

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4972 OF 2009  
(Arising out of SLP (C) No.9576 of 2005)

A. Abdul Farook ...Appellant

Ver s u s

Municipal Council, Perambalur & Ors. ... Respondents

WITH

CIVIL APPEAL NO. 4973 OF 2009  
(Arising out of SLP (C) No.9577 of 2005)

J U D G M E N T

S.B. Sinha, J .

1. Leave granted.

2. Interpretation and/or application of Section 26 of the Tamil Nadu Highways Act, 2001 (hereinafter referred to for the sake of brevity as 'the said Act') is in question in this appeal. It arises out of a judgment and order dated 21.3.2005 passed by a Division Bench of the High Court of Judicature at Madras in Writ Petition No.6820 of 2005 and Writ Appeal No.410 of 2005 .

3. The basic fact involved in this matter is not in dispute.

On or about 13.2.1998 The Government of Tamil Nadu issued a Notification bearing GOMS No.32 granting permission for installation of statues and erection of arches. In terms thereof, requisitions, seeking for permission to put up of arches and the like, were submitted to the District Collector, who, on receipt thereof was required to get reports from the Divisional Engineer of the State Highways, District Superintendent of Police etc. On receipt of such reports and on being satisfied there with, the District Collector could make recommendations so as to enable the Government to grant or refuse to grant the

requi si t e per mi s s i o n .

The Legisla t u r e of the St a t e enacted the Ta mi l Nadu High w a y s Act, 20 0 1 (T a m i l Nad u Act 34 of 20 0 2 ) (her ei n a f t e r refer r e d to for the sa ke of brevi t y as 'the Act' ) wi t h a vie w to provi de for decla r a t i o n of cert ai n high w a y s to be the Sta t e High w a y s . It came into force wi t h effect fro m 1.1 2. 2 0 0 2 .

In exercise of its po w e r s confe r r e d upon the Sta t e Gove r n m e n t under Section 3 of the Act, it, on or about 16.1 2 . 2 0 0 3 , issued a Notifica t i o n being GOMs No.2 5 0 decla ri n g some of the roads as Sta t e High w a y s , Major Dist r ic t Roads and othe r Dist ri c t Roads. The roads in quest ion in this appeal are Thu r a i y u r- Per a m b a l u r Road and Thu r a i m a n g a l a m- Bungal o w Road. The y have been classi fied as Major Dist r ic t Roads. Bot h the roads we r e decla r e d to be high w a y s belongi n g to the Gove r n m e n t .

On or about 22. 1 0 . 2 0 0 4 , one Mr. Ravic h a n d r a n , Presi de n t of Ta mil Nadu Handloo m and Textile s Develop m e n t Corpo r a t i o n (respo n de n t herei n ) requi si t i o n e d the Pera m b a l u r Municipali t y to issue a 'No Objection Certi fic a t e' for the purpo se of erecti n g arches on the occasion of 57 th Birt h d a y Celeb r a t i o n s of the Chief Ministe r at two places outside the boun da r y line of the above m e n t i o n e d roads. On or about 23.1 0 . 2 0 0 4 , the Exec u t i v e Officer, Per a m b a l u r Municipali t y issued a No Objection Certi f i c a t e to const r u c t the arche s as per the above s a i d requi si t i o n on the conditio n tha t there wou l d be no hindr a n c e to the tra f f ic.

On or about 24. 1 1 . 2 0 0 4 , the Municipal Council vide a resol u t i o n dated 24.1 1 . 2 0 0 4 gran t e d its appro v a l for gra n t of No Objection Certi f i c a t e. The re a f t e r the requi si t i o n and the appro v a l the reof wer e placed before the Dist ri c t Collecto r, w h o, in ter m s of the guideli nes issue d in GOMs No.3 2 called for repor t s fro m the Division a l Engi nee r of High w a y s , Ari y a l u r and the Dist ri c t

Superintendent of Police. The Divisional Engineer, Highways on 20.12.2004 sent a report to the District Collector stating that arches can be permitted to be put up at the said two places and that putting up of the arches would not cause any hindrance to the traffic being outside the boundary line of the roads.

It was

also stated in the report that an undertaking was obtained from

Mr. Ravichandran that in case of expansion of roads, he would

remove the arches. On or about 14.01.2005, the District

Superintendent of Police also sent his report recommending

grant of permission for construction of arches.

On receipt of both the reports, the District Collector forwarded

a proposal to the Secretary to the Government of Tamil Nadu,

State Highways recommending for the required permission.

On or about 24.1.2005, the appellant - Ward Council

Perambalur Municipality filed a writ petition being WP No.2503

of 2005 before the High Court of Madras praying, inter alia, for

issuance of a writ of certiorari quashing the above said No

Objection Certificate. A learned Single Judge of the High Court

dismissed the said writ petition by its judgment and order dated

14.2.2005 holding that the proposed constructions do not fall

within the National Highways limits. An intra court appeal

being WA No.410 of 2005 was preferred by the appellant on

18.2.2005.

On or about 22.2.2005, the Secretary to Government of Tamil

Nadu, State Highways Department, taking into consideration

the recommendation made by the District Collector and after

satisfying himself that the guidelines stipulated in GOMs No.32

have been complied with granted permission to construct the

arches.

One Mr. N.G. Karunakaran, claiming himself to be the Secretary

of the District Consumer Council, Perambalur, filed a writ petition being WP No.6820 of 2005 praying for issuance of a writ of mandamus forbearing the respondents from putting up of permanent arches.

The Division Bench of the High Court by reason of the impugned judgment dismissed both the Writ Appeal No.410 of 2005 as well as the Writ Petition No.6820 of 2005.

4. The appellants are, thus, before us.

5. Assailing the judgment of the High Court, Mr. T.L. V. Iyer, learned senior counsel appearing on behalf of the appellants, would urge that the High Court committed a serious error in holding that Section 26 of the Act does not deal with a permanent structure and the same comes within the purview of GOMs No.32. Sub-section (1) of Section 26 of the Act being clearly applicable, it was contended, that no sanction could be granted by the State in terms of GOMs No.32 or otherwise. It was further urged that, in a case of this nature, doctrine of public trust would be applicable.

6. Learned counsel for the Municipal Corporation has drawn our attention to a resolution dated 10.6.2008 passed by it in terms whereof the lands in question are sought to be acquired.

7. Learned counsel appearing on behalf of the National Highway State that a project of making the State Highway or four lane road had been taken up and the same has been completed.

8. Learned counsel for the State Highways adopted the submission of the learned counsel.

9. Mr. C.S. Vaidhyanathan, learned senior counsel appearing on behalf of Respondent Nos. 1 and 6, on the other hand, would contend:

i) Assuming that constructions of permanent structures would attract the provisions of sub-section (1) of Section 26, the same describes strict construction and as permission had been granted by the State, the constructions made by way of arches cannot be construed to be an encroachment within the meaning of the provisions of the said Act.

ii. If a literal meaning to sub-section (1) of Section 26 is assigned, no over-bridge can also be constructed for the pedestrians nor any signboard can be put up for the benefit of the public. The constructions having been made far away from the tar road, the impugned judgment should be upheld.

iii. Appellant having not challenged the validity of the order passed by the State Government granting permission to put up the arches in the writ petition, this Court may not interfere therewith in exercise of its jurisdiction under Article 136 of the Constitution of India.

iv. The appellant No.2 has wrongly described himself as a member of the District Consumer Council as the said Council has been wound up long back.

v. The appellants being belonging to the rival political parties, the writ petitions have been filed mala fide.

10. The preamble of the said Act reads as under:

"An Act to provide for the declaration of certain high ways to be State high ways, restriction of ribbon development along such high ways, prevention and removal of encroachment thereon, construction maintenance and development of high ways, and levy of betterment charges and for matters connected therewith or incidental thereto."

Indisputably, the said legislation seeks to regulate the

roads in the State other than the National highways .

It was

enacted with a view to fix building and control lines of such

roads, to declare such roads as State Highways , Major District

Roads and Village Roads, to prevent any encroachment on such

State Highways , to acquire required lands for formation and

development of the State Highways . It was also considered

necessary that the State Highways Authorities are vested with

statutory powers to undertake such measures in the public

interest .

Section 2( 8 ) of the said Act defines 'encroachment ' to

mean :

(8 ) "encroachment " means any unauthorised occupation of any highway or Land where the construction of a highway is undertaken or proposed to be undertaken or part thereof, and includes any unauthorised--

- (a) erection of a building or any other structure , balcony, porch or projection on or over or over hanging the highway or part thereof; or
- (b) occupation of such highway of such land, after the expiry of the period for which permission was granted for any temporary use under this Act; or
- (c) excavation of embankments of any sort made or extended on such highway or part thereof or underneath such highway or part thereof."

Section 2(12 ) defines 'highway ' as under:

"(12 ) "highway " means any road, way or land which is declared to be a highway under section 3 and includes--

- (a) all land appurtenant to the road, whether demarcated or not;
- (b) the slope, berm, burrow pits, foot paths, pavement , whether surfaced or unsurfaced;
- (c) all bridges, culverts , causeways , carriage ways or other structures built on or across such road or way;
- (d) the foot- way attached to any road, public bridge or cause way;
- (e) the drains attached to any such street, public bridge or cause way and the land, whether covered or not by any pavement , veranda or other structure , which lies on either side of the road way up to the boundaries of the adjacent property ,

whether that property is private or  
property belonging to the Central  
Government or any State Government; and

- (f) all fences, trees, posts and boundaries,  
hectometre and kilometre stones and other  
highway accessories and materials stacked  
on such road or public bridge or causeway,

but does not include a National Highway  
declared as such by or under the National  
Highways Act, 1956.

The term 'Highway Authority' is defined under Section  
2(13) of the said Act to mean the officer appointed under sub-  
section (2) of section 5 thereof. Section 2(14) defines 'highway  
boundary' to mean the highway boundary as may be fixed  
under section 8.

Section 2(18) defines 'middle of a highway' to mean:

(18) "middle of a highway" means the point half  
way between the boundaries of the highway in  
relation to any highway for the improvement of  
which plans have been prepared by the  
Highways Authority, the middle of the highway  
as proposed to be improved in accordance with  
the plans or the point half way between the  
boundaries of the highway "

In terms of Section 2(19), an 'occupier' includes:

- "(a) any person who for the time being is  
paying or is liable to pay to the owner rent  
or any portion of the rent of the premises  
in respect of which such rent is paid or is  
payable; or
- (b) a owner living in or otherwise using his  
premises; or
- (c) a rent free tenant; or
- (d) a licensee in occupation of any premises; or
- (e) any person who is liable to pay to the  
owner damages for the use and occupation  
of any premises. "

Section 3 empowers the State Government to declare any  
road, way or line to be a highway and classify it as any of the  
following:

- (i) A State Highway;

- (ii) A major distri ct road;
- (iii) Othe r distri ct road; or
- (iv) A village road.

on the reco mm e n d a t i o n s made by the stat e High w a y  
 Aut h o r i t i e s. Cha p t e r III of the Act provide s for the rest r i c t i o n  
 of ribbon develop m e n t . The High w a y aut h o r i t y of any division  
 is empow e r e d to issue a notifica t i o n in relatio n to any high w a y  
 or any area in tha t division where the const r u c t i o n  
 or develop m e n t of high w a y is unde r t a k e n or propose d to b e  
 unde r t a k e n , fixing:

"(a) the high w a y bound a r y , buildi ng line, or  
 cont r ol line; or

- (b) the high w a y bound a r y and the buildi ng line; and
- (c) the buildi ng line and the cont r ol line."

Section 9 provi de s for rest r i c t i o n on buildi ng.

Chap t e r V of the said Act provide s for preve n t i o n of  
 una u t h o r i z e d occupa t i o n of and encroac h m e n t on  
 a High w a y and re mo v a l of encroa c h m e n t in the follo w i n g  
 ter m s :

"26. Preve n t i o n of una u t h o r i z e d occupa t i o n of  
 high w a y .-- ( 1 ) No person shall occup y or  
 encroa c h on any high w a y wi t h i n the high w a y  
 bound a r i e s .

( 2 ) Not w i t h s t a n d i n g any t h i n g contain e d in sub-  
 section ( 1 ), the High w a y s aut h o r i t y ma y, wi t h  
 the concu r r e n c e of the Collecto r and wi t h due  
 rega r d to the safe t y and conve nie n c e of traf f ic  
 and subjec t to such conditio n s, and on pay m e n t  
 of such rent or othe r charge s as ma y be  
 presc r i b e d, gran t per m i s s i o n , of a tem po r a r y  
 nat u r e, to any perso n--

- (a) to ma k e any tem po r a r y use of any high w a y  
 in fron t of any buildi ng ow n e d or occupie d by  
 hi m or ma k e a tem po r a r y str u c t u r e  
 over h a n g i n g the high w a y ; or
- (b) to put up a tem po r a r y ow ni n g or tent,  
 panda l or othe r simila r erection or a  
 tem po r a r y stall or scaff oldi n g on any  
 high w a y ; or

(c) to deposit or cause to be deposited building materials, goods for sale or other articles on any high way for a specified period; or

(d) to make a temporary excavation on any high way for carrying out any repairs or improvements to building on lands adjoining such high way :

Provided that no such permission shall be deemed to be valid beyond a period of one year, unless it is expressly renewed by the Highways authority .

(3) The permission granted under sub-section (2) shall clearly specify the date upto which and the purpose for which the occupation of the high way is authorised and the exact portion of the high way so permitted to be occupied, and shall also be accompanied by a plan or sketch of that portion of the high way . A copy of such permission shall be communicated to the Collector for the purpose of record.

(4) The person in whose favour such permission has been given shall produce the permit for inspection whenever called upon to do so by the Highways authority , or any officer authorised by it in that behalf and shall, at the end of the period specified in the permit , vacate the portion of the high way occupied by him, after restoring it to the same state as it originally stood before the occupation by him.

(5) The Highways authority shall maintain a complete record of all such permissions granted, and shall also cause an inspection to be made in every case at the expiration of the period upto which such occupation has been permitted, to ensure that the portion of the high way has actually been vacated.

(6) The permission granted under sub-section (2) shall be in such form and subject to such conditions as may be prescribed."

Section 49 of the said Act provides for a penalty, stating

"49. Unauthorised occupation of high way .--  
Whoever--

(a) occupies or makes any encroachment on any high way in contravention of the provisions of section 26: or

(b) Fails to comply with the notice served on him under clause (ii) of sub-section (2) of section 28, shall on conviction, be punished as follows--

(i) for the first offence with fine which may extend to two hundred rupees; and

(ii) for any subsequent offence in relation

to the same encroachment, with fine which may extend to five hundred rupees plus a further fine not exceeding fifty rupees per day on which such occupation of the highway or encroachment continues."

11. Sub-section (1) of section 26 having been couched in

negative language must be construed to be imperative in

character. The mandatory nature of the said provision is also evident from the penal provisions contained in Section 49 of the Act.

The High Court, however, in its impugned judgment, upon

taking into consideration the provisions of the Act as also the

Rules framed thereunder, opined:

"51. However, in the instant case, neither permission is sought for either for putting up a structure of temporary nature in any highway or overhanging the highway nor permission is sought for a particular period under Form 'A' or any rate has been fixed under Rule 8. In other words, there are no provisions under the Act or the Rules framed under the Act, to deal with statues or arches, which are to be installed or put up in the highways, as a permanent structure.

52. As a matter of fact, the petitioner N.G. Karunakaran, in W.P. No.6820 of 2005, himself, in his prayer, would seek for a mandamus, forbearing the respondents from permitting/putting up of permanent arches at the four road junction of Perambalur and the three road junction of Thuraiyanganam. As such, it is nobody's case that the putting up of arches in the said two places is either of a temporary nature or to make any temporary use of any highway or make a temporary structure overhanging the highway."

53. Since the construction of arches sought to be put up is of a permanent nature, we are of the view that G.O.Ms. No.32, Highways Department, dated 13.02.1998, alone would be applicable, as it would deal with statues and arches exclusively."

The High Court, however, noticed that permission had been granted to put up arches at both the places, giving the specific measurement, allowing for putting up middle pillars in the middle of the roads finding that although putting up of

arches would not prevent the free flow of traffic but putting up of middle pillars in both the arches would certainly cover the middle space of tar road portion in which even though they may not be free flow of traffic to pass or repairs. In view of the aforementioned finding, it issued, inter alia, the following direction :

"57. The referee, we direct the Government to allow the arches to be put up at both the places without middle pillars, by giving sufficient strength to the either side pillars, to have a grip over the arches, over hanging the high ways . "

The High Court summed up its judgment as under :

"(1) The prayers sought for in W.P. No.6820 of 2005 and W.A. No.410 of 2005 are not sustainable.

(2) In view of G.O.Ms. No.250, Highways (NH2), dated 16.12.2003, declaring the roads in question as Highways belonging to the State Government, the provisions of Sections 180, 180-A, 181 and 182 of the Tamil Nadu District Municipalities Act, 1920, are not applicable.

(3) The Tamil Nadu Highways Act, 2001, is not applicable with reference to the permission for installation of arches, in view of G.O.Ms. No.32, Highways Department, dated 13.02.1998, which would exclusively govern the same.

(4) Permission, granted by the Secretary to Government of Tamil Nadu, Highways Department, on the basis of the recommendation of the Divisional Engineer of the said Division and the District Collector, is perfectly valid.

(5) State Government is directed to allow the arches to be put up at both the places without middle pillars, by giving sufficient strength to the either side pillars, to have a grip over the arches, over hanging the high ways, so that the public use the entire portion of the tar road, to pass and repairs. "

12. We, with respect, are not in a position to persuade ourselves to agree with the opinion of the Hon'ble High Court.

13. Sub-section (1) of Section 26, as noticed herein before, is mandatory in character. Sub-section (2) of Section 26 is an exception to Sub-section (1) of Section 26.

The provisions of Section 26 with a view to prevent unauthorised occupation of highway or encroachment thereof would, however, apply to third parties and not to the Highway authorities. The power to grant permission for erecting any arch or any other constructions strictly lies with the Highway authority.

The State, after coming into force of the said Act, is denuded of its power in the matter of grant of any permission. The High Court, in our opinion, thus, committed a manifest error in holding that the State would exercise its jurisdiction of interms of GOMs No.32.

14. Mr. Vaidyanathan would contend that no encroachment has been caused having regard to the fact that the width of the road being 14 meters and the recommendations having been given to construct the arches as mentioned in the sketch map, i.e. 9.25 meters away from the Taa r Sal ai on both the sides and the height of the same should not be less than 6.60 meters to be supported by a pillar, the same would not come within the purview of the term 'encroachment' as defined in the said Act.

The State in its order contained in GOMs No. A 6/ 13173 / 2004 noticed that both the arches are to be maintained by Perambalur District Kuzhagam. It further more noticed that the respondent himself has given an undertaking that if any hindrance is caused to the concerned Department during the course of the widening of the road, he shall be responsible for the removal thereof.

15. We would assume that having regard to the definition of encroachment as contained in Section 2(8) of the Act, any construction made with permission would not come within the purview thereof. We would also assume that the provisions of Section 2(8), Section 8 and Section 26 of the Act are required to be construed harmoniously. Notice may also be taken of the fact

that the State of Tamil Nadu had granted permission for erection of such arches throughout the State. Such permissions, inter alia, are being granted for construction of arches in honour of its leaders or God or for depicting the name of the place.

16. Before us, the details of such arches and/or the photographs thereof have also been produced. We, however, fail to understand as to why the State shall grant permission to erect such arches at the instance of a private party. The State,

being the principal protector of the rights of its citizens,

keeping in view the doctrine of public trust as adumbrated by this Court in a large number of decisions, including *M.C. Mehta v. Kamal Nath & Ors.* [(1997) 1 SCC 388]; *M.I. Builders Pvt. Ltd.*

*v. Radhey Shyam Sahu & Ors.* [(1999) 6 SCC 464]

*Intellectuals Forum, Tirupathi v. State of A.P. & Ors.* [2006 (2) SCAL 494], should not have granted such permission. In any

event, with the coming into force of the said Act, GOMs 32 must be held to have been repealed. The State Government, therefore, had no jurisdiction to pass the order impugned in the writ application.

17. In a public interest litigation of this nature, it is not necessary for the Court to abide by the strict rules of pleadings and even if it is found that the petitioners are busy bodies, the courts while discharging the duty, could proceed to deal with the public interest litigation suo motu.

In *Nirmal Singh Kahlon v. State of Punjab & Ors.* [(2009) 1 SCC 441], this Court held :

"The High Court while entering into the writ petition for *meda prima facie* opinion as regards the systematic commission of fraud. While dismissing the writ petition filed by the selected candidates, it initiated a suo motu public interest litigation. It was entitled to do so. The

nat u r e of jurisdic ti o n exercise d by the High  
 Cou r t, as is well kno w n , in a priv a t e inte re s t  
 litiga ti on and in a public inte re s t litiga ti o n is  
 diffe r e n t . Whe re a s in the latte r it is  
 inquisi t o r i a l in nat u r e, in the for m e r it is  
 adve r s a r i a l. In a public inte re s t litiga ti o n, the  
 cour t need not stric t l y follo w the ordin a r y  
 proced u r e. It ma y not only appoin t com mi t t e e s  
 but also issue direc tio n s upon the Sta t e fro m  
 time to time. (See India n Ban k v. God h a r a  
 Nagri k Co o p . Cr e d i t S o c i e t y Ltd. and Raju  
 Ra m s i n g V a s a v e v. Mah e s h Deor a o Bhiv a p u r k a r )."

{See also India n Ban k v. Godh a r a Nagri k Coope r a t i v e Credi t  
 Societ y Ltd. & An r. [(2 0 0 8 ) 12 SC C 54 1 ] and Raju Ra m s i n g  
 Va s a v e v. Mahes h Deor ao Bhiv a p u r k a r & Ors. [(2 0 0 8 ) 9 SC C  
 54 ] }

18. When questio n e d tha t even assu m i n g tha t encroac h m e n t  
 is not made on the sur f a c e of the buildin g line but ma y be in the  
 air in vie w of well settle d principle of la w tha t he w h o posse s s e s  
 the land posse s s e s also havi n g rega r d to the maxi m ced if i c a t u m  
 sol o sol o ced i; . Our atte n t i o n was dra w n by Mr  
 Vaidy a n a t h a n to the follo w i n g pass a ge fro m Broo m' s Leg  
 al  
 Maxim:

"It ma y be noticed, in conclu sio n, tha t the  
 maxi m unde r conside r a t i o n does not apply in  
 favou r of local aut h o r i t i e s, in w h o m stree t s are  
 veste d by virt u e of the Public Healt h Act, 18 7 5 ,  
 Section 14 9, or any simil a r enact m e n t . Suc h  
 enact m e n t s vest in the aut h o r i t y such prope r t y  
 only as is necess a r y for the cont r ol, protec tio n  
 and mai n t e n a n c e of the stree t s as high w a y s for  
 public use, and confe r no gener a l prop rie t a r y  
 righ t s in the air above or the grou n d belo w the  
 stree t s. [ Tunb r i d g e w e l l s v. Bair d [( 1 8 9 6 ) AC  
 43 4 ]. "

The Engli s h La w wi t h rega r d to the limi te d righ t veste d in the  
 local aut h o r i t i e s unde r the Public Healt h Act, 18 7 5 is n  
 ot  
 applica ble in India. The aut h o r i t i e s acqui r e d the land in ter m s  
 of the provi sio n s of the Act. The roads vest in the aut h o r i t i e s in  
 ter m s of the provi sio n s of the Land Acqui s i t i o n Act or the  
 provi sio n s of the St a t e High w a y s Act or simil a r othe r sta t u t e s

free from all encumbrances. It is just not a case where a limited right is vested by the State as a Local Authority.

However, there cannot be any doubt or dispute whatsoever that the authorities in the interest of general public and pedestrians and others, in particular, may grant permission to construct such buildings even if it be permanent in character as it may seem fit or carry out such construction itself as it may seem necessary. What is, however, important is public interest in carrying out such construction and not any private interest or interest of a political party. The doctrine of good governance, in our opinion, requires the Government to rise above their political interest and act only in public interest and for welfare of its people.

19. For the reasons aforementioned, the impugned judgment cannot be sustained. It is set aside accordingly. The appeals are allowed with costs payable by the Respondent Nos. 1 and 6. Counsel's fee assessed at Rs.50,000/- (Rupees Fifty thousand only)

.....J.  
[S.B. Sinha]

.....J.  
[Deepa k Verma]

New Delhi;  
July 31, 2009  
IT EM NO.11  
(For Judgment)

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 4972 OF 2009  
(Arising out of SLP (C) No. 9576/2005)

A. ABDUL F A R O O K  
VERSU S

Appellant (s)

MUNICIPAL COUNSEL, PERAMBALUR AND ORS.  
Respondent (s)

Respondent

WITH

CIVIL APPEAL NO. 4973 OF 2009  
(Arising out of SLP (C) No. 9577/2005)

Date: 31/07/2009

This matter was called on for pronouncement of Judgment today.

For Appell a n t ( s )

Mr. Jo h n Mathe w , A d v .

For Respo n d e n t ( s )

Ms. V. Mohan a , A d v .

Mr. T. Haris h Ku m a r , A d v .

Mr. Pra s a n t h , P., A d v .

Mr. V. Vas u d e v a n , A d v .

Mr. S. Tha n a n j a y a n , A d v .

Mr. V.G. Prag a s a m , A d v .

Mr. G. Ra m a k r i s h n a Pra s a d , A d v .

the Hon'ble Mr. J u s t i c e S.B. Sin h a pronou n ce d  
judg me n t of the Bench comp r i s i n g of His Lord s h i p  
and Hon'ble Mr. J u s t i c e Deep a k Ver m a .

Delay condo ned. Leave gran t ed .

For the reaso n s men ti o n e d in the signed judg me n t , the  
imp u g n e d judg me n t canno t be sus t ai n e d, it is set  
aside

accordi n g l y. The appeal s are allo w e d wi t h costs paya bl e by  
the Respo n d e n t Nos. 1 and 6. Coun s el's fee asses s ed at Rs.  
50,0 0 0/- (Ru p e e s Fif t y Tho u s a n d only).

(A. S . BISH T )

(PU S H A P LA T A

BHA R D W A J ) COUR T MA S T E R

COUR T

MA S T E R

(Repo r t a b l e signed judg me n t is placed on the file)