

ITEM NO.65

COURT NO.10

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**

Petition(s) for Special Leave to Appeal (Civil) No(s).12587/2008

(From the judgement and order dated 19/02/2008 in WP No. 30663/2007 of The HIGH COURT OF MADRAS)

PRES.,PANCHAYAT UNION COUNCIL

Petitioner(s)

VERSUS

P.K.MUTHUSAMY & ORS.

Respondent(s)

(With appln(s) for permission to place addl. documents on record and prayer for interim relief and office report))

Date: 27/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms. N. Shoba,Adv.

Mr. Sri Ram J Thalapathy, Adv.

For Respondent(s) Mr. V.Prabhakar, Adv.for

Mrs.Revathy Raghavan,Adv.

**UPON hearing counsel the Court made the following
O R D E R**

Leave granted.

**The Appeal is allowed in terms of the Reportable signed order.
No order as to costs.**

**(Parveen Kr. Chawla)
Court Master**

**(Indu Satija)
Court Master**

[Reportable Signed Order is placed on the File]



JUDGMENT

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4774 OF 2009

(Arising out of S.L.P.(Civil) No.12587 of 2008)

President, Panchayat Union Council

..Appellant

versus

P.K.Muthusamy & Others

..Respondents

ORDER

Leave granted.

Heard learned counsel for the appellants.

This Appeal, by grant of special leave, has been filed against the impugned judgment of the High Court of Madras dated 19th February, 2008.

It appears that some accommodation was required for the District Munsif-cum-Judicial Magistrate Court at Pennagaram Taluk, Dharmapuri District, Tamil Nadu. By the impugned order, the High Court has directed that the Old Block Development Office building shall be allotted for the aforesaid Court.

In our view, it was not within the jurisdiction of the High Court to pass the aforesaid order. We can understand the High Court's concern that there should be proper accommodation for the Munsif's Court, but for that

purpose the High Court can only make a request to the Government and not direct the Government to allot or give a particular land or building which belongs to the

government or to anyone else. This Court has been repeatedly saying that the judiciary should not ordinarily encroach into the domain of the executive or legislature, vide Divisional Manager, Aravali Gold Club & Another vs. Chander Hass & Another, (2008) 1 SCC 683, Common Cause vs. Union of India, (2008) 5 SCC 511, etc. There must be restraint in these matters on the part of the judiciary. We are confident that if the judiciary makes a request to the Government, the Government will consider that request with great respect and take suitable steps for the smooth functioning of the Court. However, but in such matters, the Court cannot direct the government to allot a particular land or building for that purpose.

Accordingly, we accept this appeal; set aside the impugned judgment of the High Court and request the Chief Secretary, State of Tamil Nadu to discuss the matter with the Registrar General of the High Court so as to resolve the problem as early as possible, preferably within a period of two months' from today. No order as to costs.

Registry is directed to send a copy of this order to

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the Chief Secretary, State of Tamil Nadu as well as Registrar General of the Madras High Court.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
JULY 27, 2009.

.....J.
[ASOK KUMAR GANGULY]