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Writ Petition No.34434 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition No.34434 of 2024
and WMP No.37325 of 2024**

Periyasamy

.... Petitioner

-Vs-

1.The District Collector
Kallakurichi District.

2.The Revenue Divisional Officer
Kallakurichi.

3.The Block Development Officer
Thiagathurgam, Kallakurichi District.

4.The Divisional Engineer
Highways Department
Sankarapuram
Kallakurichi District.

5.The President
Panchayat Union
Porasakurichi Village & Post
Kallakurichi District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to consider the



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petitioner's representations dated 15.10.2025 and 4.11.2024 consequently direct the respondents not to put up proposed over head water tank infront of the petitioner's property bearing S.No.169/4 in Porasakurichi Village, Kallakurichi District.

For Petitioner : Mr.S.N.Subramani

For Respondents : Mr.T.Chandrasekaran
Special Government Pleader
for R1, R2 & R4

Mr.Abishek Murthy for R3 & R5

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents to consider representations dated 15.10.2024 and 04.11.2024 given by the petitioner and direct the respondents not to put up over head tank infront of the property of the petitioner, in Survey No.169/4 in Porasakurichi Village in Kallakurichi District.

2.In the affidavit filed in support of the writ petition, it had been contended that the petitioner owns property at Natham Old Survey No.169/1E, New No.169/4 measuring 46 cents at Porasakurichi Village in Kallakurichi District. It had been stated that the petitioner and his two sons and one daughter have



proposed to construct separate houses for each one of them in the said property.

It is further stated that in front of his house there is a Government poramboke land in Survey No.91/6. The petitioner contends that the petitioner was using that particular Government poramboke land for ingress and egress. It had been stated that in that particular Government poramboke land, a display board had been put up and a bus stop and water tank had also been put up. That particular water tank was in a dilapidated condition. The fact that it was in dilapidated condition had been pointed out and photographs had been produced by the respondents. The respondents had therefore taken a decision to demolish the dilapidated water tank and put up a fresh water tank in the very same place. This construction had been objected to the petitioner by giving representations which the petitioner seeks a consideration. However, the construction had commenced even before the writ petition has been filed.

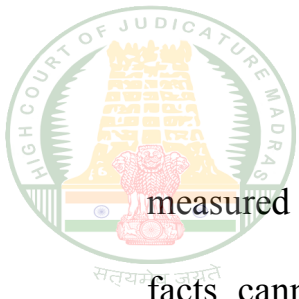
3.The writ petition had pending before this Court with a direction by this Court to the respondents to examine alternate sites for putting up the water tank. But it is stated that the alternate site as pointed by the petitioner is also a Government poramboke land and is not suitable for construction since the soil there is loose. It has also stated that the alternate land is not in proximity to the



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residential area and the already existing pipeline network. It had been stated that in the alternate land a nursery under the Mahatma Gandhi National Rural Employment Guarantee Scheme is in existence and using that particular land would cause significant and additional construction cost including installation of new pipeline and that would exceed the allocated budget. The advantages of putting the water tank in the place where the old water tank is already existence was also pointed out by the respondents. It was stated that the pipelines in existence earlier would again be used and the water tank would be connected directly to the existing pipeline. Water has also to be supplied to the residence of the petitioner and therefore the fact that a water tank is required cannot be disputed by the petitioner herein. It had also been stated that since the existing water tank had been demolished and construction of the new tank has been kept in abeyance, drinking water could not be supplied to the community and objections in that regard have also been raised by various other individuals.

4.It has been further contended that the water tank is put up only in the Government poramboke land. There is a 12 feet wide road which is maintained for public access. The petitioner can also reach the land without any hindrance. The learned counsel for the petitioner stated that the petitioner had physically



measured the road width and found that it was only 9 feet. But the two contrary facts cannot be taken into consideration of this Court. The Court is only concentrated on the construction of the water tank since it is stated that has been constructed in the place it existed before. The petitioner therefore cannot raise objections. There need not be a mandamus issued to consider the representations since the construction had already commenced and would be completed. Let it be completed.

5. The learned counsel for the petitioner stated that since houses will have to be built for the sons and daughter and also for the petitioner the access would be affected. The petitioner will have to workout his remedy but if there is requirement for access he may give a separate representation in that regard. But the water tank can be constructed since it is essential to supply the water to all the residents and including the petitioner herein and that supply of water is now being obstructed by this particular writ petition.

6. The Writ Petition stands disposed of. The respondents may proceed to construct the water tank but ensure that there is available access for the petitioner and that they do not encroach into the private property of the petitioner and



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construct the water tank only in the Government poramboke land and not anywhere else. The petitioner also has the liberty to raise any objections after the construction if access is obstructed by the respondents. It is contended on behalf of the respondents that the road would still exist even after the construction of the water tank . That representation is recorded.

7.The Writ Petition stands disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

10.01.2025

Index : Yes/No
NCS : Yes/No
KP



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To

- 1.The District Collector
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- 3.The Block Development Officer
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C.V.KARTHIKEYAN.,J
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