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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-01-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 3362 of 2024

G.Mani

..Petitioner(s)

Vs

1. The Chief Secretary To Government Of Tamil Nadu
Secretariat, St. George Fort, Chennai-600 009.
2. The Government Of Tamil Nadu
Rep. By The Principal Secretary,
Municipal Administration And Water Supply
Department, Secretariat St. George Fort,
Chennai-600 009.
3. The Director
Directorate Of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road, MRC Nagar, Raja
Annamalaipuram, Chennai-600 028.
4. The Chairman
Tamilnadu Pollution Control Board, Tamil Nadu
Pollution Control Board, 76, Mount Salai,
Guindy, Chennai-600 032.



5. The Director

The Office Of Directorate Of Town Panchayat,
Urban Adminsitratve Office Campus,
Chennai-600 028

..Respondent(s)

To declare that the Section 32(1) (a) of the Tamil Nadu Public Health Act 1939 as unconstitutional.

For Petitioner(s): Ms.P.Uma

For Respondent(s): Dr.S.Suriya,
Additional Govern For Rr1 To 3 & 5
Mr.V.Gunasekar,
Standing Counsel For TNPCB For R4.

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

Writ Petition is to declare Section 32(1)(a) of the Tamil Nadu Public Health Act, 1939 (hererinafter referred to as the 'Act') as unconstitutional.

2. Grounds have been raised that application of Rules would result in causing hardship to the person constructing septic tank in small residential plot. It may not be possible to maintain the prescribed distance of 50 feet from septic tank and the borewell connection. That apart, such longer distance, if to be adopted, the same would offend the rights enshrined under the Constitution of India. To substantiate the said grounds, petitioner has raised several grounds relying on Article 46, 47 and 243 W of the Constitution of India. However, perusal of Section 32 of the Act would show that it is all about



construction of a cesspool and not a septic tank in a small residential house.

As far as the septic tank in residential houses are concerned, it is governed under the Combined Development and Building Rules and other applicable Rules.

3. However, distance criteria is adopted by the competent authority for construction of septic tank from the borewell connection in order to ensure that the ground water is not contaminated. Therefore, at the time of considering the application submitted for grant of building plan permission, relevant provisions are followed including the distance criteria, and permission is granted. In the present case, the building plan permission was obtained by the writ petitioner. However, in violation of the building plan permission, he has constructed a septic tank within the prohibited distance. Therefore, petitioner shall relocate the septic tank as per the building plan permission or submit an application seeking revised plan in any one of the suitable place, which is to be identified by the petitioner, and while considering the application, the authorities are bound to follow the Rules scrupulously. As far as the challenge made against Section 32(1)(a) of the Act is concerned, the said exercise need not be undertaken in the present case, in view of the fact that the petitioner himself violated the building plan permission, which resulted in initiation of action by the official respondents.



4. That apart, there is no absolute prohibition under Section 32(1)(a) of the Act for construction of septic tank. The distance criteria is contemplated in order to protect the drinking water and standard of living of the people residing in the surrounding locality. Right to pure water is a basic right of every citizen of India. Thus, the State is bound to ensure that drinking water is provided without any contamination and such water must be supplied unpolluted. When the distance criteria has been contemplated under the Act based on the expert opinion, High Court in exercise of powers of judicial review is not expected to substitute the views of the expert, which culminated into a provision under the Act. Provisions of Public Health Act is of paramount importance, since several provisions are contemplated in order to preserve the fundamental rights of the citizen, including *Right to Life*. Water is life. Therefore, preservation of water and supply of pure water is a duty mandated on the State under the Constitution. Thus, the distance criteria fixed under the Act need not be tampered, nor High Court can modify the distance criteria, which would result in wider repercussion, including public health aspects.

5. With the above observations, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (C.K.,J.)
21-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GD



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**S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.**

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