



W.P.(MD)No.3654 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.3654 of 2025
and WMP(MD) No.2588 of 2025

Yagappan

... Petitioner

Vs

1. The District Collector,
Dindigul District.

2. The Tahsildar,
Dindigul East Taluk.

3. Block Development Officer,
Dindigul Union Panchayat Office,
Dindigul Town.

4. The Secretary,
A.Vellodu Panchayat,
Dindigul East Taluk,
Dindigul District.

5. Executive Engineer,
TWAD Board,
43, Anna Nagar,
Dindigul.

... Respondents



W.P.(MD)No.3654 of 2025

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents not to construct the overhead tank at pathway in S.No.22/3 or S.No.22/1, Sirunayaakkanpatti village, Dindigul West Taluk, Dindigul District obstructing ingress and egress of petitioner's land in S.No.22/7 considering the petitioner's representation dated 05.02.2025 within time stipulated by this Court.

For Petitioner : Mr.K.Udhayakumar for
P.P.Alwin Balan,

For Respondents : Mr. S.Kameswaran, (R1 & R2)
Government Advocate

Mr.S.Shaji Bino, (R3 & R4)
Special Government Pleader

Mr.R.Satheesh, (R5)
Standing Counsel

ORDER

The petitioner seeks issuance of a writ of mandamus to direct the respondent from forbearing the construction of over head tank in S.No.22/3 or S.No.22/1, Sirunayaakkanpatti village, Dindigul West Taluk, Dindigul District obstructing ingress and egress of petitioner's land, based on the petitioner's representation, dated 05.02.2025.



W.P.(MD)No.3654 of 2025

WEB COPY

2. I have heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2, the learned Special Government Pleader appearing for the respondents 3 and 4 and the learned Counsel appearing for the 5th respondent and perused the materials placed before this Court.

3.The learned counsel for the petitioner submitted that the petitioner has also filed a suit in O.S.No.9 of 2025 on the file of Principal District Munsif Court, Dindigul against the respondents 1 to 4 for the relief of declaration that S.No.22/30 is a pathway and also sought for permanent injunction restraining the respondents 1 to 4 herein from disturbing the petitioner's usage as pathway, besides for mandatory injunction to close the pit excavated by the respondents 1 to 4.

4.It is the case of the petitioner that it came to the knowledge of the petitioner that the 5th respondent is carrying out construction of over head tank and therefore, the present writ petition has been filed by impleading the 5th respondent.



W.P.(MD)No.3654 of 2025

WEB COPY

5. Admittedly, the suit is filed in respect of very same subject matter against respondents 1 to 4 alone. The 5th respondent is not made a party in the said suit, though substantial reliefs of declaration and mandatory injunction are sought for in the said suit.

6. The apprehension of the petitioner is that in the pending suit, the construction of overhead tank is proceeded, it would seriously prejudice the right of the petitioner.

7. This Court by exercising its jurisdiction under Article 226 cannot delve into factual disputes and it is for the petitioner to substantiate his claims before the competent Civil Court. More so, when he has already filed a suit in O.S.No.9 of 2025, which is pending on the file of Principal District Munsif Court, Dindigul, the petitioner can always implead the 5th respondent and seek for reliefs against them as well.



W.P.(MD)No.3654 of 2025

WEB COPY

8.In view of the above, the petitioner is given liberty to approach the competent civil Court in pending O.S.No.9 of 2025 and seek amendment of the array of parties by impleading the 5th respondent as a party to the suit. It is open to the petitioner to seek interim orders in the pending disposal of the suit. Any such application that may be pending or to be filed by the petitioner, shall be taken up by the learned Principal District Munsif, Dindigul on emergent basis and the same shall be disposed of within a period of 30 days from the date of completion of pleadings namely counter being filed by the contested respondents.

9.In the meantime, it is open to the petitioner to also give a fresh representation to the 5th respondent seeking not to go ahead with the construction of over head tank and if any such representation is being made, it is open to the 5th respondent to consider the same on merits and in accordance with law, within a period of 8 weeks from the date of receipt of copy of the fresh representation. Any observation made in the present writ petition shall not bind the authorities. The civil Court, who shall apply their minds to the facts and circumstances of the case and pass such orders as may be necessary, in the interest of justice.



W.P.(MD)No.3654 of 2025

WEB COPY

10. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.02.2025

Index : Yes / No
NCC : Yes / No
PNM

TO:-

1. The Principal District Munsif, Dindigul
2. The District Collector,
Dindigul District.
3. The Tahsildar,
Dindigul East Taluk.
4. Block Development Officer,
Dindigul Union Panchayat Office,
Dindigul Town.
5. The Secretary,
A.Vellodu Panchayat,
Dindigul East Taluk, Dindigul District.
6. Executive Engineer,
TWAD Board,
43, Anna Nagar,
Dindigul.



WEB COPY



W.P.(MD)No.3654 of 2025

P.B. BALAJI, J.

PNM

ORDER IN
W.P.(MD)No.3654 of 2025
and WMP(MD) No.2588 of 2025

10.02.2025