department,
Tamil Nadu State Highways,
Project Circle, Coimbatore.
5. The Divisional Engineer,
State Highways Department (Special Project),
Coimbatore – 641 018.



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D.BHARATHA CHAKRAVARTHY, J.

ns1

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22.05.2025