

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE AT CHENNAI**

**O.A. No. 132 OF 2022 (SZ)**

Thangavelraj

... Applicant

Vs

Union of India

Ministry of Environment, Forest & Climate Change

Rep. by its Secretary to Government & others

.... Respondents

**INDEX TO THE TYPED SET OF PAPERS FILED BY 7<sup>TH</sup> RESPONDENT**

Sl No	Date	Description of Documents	Page No
1	28.04.2014	Order in W.P.(MD) 18881 of 2013 & batch cases reported in	01
2	19.08.2014	Order made in S.L.P.(C) Nos. 20706 -20707 of 2014	17
3	10.04.2017	Proceedings of the 6 <sup>th</sup> respondent in Na.Ka. J2/5536/2017	18
4	Aug 2022	Copy of Affidavit in W.P.(MD) No.20509 of 2022 filed by one Saravanan	20
5	25.08.2022	Work Order issued in Roc No.8560/2021/E1	28
5	--	Photographs	30
6	--	Satellite view of the Bus stand and its surroudings	42

It is certified that all the documents contained in the above typed set of papers are true copies.

Dated at Chennai, this 4<sup>th</sup> day of January 2023



Counsel for 7<sup>th</sup> Respondent

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

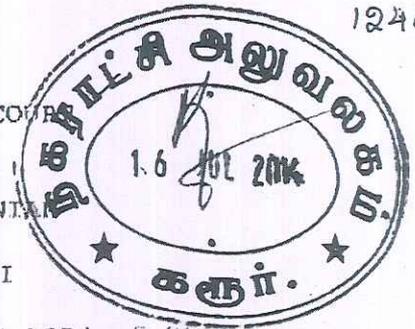
DATED : 28.04.2014

CORAM

THE HONOURABLE MR. JUSTICE V. RAMASUBRAMANIAM

and

THE HONOURABLE MS. JUSTICE V.M. VELUMANI



W.P. (MD) Nos. 18881 and 19749 of 2013, 536, 2746 and 5774 of 2014

and

M.P. (MD) Nos. 1 and 2 of 2013 in W.P. (MD) Nos. 18881 and 19749 of 2013, 3 and 4 of 2013 in W.P. (MD) No. 18881 of 2013, 2 & 3 of 2014 in WP (MD) Nos. 536 & 2746 of 2014 and M.P. (MD) Nos. 1 and 2 of 2014 in W.P. (MD) Nos. 5774 of 2014

R. Eakamperam	... Petitioner in WPs 18881 & 19749/2013
M. Ramalingam	... Petitioner in WP 536/2014
1. M. Ravikumar	
2. M. Narayanan	
3. T. Jamuna	
4. R. Mariammal	
5. S. Sathiyamurthi	
6. V. Nagarajan	
7. A. Malathi	
8. S. Jagadees	
9. R. Steiffen Babu	... Petitioners in WP 2746/2014
M. Chinnathambi	... Petitioner in WP 5774/2014

Vs.

1. Government of Tamil Nadu,  
rep. by its Secretary to Government,  
Municipal Administration and Water  
Supply Department,  
Secretariat, Chennai-600 009.
  2. The Commissioner of Municipal Administration  
and Water Supply Department,  
5th Floor, Ezhilagam Annex Building,  
Chepauk, Chennai-600 005.
  3. The Director,  
Tamil Nadu Town and Country Planning  
Department, Chepauk,  
Chennai-600 005.
  4. The District Collector,  
Karur District, Karur.
  5. The Commissioner,  
Karur Municipality, Karur.
  6. The Chairman,  
Municipal Council,  
Karur Municipality,  
Karur.
- ... Respondents in all the Wps

C

1173651

W.P. (MD) No. 18881/2013:

Writ Petition under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records of the 2nd respondent, made in Ref.No.49354/2013/E3, being the Request for Proposal (RFP) for Consultancy Assignments insofar as it identifies establishment of integrated modern bus stand for Karur Municipality in Karuppampalayam Panchayat, Thirumanilaiyur Revenue Village in Rayanur Survey Nos.95 Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118 Part and Sr.Nos.119 to 122 and 123 Part, 146 Part, 147 Part, 150 Part, 151 Part, 152 Part, 243 Part, 246 Part, 247 Part, 248 Part, totally 12.14 acres and quashing the same.

W.P. (MD) Nos. 19749/2013, 2746 and 5774 of 2014:

Writ Petitions under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records of the 1st respondent, made in G.O.Ms.No.87, Municipal Administration and Water Supply (MaNe.4) Department, dated 20.06.2013, insofar as it approves establishment of integrated modern bus stand for Karur Municipality in Karuppampalayam Panchayat, Thirumanilaiyur Revenue Village in Rayanur Survey Nos.95 Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118 Part, and Sr.Nos.119 to 122 and 123 Part, 146 Part, 147 Part, 148 Part, 149 part, 150 Part, 151 Part, 152 Part, 243 Part, 246 Part, 247 Part, 248 Part, totally 12.14 acres and quashing the same.

W.P. (MD) No. 536 of 2014:

Writ Petition under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus, calling for the records pertaining to the GO Ms.No.87, dated 20.06.2013, issued by the 1st Respondent, quashing the same and consequently directing the respondents to construct the New Bus stand at Thorankalpatti, as per the Resolution No.2, dated 29.01.2009, passed by the 5th respondent.

For Petitioner : Mr.S.Silambannan,  
in WPs 18881 & Senior Counsel for  
19749 of 2013 M/s.ProFexs Associates.  
For Petitioner : Ms.D.Geetha  
in WP 536/2014  
For Petitioner : Mr.R.Mathialagan  
in WP 2746/2014  
For Petitioner : Mr.M.Saravankumar  
in WP 5774/2014  
For Respondents : Mr.R.Chellapandian,  
1 to 4 in all Addl.Advocate General,  
the WPs assisted by  
Mr.A.K.Baskarapandian,  
Spl.Govt.Pleader.

For Respondents : Mr.AR.L.Sunderesan,  
5 and 6 Senior Counsel for  
in all the WPs Mr.R.Balasubramani

## COMMON ORDER

The town of Karur, which started developing fast in the past about 3 decades, as an industrial hub, for the manufacture and export of garments, has a central bus-stand, that was established a long time ago, with a parking facility only for about 55 buses. Therefore, from the 1990s, there was a huge demand for the establishment of a new bus-stand. When the public started mounting pressure on the authorities for the establishment of a new bus-stand, the District Collector, Karur, sent a proposal, dated 28.01.2006, indicating that the lands available at three places, namely Sanappiratti Village, Athur Village and Thoranakalpatti Village, were examined and that the land of a total extent of Acres 8.01 in Thoranakalpatti Village, Thanthoni III-Grade Municipality, offered by the villagers free of cost for the construction of the bus-stand is suitable and that the Thanthoni III-Grade Municipality had also passed a resolution approving the location of the bus-stand in Thoranakalpatti village.

2. But, the recommendation of the District Collector was rejected by the elected council of Karur Municipality, by a resolution bearing No.32, dated 31.01.2006. Therefore, the Government requested the Municipal commissioner of Karur to find out a new place and put up a proposal before the Municipal Council. In order to carry out the directives of the Government, the Municipal Commissioner of Karur first sent a communication to the Project Director of the National Highways Authority of India, on 27.01.2009, requesting him to send the Road Map for the National Highway that was coming up in Trichy-Coimbatore by-pass road, passing through Thanthoni Revenue Village, Achimangalam Revenue Village and Thorenakalpatti Revenue Village.

3. In the meantime, two Ward Councillors of Karur Municipality brought independent resolutions before the Karur Municipal Council on 29.01.2009. The proposal brought forth by one Ward Councillor by name R. Prabhu was for the location of the bus-stand in the land of an extent of 17 acres, situate at Sukkaliyoor Village. This land was actually a Government poramboke land. The other proposal was brought up by another Ward Councillor by name N. Manirej, for the location of the bus-stand in a land belonging to a temple by name Shri Bale Thandayuthapani Temple, Thanimalai, Athur Village.

4. The proposal brought up by R. Prabhu received the support of the majority and a resolution was passed accepting his proposal.

5. Thereafter, the Revenue Divisional Officer, Karur, addressed a communication to the District Collector, recommending the reclassification of the land from "manthaiveli poramboke" (waste land meant for grazing), so that a bus-stand could be located therein. The Revenue Divisional Officer also proposed that an equivalent extent of land can be made available as "manthaiveli poramboke", so that the cattle of the village could have grazing ground.

6. The Revenue Divisional Officer also wrote a letter to the Karur Municipality, requesting the Commissioner to obtain consent letters from private land owners whose lands are located in-between or adjoining the Government land, for preparing a detailed plan. Upon receipt of the said proposal, the Commissioner of Karur Municipality approached the Commissioner for Municipal Administration, for obtaining approval of the Government. This was in view of the fact that the land in which the bus-stand was proposed to be located was situate in Thanthoni Municipality, lying outside the jurisdictional limits of Karur Municipality.

1173653

A

1247

7. But when the above proposal was pending, the Government issued an order in G.O.Ms.No.19, Municipal Administration and Water Supply Department, dated 14.11.2011 extending the local limits of Karur Municipality so as to include within Karur Municipality, the entire areas comprised in Inam-Karur Municipality, Thanthoni Municipality and Senapiratti Village Panchayat. The requisite notification was also published in terms of Section 4(3) of the Tamil Nadu District Municipalities Act, 1920.

8. In view of this new development, the District Collector, Karur again sent a letter dated 31.01.2011 to the Commissioner for Municipal Administration as well as the Government, seeking a fresh approval for the location of the new bus stand at Thorankalpatti revenue village in the Government poramboke lands available there. By a separate letter dated 24.02.2011, the District Collector also sought the reclassification of the land.

9. However, by a communication dated 22.12.2011, the Commissioner for Municipal Administration requested the Commissioner of Karur Municipality to have a fresh resolution passed in the Municipal Council, in view of the inclusion of several areas within the municipal limits and the extension of the limits of the municipality.

10. Therefore, the subject was placed afresh before the Municipal Council in its meeting held on 10.10.2012. But, by a resolution bearing No.797, the Municipal Council rejected the proposal on the ground that the land where the bus-stand was proposed to be located was at a distance of about 10 kilometres from the heart of the town and that therefore the Municipality can invite fresh offers from land owners, for donating land free of cost.

11. In view of the said resolution, advertisements were issued in prominent newspapers on 12.10.2012, inviting interested parties to donate land for the location of the bus-stand. Objecting to the change of stand taken by the Municipal Council, a section of the public appears to have sent letters of objection to the Chief Secretary on 29.10.2012. But, in the meantime, two persons by name M.Nachimuthu and M.Senthil Prasad, residing at Karur, made an offer on 7.11.2012 to donate the land of an extent of about 12.14 acres in Thirumanilaiyur Village for location of the bus stand. But, the said offer contained a lot of conditions subject to which they were prepared to donate the land. A few others also made offers. Therefore, a meeting was convened on 27.12.2012 in the office of the Karur Municipality. The Revenue Divisional Officer, Karur, the General Manager of the Tamil Nadu State Transport Corporation, the District Superintendent of Police, the Regional Transport Officer, the Divisional Engineer of the Highways Department, the Tahsidlar of Karur and the officials of the Traffic Police participated in the meeting and discussed the offers made by the parties. After analysing the merits and demerits of the offers, the committee decided on 27.12.2012 that the offer made by N.Nachimuthu and N.Senthil Prasad could be considered favourably.

12. Therefore, the offers made by the parties as well as the minutes of the meeting held on 27.12.2012, were placed before the Municipal Council in its meeting held on 28.12.2012. By a resolution, number 1079, passed on 28.12.2012, the Municipal Council decided to accept the offer made by M.Nachimuthu and N.Senthil Prasad. It appears that the resolution was carried by a majority of 47 out of 48 members present. Therefore, the resolution was communicated by the Commissioner of Karur Municipality to the Commissioner for Municipal Administration.

C  
1173654

The Commissioner of Municipal Administration, in turn, issued a publication in the Newspapers on 07.11.2013, containing "Request For Proposal (RFP) For Invitation Of Consulting Services For Appointment Of a Consultant For Preparation Of Detailed Project Report For Establishment Of Integrated Bus-stand For Karur Municipality".

13. Immediately upon publication of the "Request for Proposal" in the Newspapers on 07.11.2013, one of the elected councillors, by name R. Eakamparam, filed a writ petition in W.P. (MD) No. 18881/2013. The prayer in the said writ petition was for the issue of a writ of certiorari to quash the "Request For Proposal", published on 07.11.2013. The said writ petition came up for admission, for the first time, on 25.11.2013. Though what was challenged in the writ petition was only the "Request For Proposal" for consultancy services just to prepare a project report, a Division Bench of this Court ordered notice in the writ petition and granted interim order not to finalise the tender for the award of consultancy services.

14. It is interesting to note that the petitioner in this writ petition in W.P. (MD) No. 18881/2013, represented Ward No. 42 of the Karur Municipal Council and his was the only vote that went against the proposal, in the meeting of the Municipal Council held on 28.12.2012. Therefore, what this lone dissenting member could not achieve in the meeting of the Municipal Council, as against a vociferous majority of 47 members, was achieved by him through this writ petition in W.P. (MD) No. 18881 of 2013.

15. Even before the filing of W.P. (MD) No. 18881 of 2013, the Municipality passed yet another resolution on 23.05.2013, for seeking the approval of the Government, in terms of Section 152 of the Tamil Nadu District Municipalities Act, 1920 (in short "the Act"). This is, in view of the fact that the proposed bus stand was to be located in a land outside the municipal limits of Karur and hence the approval of the Government was statutorily required. Based upon the said resolution, dated 23.05.2013 and the recommendation made by the Commissioner, the Government had also issued an order (much before the filing of the first writ petition) in G.O. Ms. No. 87, Municipal Administration and Water Supply Department, dated 20.06.2013, granting approval under Section 152 of the Act, for the Karur Municipality to undertake the work of establishment of a bus-stand at the place accepted by the Municipal Council.

16. Therefore, the very same dissenting Ward Councillor R. Eakamparam came up with a second writ petition in W.P. (MD) No. 19749 of 2013, challenging the said Government Order, dated 20.06.2013. This writ petition was admitted on 05.12.2013. Thereafter, three more writ petitions came to be filed in W.P. (MD) Nos. 536, 2746 and 5774 of 2014, challenging the very same Government Order in G.O. Ms. No. 87, M.A. & W.S. Department, dated 20.06.2013.

17. The writ petition in W.P. (MD) No. 536 of 2014 was filed by one Mr. M. Ramalingam, by way of public interest litigation. Except stating in paragraph 2 of his affidavit that he is filing the writ petition in public interest for the welfare of the people and the tax payers, he had not disclosed his identity in any other manner.

18. Similarly, W.P. (MD) No. 2746 of 2014 has been filed by nine elected councillors of Ward Nos. 7, 30, 21, 45, 47, 37, 2, 38 and 9 of Karur Municipality. They have also claimed in paragraph 2 of the affidavit in support of the writ petition that they have filed the writ petition in public interest, for the welfare of the people living in and around Karur Municipality. Interestingly, their affidavit is

conspicuously silent as to whether they participated in the Municipal Council Meeting held on 28.12.2012 and voted in favour of the resolution or whether they absented themselves from the said meeting. As we have pointed out earlier, 48 elected councillors attended the meeting held on 28.12.2012 and the resolution in question came to be passed by a majority of 47 as against one. If the nine elected councillors who are the petitioners in W.P.(MD) No.2746 of 2014 had voted in favour of the resolution on 28.12.2012, they were not entitled to challenge the consequential steps taken by the Government. But, the petitioners have left no indication about this, in their affidavit.

19.The last of the writ petitions, namely W.P. (MD)no.5774 of 2014 is also filed purportedly in public interest, by a person by name M.Chinnethambi, who had earlier filed one writ petition in W.P.(MD) No.1648 of 2013 but had withdrawn it with liberty. This person has also not indicated his identity except stating that he was filing the writ petition in public interest.

20.Since all the writ petitions revolve around the same issue, all these five writ petitions were taken up together and we have heard Mr.S.Silambannan, learned Senior Counsel, Ms.D.Geetha, Mr.R.Mathialagan and Mr.M.Saravana Kumer, learned counsel appearing for the petitioners, Mr.R.Chellapandian, learned Additional Advocate General, assisted by Mr.A.K. Baskara Pandian, learned Special Government Pleader appearing for the State and Mr.AR.L. Sunderesen, learned Senior Counsel appearing for the Municipality.

21.Before we proceed further, we must bring on record one fact for the purpose of completion of narration. There was yet another writ petition in W.P.(MD)No.5999 of 2014 filed by owners of certain lands located adjacent to the land in which the bus-stand is proposed to be constructed. The objection of the writ petitioners was that in the land in which the bus-stand was proposed to be established, there were water channels and sub-channels irrigating their lands and that the closure of the water course would seriously jeopardise the interest of agriculturists. But, this writ petition was withdrawn, at the time of hearing.

22. Therefore, what we have on hand are only five writ petitions, four of which challenge the Government Order in G.O.Ms.No.87, dated 20.06.2013 and the first writ petition challenging the "Request For Proposal" published by the Municipality for engaging consultants for preparing a project report. Out of these five writ petitions, two writ petitions are filed by a Ward Councillor, who became the lone dissenter in the meeting of the Municipal Council. One writ petition is filed by nine elected Ward Councillors who either absented themselves in the meeting of the Municipal Council or supported the resolution, when it was taken up for discussion. The other two writ petitions are by members of public, whose identity is not very clear, from the records. Keeping these basic facts in mind, let us now proceed to consider the writ petitions on their merits.

MAINTAINABILITY:

23.At the outset, we wish to point out that three writ petitions, namely W.P.(MD) Nos.18881 of 2013, 19749 of 2013 and 2746 of 2014 cannot be entertained by this Court for a variety of reasons. They are:

(i)The first two writ petitions are filed by one R.Eakamparam, who is the elected councillor of Ward No.42. The decision to establish the bus-stand at the location in question was approved in a meeting of the Municipal Council held on 28.12.2012, in which 48 elected members

participated. Out of them, 47 voted in favour of the resolution. The only person who voted against the resolution was the writ petitioner. Therefore, his writ petitions in W.P. (MD) Nos. 18881 and 19749 of 2013 are nothing but a veiled attempt to impose his will upon all the other elected members, by taking the route of public interest litigation. This Court cannot be allowed to be used by such persons, to annul the Resolutions passed at a meeting of the elected council. Public Interest Litigations are not meant for the purpose of annulling the will of the majority, especially at the instance of a person who participated in the meeting and became the lone dissenter.

(ii) The third writ petition in W.P. (MD) No. 2746 of 2014, as we have pointed out earlier, is filed by the elected councillors of nine Wards of Karur Municipality. They have miserably failed to disclose in the affidavit in support of the writ petition whether they participated in the meeting held on 28.12.2012 and if so whether they supported the resolution. If they had participated in the meeting and voted in favour of the resolution, they are estopped from challenging the resolution. If they had failed to participate in the meeting, they cannot try to compensate, in the form of a public interest litigation, their failure to voice their concerns in the meeting of the Council of democratically elected members. Therefore, either way, their writ petition cannot be entertained. As we have pointed out earlier, these nine Ward Councillors have not disclosed in the affidavit in support of the writ petition as to whether they participated in the meeting of the council held on 28.12.2012. In paragraph 18 of the affidavit in support of the writ petition in W.P. (MD) No. 2746 of 2014, they have just stated that the Municipal Council passed a resolution on 28.12.2012, under undue pressure from the land owners. The role that they themselves played either by remaining absent or by participating, is conspicuously absent in the affidavit. Therefore, it appears that the petitioners in W.P. (MD) no. 2746 of 2014, if their grievance is genuine, had failed to fulfil the aspirations of the members of the public who elected them. If these petitioners have really kept public interest in mind, they must have voiced all these concerns in the meeting of the Council held on 28.12.2012. They have not even mentioned in the affidavit as to what they did in the meeting. Therefore, at the instance of persons who failed to fulfil their obligations as elected representatives, we do not think that we will entertain a public interest litigation.

(iii) Insofar as the remaining two writ petitions are concerned, namely W.P. (MD) Nos. 536 and 5774 of 2014, the petitioners have not disclosed even their identities in the affidavits. Except stating that they are filing the writ petitions in public interest for the welfare of the people and the tax payers of Karur, they have not stated anything else. Therefore, it is possible for us to reject their writ petitions also as devoid of necessary particulars. But, nevertheless, we will consider the contentions of all the petitioners, so as to give a quietus to the issue.

Contentions on Merits:

24. Mr. S. Silambannan, learned senior counsel appearing for the petitioner in the first two writ petitions raised the following contentions:

(i) that the lands in question are offered by the owners, with a series of conditions attached, most of which would prove detrimental to public interest;

(ii) that when the proposal mooted way-back in the year 2000, had

reached the final stage of maturity in the year 2011 and when the said proposal was in respect of Government poramboke lands of an extent of 20 acres, readily available for conversion, it was not prudent for the respondents to accept the land of a private party and that too of a lesser extent, namely 12 acres, with lot of stings attached;

(iii) that the power under Section 152 of the Tamil Nadu District Municipalities Act, 1920 has been exercised by the Government without due application of mind, making the impugned Government Order vulnerable to attack;

(iv) that the land in question is located within a short distance of river Amaravathy and another channel, which, during the floods, would inundate the land in question with water; and

(v) that the village in which the land in question is located is known historically to have had a criminal track record and hence the location of the bus stand therein may endanger safety to the members of the public.

25. Ms. D. Geetha, learned counsel appearing for the petitioner in one writ petition raised the following contentions:

(i) that the respondents had failed to follow the detailed procedure stipulated for undertaking any developmental work, in terms of Section 24-A of the Tamil Nadu District Municipalities Act, 1920 read with Section 241 of the Tamil Nadu Panchayats Act, 1994 and the various provisions of the Tamil Nadu Town and Country Planning Act, 1971;

(ii) that in the proposal that was pending from the year 2000, the detailed procedure stipulated in the above statutory provisions was actually followed and the matter reached its final stage;

(iii) that the disputed land has as an approach only a 60 ft. Road, which is not sufficient for a new bus-stand;

(iv) that Section 152 of the Tamil Nadu District Municipalities Act, 1920 could be invoked only for certain types of work, such as water works undertaken outside the local limits of the Municipality and not for the purpose of constructing a bus-stand; and

(v) that there are sub-channels going through the very land in question with the water flowing there for irrigating the lands on the other side of the proposed bus stand.

26. The learned counsel appearing for the petitioners in the other writ petitions reiterated the very same contentions, as we have extracted above.

27. We have carefully considered the above contentions. We shall deal with them one after another.

Contention No. 1:

28. The first contention raised by Mr. S. Silambannan, learned senior counsel for the petitioner, is that the land in question is offered by the owners with any number of conditions, most of which are aimed at improving the market value of the lands that they seek to retain for themselves. According to the learned Senior Counsel for the petitioner, the detriment suffered by the Municipality, by accepting such conditions, would far out-weigh the benefits that would accrue to the Municipality by accepting the gift of the land. The learned Senior Counsel also drew our attention to a newspaper report according to which, the purported offer of gift, was with an eye on the real estate market.

29. But, the said contention does not survive any more. The learned Senior Counsel appearing for the Municipality, today, produced copies of the letters given by the owners agreeing to abide by the decision taken by the Municipality. The Municipality also appears to have passed a

resolution not to accept any of the conditions. We also make it clear that the Municipality need not accept any conditional gift of the land.

Contention No.2:

30. The second contention is that when the land of an extent of about 20 acres, belonging to the Government itself, is available and when the proposal for construction of the bus-stand in the said land has reached its finality after 10 years, it was not prudent for the Municipality to accept the private land of a lesser extent.

31. But, unfortunately, the justifiability of the acceptance of the land in question by the Municipality cannot be gone into by this Court. A democratically elected body has considered the pros and cons of the proposal and arrived at a conclusion to locate the bus-stand in the land in question. The Government had also examined the proposal and found the land to be suitable. Therefore, we cannot re-examine the issue and decide in a public interest litigation, whether the place now chosen is the most suited one for the Municipality to locate a bus-stand or not. In Paragraph 13.E of the counter affidavit filed by the Government, they have given the reasons for deciding to locate the bus-stand in the land in question. Paragraph 13.E can be usefully extracted as follows:

"13.E. The site proposed in 2009 in Thoranakalpetty was then outside the municipal limits of Karur Municipality, which was subsequently annexed to Karur Municipality. The distance from Karur Town is 10 KM. Some portion of the 21.4 Acres of the lands belonged to private individuals and they had not transferred the lands to Karur Municipality. Moreover, the Karur Municipality had financial difficulties in getting the lands. The present site in Thirumanilaiyur, even though outside municipal limits of Karur Municipality, is within 4 KM from Karur Town and is easily approachable. Moreover, the lands had been donated by its owners vide Gift Deed dated 07.10.2013 registered as Document No.6741/2013 on the file of Sub-Registrar, Karur West, and thereby no cost has been involved in the acquiring of the lands."

32. Again in Paragraph 14 (iii) & (iv) of the counter affidavit, the Government has stated as follows:

"(iii) The present site is situated in the middle of the expanded limits, even though the site is outside the territorial jurisdiction of Karur Municipality. Hence, the Government had taken decision as per Section 152 of the District Municipalities Act, 1920.

(iv) The present site is more convenient to reach nearby places, such as Railway Station, Old Bus Stand, Collectorate, District Court, National Highway, etc., without any traffic congestion in the Town. the location of the place is easily approachable from all other parts of the City within 10 minute. It is situated within 4 KM. Corporation Bus Depot is situated within 250 meters from the proposed New Bus Stand and Mofussil Buses can easily approach the highways without causing any traffic congestion. It is very safe to the public to reach their place. Moreover, the place has been donated by public without cost. Inter-alia, considering these aspects, the Karur Municipal Council had passed resolutions and had sent proposal to the Government for appropriate order. The Government had considered the same and had obtained opinions from the relevant authorities and had finally passed orders."

33. The correctness of the reasons stated above cannot be examined by this Court in a writ petition under Article 226 of the Constitution. There is a limit upto which the jurisdiction of this Court under Article 226 for a judicial review of the administrative action can be extended. Once we find that the decision of the respondents is supported by reasons, we cannot examine each and every reason and call upon the respondent to justify the same. It is quite unfortunate (or at least interesting to note) that today, even while the legal pundits keep debating on the one hand, the extent to which judicial activism could go, the public on the other hand, keep knocking at the doors of this court even in respect of matters such as the location of a bus stand, location of a railway station and the location of even public toilets (we ourselves have cases of this nature). But this court cannot function as a supervisory body for all the departments of the Government. Hence, the second contention is rejected.

Contention No. 3.

34. The third contention revolves around Section 152 of the Tamil Nadu District Municipalities Act, 1920, which reads as follows:

"152. Powers in respect of works outside the municipality.-- (1) The municipality council shall not undertake new works beyond the limits of the municipality without the sanction of the State Government.

(2) The council may, in the execution and for the purpose of any works beyond the limits of the municipality sanctioned by the State Government whether before or after the passing of this Act, exercise all the powers which it may exercise within the municipality throughout the line of the country through which conduits, channels, pipes, lines of posts and wires and the like run, and with the sanction of the State Government--

(a) over any lake, tank or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and over all lands within one mile of the high water level of any such lake, tank or reservoir;

(b) over any water-course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use; and

(c) over any lands used for sewage farms, sewage disposal tanks, filters and other works connected with the drainage of the municipality."

35. Two contentions are raised around section 152. The first is that the Government Order does not show any application of mind as to the availability of lands within the municipal limits of Karur. The second is that Section 152 of the Act can be invoked only for certain purposes, such as water works undertaken outside the local limits of the Municipality.

36. Insofar as the first issue is concerned, there is nothing on record to show that the Government did not take note of the previous proposal that was pending from 2000. As a matter of fact, the resolution passed by the Municipality, on the basis of which the Government Order was issued, itself contained a reference to the previous proposal and the annulment of the same. Therefore, the impugned Government order in

G.O.Ms.No.87, dated 20.06.2013, cannot be said to have been passed without realising the existence of the previous proposal.

37. As we have pointed out earlier, the original proposal was shunned by the Municipality itself and by a thumping majority of 47:1, the elected council decided to go in for the land in question. Any interference by the Government, with the said decision of a democratically elected body, would actually defeat the very object of the Constitution (Seventy third Amendment), to make local bodies, independent institutions of self government. Therefore, the Government could not have rejected the proposal of the Municipality on the ground that the previous proposal was far better.

38. The second contention relating to Section 152 of the Act that it applies only to certain types of works and not to matters like the establishment of a bus-stand, is unsustainable. We have already extracted Section 152 of the Act.

39. Section 152 of the Act contains two parts, divided into two sub-sections. The first sub-section makes it clear that a municipal council cannot undertake new works beyond the limits of the municipality without the sanction of the State Government. The emphasis is on the expression "new works". This sub-section (1) does not restrict its application to only a few types of works. The only restriction found in sub section (1) is with regard to new works. The second sub-section merely clarifies that once the Government grants sanction for the execution of any work to a municipality beyond its local limits, the municipality will have all residuary powers that it would otherwise have, if the work is executed within its own limits. In order to steer clear of any doubt that may arise with regard to properties such channels, pipes, wires, etc., which may be the common properties of other municipalities or panchayats, sub-section (2) provides that once sanction is granted to the municipality under sub-section (1), the municipality will have powers to carry out the work, even in respect of those properties such as channels, pipes, etc.

40. The object of section 152 is just to ensure that the autonomy of each local body is kept confined to its local limits. The Government is vested with a power under Section 152(1) to make a small encroachment into such autonomy by sanctioning for one municipality, the carrying out of any work outside its local limits. A careful reading of both the sub-sections of Section 152 would show that sub-section (2) amplifies and clarifies sub-section (1). It does not restrict the scope of sub-section (1).

41. In any case, the land in question is located within Thanthoni III-Grade Municipality. The said Municipality has passed a resolution in favour of the establishment of the bus-stand therein. Therefore, if at all any one has the locus standi to question the decision of the Government to permit Karur Municipality to undertake a developmental work outside its local limits, it is Thanthoni III-Grade Municipality. Once they have accepted the proposal, it is not open to the petitioners to raise any issue on the basis of Section 152 of the Act.

Contention No.4.

42. The fourth contention is that the land in question is located within a short distance of river Amaravathy and another channel, which, during floods, would inundate the land in question with water. As a by-product of this argument, another contention is advanced to the effect that there are sub-channels going through the very land in question, with the water flowing therein, used for irrigating the lands on the other

side of the proposed bus-stand.

43. But, in answer to the said contention, the Government had stated that the site in question is not prone to floods and that it is away from the river bed. In paragraph 12 of the Government's counter affidavit, it is stated that even during the heavy floods that happened in 1997 or 2003, the area was not flooded. It is further claimed in the same paragraph that the channels are located far away from the finalized site. In any case, the Divisional Engineer, Highways, appears to have sent a report to the Municipal Commissioner of Karur in Na.Ka.No. 804/2013, dated 10.05.2013, stating clearly that even during the heavy floods that happened in 1997 and 2005, no breach took place in the road proceeding from Thirumanilaiyur to Chellandipalayam and Sukkaliyur. It is stated further in the report that the existing ground level bridge at Pasupathipalayam is proposed to be converted into an over-bridge and that therefore there was no possibility in future for Thirumanilaiyur-Chellandipalayam road to be inundated by water during floods. The Divisional Engineer has stated very clearly in the same report that the proposed bus-stand is actually 150 metres away from Thirumanilaiyur-chellandipalayam road. Therefore, it is clear that the apprehension expressed by the petitioners is only illusory.

44. The Tehsildar, Karur, has also sent a similar report to the Karur Municipal Commissioner stating that the finalised site is 550 metres away from Amaravathy River and that it is 820 metres away from New Amaravathy Bridge. The Assistant Executive Engineer, Amravathy Irrigation Sub-Division, had also sent a similar Report, dated 16.05.2013. Therefore, in the light of these reports, it is not possible to accept the contention of the petitioners that the finalised site is likely to be inundated by water. There is also no proof to show that there are sub-channels irrigating the lands on the other side of the proposed bus-stand. The owners of those lands had come up with a writ petition, but they have withdrawn the same. Therefore, the fourth contention also deserves to be rejected.

Contention No. 5.

45. The fifth contention is that the village in which the finalised site is located has a historical background of being the habitat of persons with criminal track record. Therefore, it is contended that the safety and security of the commuters using the bus-stand will be in jeopardy. We are surprised at such a contention raised in the 21st Century. After about 67 years of political freedom, an entire village cannot be identified as a haven for criminals, in a democratic Country. Therefore, the said argument is rejected outright.

Contention No. 6.

46. The next contention is that the respondents failed to follow the detailed procedure stipulated for undertaking any developmental work in terms of various provisions of the Tamil Nadu District Municipalities Act, 1920, the Tamil Nadu Panchayats Act, 1994 and the Tamil Nadu Town and Country Planning Act, 1971. Section 24-A of the Tamil Nadu District Municipalities Act, 1920, mandates the preparation of a development plan every year and the submission of the same to the District Planning Committee constituted under Section 241 of the Tamil Nadu Panchayats Act, 1994. The District Planning Committee is required under section 241 of the Tamil Nadu Panchayats Act, 1994 to consolidate all the plans submitted by all local bodies and prepare a draft development plan and forward the same to the Government. Once a draft development plan is submitted, the provisions of the Tamil Nadu Town and Country Planning Act, 1971 will get

attracted. Therefore, it is contended by Ms.D.Geetha, learned Counsel for one of the writ petitioners that before undertaking any developmental work, the respondents ought to have followed these detailed procedure.

47. In answer to the above contention of the petitioners, it is submitted by the learned senior counsel for the municipality that Section 49(1) of the Tamil Nadu Town and Country Planning Act, 1971 exempts the State Government, the Central Government or any local authority from the requirement of making an application for permission.

48. But, the said contention of the learned Senior Counsel for the Municipality is sought to be repelled by Ms.D.Geetha, learned counsel for the petitioner, on the basis of Section 58(1) of the Tamil Nadu Town and Country Planning Act, 1971. While Section 49 deals with applications for permission by any person not being the State Government or Central Government or any local authority, for carrying out any development on any land or building, Section 58 is a special provision that deals with the development of any land or building carried out by the State Government or Central Government or local authority. Therefore, it is contended on behalf of the petitioners that without going through this detailed procedure, the municipality cannot establish a bus-stand. According to the petitioners, the municipality went through this procedure, in respect of the previous proposal.

49. But, we do not think that the stage has arrived for us to examine this issue. As we have indicated in the sequence of events, the Municipal Council just passed a Resolution on 28.12.2012, resolving to accept the gift of the land. The Government passed an order on 20.06.2013 under Section 152 of the Tamil Nadu District Municipalities Act, 1920, granting permission. On 07.11.2013, the Municipality merely issued an advertisement inviting "Request For Proposal" for appointment of a project consultant. Immediately, the petitioners rushed to Court and put the whole project on hold. Therefore, at this stage, the respondents could not have gone ahead with all those detailed procedures prescribed by the Tamil Nadu Town and Country Planning Act. Hence this contention is liable to be rejected as pre-mature.

50. In any case, we do not know whether any development plan has actually been put into operation in the area in question. For the application of the provisions of Chapter-VI of the Tamil Nadu Town and Country Planning Act, 1971, a development plan should have actually come into operation. This is seen from Section 47, which mandates that no person other than any State Government or Central Government or any local authority shall use any land or carry out any development in any area, otherwise than in conformity with a development plan, if a development plan had come into operation. Section 49 is applicable only if a development is sought to be undertaken, after the date of publication of a resolution under Section 19(2) or after the publication of a notice under Section 26. Without even pleading (i) that a development plan had come into operation for the area in question; (ii) that a resolution under Section 19(2) has been published or (iii) that a notice under Section 26 had been published, the petitioners cannot seek to impose an obligation upon the respondents.

51. Even in respect of any area where a development plan has come into operation, there are no fetters for the State Government or the Central Government or any local authority to use or cause to be used, any land or carry out any development in that area. This is made clear by Section 47, which reads as follows:

"47. Use and development of land to be in conformity

with development plan.-- After the coming into operation of any development plan in any area, no person other than any State Government or the Central Government or any local authority shall use or cause to be used any land or carry out any development in that area otherwise than in conformity with such development plan:

Provided that the continuance of the use of any land for the purpose and to the extent for, and to which it is being used on the date on which such development plan comes into operation, may be allowed for such period and upon such terms and conditions as may be specified in such development plan."

52. A careful look at the scheme of Section 58 of the Tamil Nadu Town and Country Planning Act, 1971 would show that though it prescribes the procedure to be followed by any department of the State Government or Central Government or any local authority, for undertaking a development, it does not curtail the scope of Section 47. Section 47 that prohibits any person from carrying out any development otherwise than in accordance with a development plan, grants a general exemption to the State Government, Central Government and local authorities. It is permissible for the State Government, Central Government or local authority to carry out any development, even otherwise than in conformity with a development plan that had come into operation, by virtue of Section 47. Therefore, the contention based upon Section 58 does not hold water.

Contention No.7.

53. The last contention is that the disputed land has an approach only through a 60 ft. road, which is not sufficient for a bus-stand. But, it is stated by the learned senior counsel appearing for the Municipality that the approach road will be of a larger width and that steps are taken for acquiring the adjoining lands also. Therefore, this concern of the petitioners also stands addressed.

Conclusion

54. In *S.Venkatesan vs. Government of Tamil Nadu and others* (2009) 4 L.W. 459, a batch of writ petitions were filed, purportedly in public interest, for a writ of declaration to declare the resolution of the Tindivanam Municipality for the establishment of a new bus-stand in a particular area in Tindivanam, as contrary to law. One of the main objections taken in those writ petitions was that the land in which the bus-stand was proposed to be located, was a water body and that therefore the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 would apply. In paragraph 34 of its decision, a Division Bench of this Court held that the final decision as to where the bus-stand is to be located is to be left with the Government to decide. The Bench also pointed out in paragraph 40 that it cannot substitute its views over that of the Government.

55. When the very Government Order granting permission for locating Tindivanam Bus-Stand in a land purported to be a water body came to be challenged in another writ petition by the same person, another Division Bench of this court rejected the challenge in *S.Venkatesan vs. Government of Tamil Nadu and others* (2011) Writ L.R. 404. The rejection was on the basis that the Government had undertaken to deepen the lake and also increase the tank bund to ensure the retention of the full capacity. But, this was done by the Division Bench in view of the

15  
1269

admitted position that the bus-stand was sought to be located in a lake. Such a contingency has not arisen in the case on hand.

56. In *Union of India vs. Government of Tamil Nadu*, decided on 22.04.2013 in W.A.No.572 of 2013, a Division Bench of this Court took a survey of all the decisions of the Supreme Court on the scope of the power of this Court for judicial review of policy decisions and summarised the position in paragraph 61 as follows:

"61. From the aforesaid decisions of the Hon'ble Supreme Court, the following principles emerge as to when the Courts can interfere in a policy decision:-

I. If the policy fails to satisfy the test of reasonableness, it would be unconstitutional.

II. The change in policy must be made fairly and should not give the impression that it was so done arbitrarily on any ulterior intention.

III. The policy can be faulted on grounds of mala fides, unreasonableness, arbitrariness or unfairness, etc.

IV. The policy is found to be against any statute or the constitution or runs counter to the philosophy behind these provisions.

V. It is dehors the provisions of the Act or legislations.

VI. If the delegate has acted beyond its power of delegation.

VII. If the policy is against public interest or does not sub-serve public interest, public purpose and public good."

The case on hand does not fall under any one of the above categories. Therefore, the writ petitions are liable to be dismissed.

57. In normal circumstances, we would have dismissed the writ petitions without imposing costs. But, in this case, we are constrained to impose costs upon the petitioner R. Eakamparam [W.P. (MD) Nos. 18881 and 19749 of 2013], for the simple reason that after having suffered a defeat in the meeting of the council on 28.12.2012, he had made use of this Court to annul the effect of resolution passed by an overwhelming majority of 47 : 1. Therefore, he is directed to pay costs to the Karur Municipality to the tune of Rs.20,000/- (Rupees twenty thousand only).

58. Therefore, in fine, the writ petitions W.P. (MD) Nos. 18881 and 19749 of 2013 are dismissed with costs of Rs.20,000/-. The other writ petitions are dismissed without any order as to costs. Connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (AS)

/True copy/

For VLR Chandrasekaran 7/7/14  
Sub Assistant Registrar

To

1. The Secretary to Government,  
Government of Tamilnadu,  
Municipal Administration and Water  
Supply Department,  
Secretariat, Chennai-600 009.

1173665

2. The Commissioner of Municipal Administration  
and Water Supply Department,  
6th Floor, Ezhilagam, Annex Building,  
Chepauk, Chennai-600 005.

3. The Director,  
Tamil Nadu town and Country Planning  
Department, Chepauk,  
Chennai-600 005.

4. The District Collector,  
Karur District, Karur.

5. The Commissioner,  
Karur Municipality, Karur.

6. The Chairman, Municipal Council,  
Karur Municipality, Karur.

+lcc to Mr.R.Mathiyalangan, Advocate in SR.25618  
+lcc to Mr.M.Saravankumar, Advocate in SR.2548898  
+lcc to Mr.K.Balasubramani, Advocate in SR.25488  
+2cc to Mr.S.Karthick, Advocate in SR.25604  
+lcc to the Special Government Pleader in SR.26045,24795&24974

WP(MD)Nos.18881 & 19749 of 2013, 536,  
2746 and 5774 of 2014  
Dated:28.04.2014

gb

pbk 04/07/2014 ::16p-13c:

C

1173666

ITEM NO.21

COURT NO.9

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

SECTION XII  
I N D I A

Petition(s) for Special Leave to Appeal (C) No(s).20706-20707/2014

(Arising out of impugned final judgment and order dated 26/04/2014 in WP No. 19749/2014 and WP No. 18881/2013 passed by the High Court of Madras At Madurai)

R. EAKAMPARAM

VERSUS

GOVERNMENT OF TAMIL NADU REP BY ITS SECRETARY & ORS

(with appln. (s) for exemption from filing O.T.)  
I.A.No.3-4 & 5-6 (Appln. For bringing additional facts and documents on record and stay)

Petitioner(s):

Respondent(s):

Date : 19/08/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR  
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)

Mr. A.K. Ganguly, Sr. Adv.  
Mr. Anandh Kannan N., Adv.

For Respondent(s)

Mr. V. Giri, Sr. Adv.  
Mr. P. Ramesh, Adv.

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

Learned counsel for the petitioner seeks leave  
to withdraw the special leave petitions.

Permission granted. The special leave petitions  
are

accordingly dismissed as withdrawn.

(O.P. SHARMA)  
Signature Not Verified

COURT MASTER  
Digitally signed by  
Mr. Parkash Sharma  
Date: 2014.08.20

1:03:01 IST  
Reason:

(INDU BALA KAPUR)

COURT MASTER

கரூர் மாவட்ட ஆட்சித் தலைவர் அவர்களின் செயல்முறைகள்

முன்னிலை:- திரு.கு.கோவிந்தராஜ், இ.ஆ.ப.

ந.க.தே2/5536/2017

நாள்: 10.04.2017.

பொருள் : மதுவிலக்கு மற்றும் ஆயம் - கரூர் மாவட்டம் - உச்சநீதிமன்ற தீர்ப்பின்படி தேசிய / மாநில நெடுஞ்சாலையில் அமைந்துள்ள மதுபானக் கடைகளில் மதுவிற்பனை - முடக்கம் செய்ய தீர்ப்பு வழங்கப்பட்டது - கரூர் வட்டம் - லைட்ஹவுஸ் கார்னர் என்ற இடத்தில் இயங்கி வந்த அரசு மதுபான சில்லறை விற்பனைக் கடை எண்.4915-ஐ - கரூர் வட்டம், திருமாநிலையூர் புல எண்.109 என்ற முகவரியில் திரு.ஆண்டியப்பன் மனைவி திருமதி.ஆ.சம்பூர்ணம் என்பவருக்கு பாத்தியப்பட்ட காலியிடத்திற்கு - இடம் மாற்றம் செய்ய - ஆணையிடல் - தொடர்பாக.

பார்வை :

1. சென்னை மேலாண்மை இயக்குநர் தமிழ்நாடு மாநில வாணிபக் கழகம் அவர்களின் நே.மு.கடித எண்.ஆர்.3/522/2013, நாள்.02.03.2017.
2. துணை ஆட்சியர் / மாவட்ட மேலாளர், தமிழ்நாடு மாநில வாணிப கழகம், கரூர், கடித எண்.ந.க.சி.வி.4/4915/2017, நாள்.08.04.2017.
3. கரூர் வட்டாட்சியரின் கடிதம் ந.க.அ2/1555/2017, நாள்.04.2017.
4. கரூர் வருவாய் கோட்டாட்சியரின் பரிந்துரை கடிதம் ந.க.அ1/1645/2017, நாள்.09.04.2017.
5. கரூர் உதவி ஆணையர் (கலால்) மற்றும் துணை ஆட்சியர் / மாவட்ட மேலாளர், தமிழ்நாடு மாநில வாணிப கழகம் ஆகியோர்களின் தலப்பார்வை குறிப்பு நாள்.08.04.2017.

\*\*\*\*\*

ஆணை

கரூர் மாவட்டம், கரூர் வட்டம், லைட்ஹவுஸ் கார்னர் என்ற முகவரியில் இயங்கி வந்த அரசு மதுபான சில்லறை விற்பனைக் கடை எண்.4915 மாநில நெடுஞ்சாலையில் அமைந்துள்ளதால், மேற்படி முகவரியில் செயல்பட்டு வந்த கடையினை வேறு இடத்திற்கு உடனடியாக மாற்றம் செய்ய பார்வை 2-ல் காணும் கடிதத்துடன் புதியதாக கட்டிடம் தேர்வு செய்து கரூர் டாஸ்மாக் மாவட்ட மேலாளர் அறிக்கை சமர்ப்பித்துள்ளார்.

மேற்படி கடை எண்.4915-ஐ புதிய இடத்திற்கு மாற்றம் செய்வது தொடர்பாக உரிய கருத்துருவினை தெரிவிக்க கரூர் வருவாய்க் கோட்டாட்சியரிடம் தெரிவிக்கப்பட்டது. பார்வை 4-ல் காணும் கடிதத்தில் கரூர் வருவாய்க் கோட்டாட்சியர் தனது அறிக்கையினை சமர்ப்பித்துள்ளார். கரூர் வட்டம், திருமாநிலையூர் புல எண்.109 என்ற காலியிடம் திரு.ஆண்டியப்பன் மனைவி திருமதி.ஆ.சம்பூர்ணம் என்பவருக்கு பாத்தியப்பட்டது. மேற்படி காலியிடத்திலிருந்து 100 மீட்டர் தொலைவிற்குள் சமயவழிபாட்டு தலங்கள் பள்ளிக்கூடங்கள் மற்றும் அரசு அலுவலகங்கள் என எதுவும் இல்லை. இக்காலியிடத்திலிருந்து 500 மீட்டருக்குள் தேசிய மற்றும் மாநில நெடுஞ்சாலைகள் அமையவில்லை எனவும், மேற்படி காலியிடத்தில் அரசு மதுபான கடை எண்.4915-க்கு கட்டிடம் கட்ட பொதுமக்களிடம் இருந்து ஆட்சேபணை வரப்பெறவில்லை என்றும், மேற்படி காலியிடத்தில் கட்டிடம் கட்டப்படும் பட்சத்தில் சட்டம், ஒழுங்கு பிரச்சனை எழுவாய்ப்பில்லை எனவும் தெரிவித்துள்ளார்.

-2-

எனவே, கருள் வட்டம், திருமாநிலையூர் கிராமம் புல எண்.109ல் உள்ள காலியிடத்தில் கடை  
எண்.4915-ஐ அமைக்க உரிய நடவடிக்கை மேற்கொள்ள உத்தரவிடப்படுகிறது.

ஓம் /- கு. கோவிந்தராஜ்,  
மாவட்ட ஆட்சித் தலைவர், கருள்.

//உண்மை நகல் // உத்திரவுப்படி //

மாவட்ட ஆட்சித் தலைவருக்காக,  
கருள்.

பெறுநர்  
கூணை ஆட்சியர் / மாவட்ட மேலாளர்,  
தமிழ்நாடு மாநில வாணிபக் கழகம்,  
கருள்.

நகல்

- 1) வருவாய்க் கோட்டாட்சியர், கருள்.
- 2) வட்டாட்சியர், கருள்.

S  
12/10/17

20

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
(Special Original Jurisdiction)

W.P.(MD)No. 20509 of 2022

C.Saravanan,  
S/o. Chinnasamy,  
No.59, West Street,  
Thirumanilaiyur,  
Karur District

- Petitioner

Vs

1. The Principal Secretary to Government,  
Municipal Administration & Water supply,  
Fort St. George,  
Chennai – 600 009

2. The Directorate of Municipal Administration,  
75, Urban Administrative Building,  
Santhome High Road,  
MRC Nagar, Raja Annamalaipuram,  
Chennai – 600028.

3. The District Collector,  
Karur,  
Karur District

4. The Commissioner,  
Karur Municipal Corporation,  
Karur,  
Karur District

- Respondents

AFFIDAVIT

I, C.Saravana, son of Chinnasamy, Hindu aged about 52 years, residing at No.59, West Street, Thirumanilaiyur, Karur, Karur District, has now temporarily come down to Madurai and do hereby solemnly affirm and sincerely state as follows:

21

1. I humbly submit that I am the petitioner herein and as such I am well acquainted with the facts and circumstances of the case and as such I am competent to swear this affidavit.

2. I humbly submit that I am the permanent resident of the above mentioned address living with my family and I am agriculturist. I am filing the present writ petition as 'pro bono public'. I am not having any personal interest or vendetta behind this writ petition and I undertake to pay costs, if any, imposed by this Hon'ble Court. I am not intended any personal gain or oblique motive, further I submit that I have filed this petition out of my own funds. My Aadhar No.2658 0984 3916. I am not an Income Tax. I am filing this writ petition out of my own knowledge and information gathered. I submit that I have not filed any other Public Interest Litigation on the same issue anywhere.

3. I humbly submit that Karur is Industrial busy town at Tamil Nadu and booming in industrial growth and having population more than 4 lakhs people at the Municipal corporation limit. The Karur town has become busy in public and private transportation of vehicles. The Karur bus stand which is now in service is not ample to transmit buses freely for transportation. Due to increase of public transpiration, there causes heavy traffic in the karur town, daily the public are facing traffic congestion. So, the general public hardly demanding the government to construct New Bus Stand at Karur to reduce traffic congestion.

4. I humbly submit that the on 29.01.2009 the 4<sup>th</sup> respondent has passed resolution to construct bus stand at Thoranakkapatti land (Government Poromboke land) and sent proposal to the 2<sup>nd</sup> respondent. The Government also had taken steps to establish Bus stand at Thoranakkalpatti, the District Collector Karur sent a letter to the 2<sup>nd</sup> respondent seeking a fresh approval for

location of new bus stand at Thoranakalpatti village which is Government Poromboke land.

5. I humbly submit that by evading the aforesaid proposal, the 4<sup>th</sup> respondent has invited donation of land from the land owners from karur and the land owners has come forward to donate their land with some onerous conditions. By accepting the said conditions the 4<sup>th</sup> respondent passed resolution, based on said resolution the government passed G.O.(Ms).No.87 dated 20.06.2013 by granting permission to Karur municipality for construction of new bus stand at donated land in S.Nos.95 Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118, 119, 120, 121, 122, 123 Part, 146 part, 147 part, 148 part, 149, 150 Part, 151 Part, 152 Part, 243 Part, 246 Part, 247 Part, 248 Part to an extent about 12.14 acres. Thereafter the land owners executed gift deed in favour of 4<sup>th</sup> respondent on 07.10.2013. Since the aforesaid donated land is encompass in to five sub canals of Raja Vaikal and also Amaravathi river is located within radius if 450 meters, whenever the flood flows through the river, the donated land is affected by flood water, therefore the District administration declared said area as 'Most Vulnerable Area' and 'Vulnerable Area'. Originally the aforesaid lands are classified as agriculture Nanjai land. Geographically the Thirumanilaiyur village is 3ft lowland when compare with Karur town. Some of the residents of Karur filed Writ petitions challenging the G.O.Ms.No.87. In the Writ petitions government filed counter by suppressing that aforesaid land is not water body and also none of the writ petitioners did not produced any documents pertaining to five sub canals of Raja Vaikal and therefore the Writ petitions are dismissed and thus said G.O has been upheld by the order dated 28.04.2014.

6. I humbly submit that in the year 2015 also due to heavy rainfall the said donated land has been affected by flood and for the said reason the government also proclaimed the area surrounded by Amaravathi River as

'Vulnerable Area'. In fact, the 4<sup>th</sup> respondent had breached the one of the condition in the gift deed, the donors filed Writ petition before this Hon'ble Court in W.P.(MD).No.22551 of 2019 seeking relief to re-convey their gifted land which is still pending. Therefore the Government after careful consideration of aforesaid facts and legal issue had dropped establishment of Karur New Bus stand at donated land in Thirumanilaiyur.

7. I humbly submit that in order to avoid traffic congestion at Karur town, the Government took policy decision to construct Additional Mofussil bus stand at Government Poramboke land in S.No.263, 264, 265/1 at Thoranakkalpatti village to an extent of about 14.50 acres (which is already earmarked in the year 2009 for construction bus stand). The Government also passed G.O.(Ms).No.15 dated 29.01.2021 to float the tender for construction of Additional Mofussil Bus Stand at aforesaid Government Poramboke land. Thereafter the said Government Poramboke lands have been reclassified for construction of bus stand vide G.O.Ms.No.61 dated 26.02.2021 and permission has been granted for establishing bus stand.

8. I humbly submit that based on G.O.Ms.No.15, on 29.01.2021 tender notice has been issued for construction of bus stand at Thoranakkalatti village. Against tender notice one Periyasamy filed W.P.(MD).No.3242 of 2021, on 18.02.2021 the division bench of this Hon'ble court passed interim order to proceed with the tender process and the writ petition is pending. Thereafter one M/s. Sankaranand Infra filed W.P.(MD).No.3867 of 2021 challenging tender notice and the same was dismissed on 24.03.2021. By challenging the dismissal order, they filed W.A.(MD).No.759 & 760 of 2021. On 15.04.2021 the Hon'ble Division Bench passed the interim direction that Pendency of the Writ Appeals will not be a bar to proceed with the tender. In the meantime one P.Kumaresan filed W.P.(MD).No.9567 of 2021 seeking direction to complete the aforesaid tender process as expeditiously. On 26.05.2021 this

Hon'ble Court passed order to proceed tender process for the construction of Additional Moffusil Bus Stand for Karur Town as per the earlier orders of the Division Bench of this Hon'ble Court.

9. I humbly submit that when the aforesaid tender processes are in motion for establishing Bus stand at Thoranakkalpatti village, the government on all of sudden took U-turn and on 8.07.2022 the 4<sup>th</sup> respondent published tender notification for construction of Karur bus stand at the very same donated land at Thirumanilaiyur which is earlier dropped by the government. On 03.08.2022 the tender proceedings has been completed and now work order is yet to issue. In this regard on 26.08.2022 I sent representation to the respondents requesting them to establish Karur Bus stand at Thoranakkalpatti land. It is pertinent to note that, on very same day in night hours there was rainfall at Karur area, due to which 2ft rain water has been stagnated at Proposed Thriumanilaiyur bus stand land.

10. I humbly submit that the Government land at Thoranakkalpatti has many positive features, but Government took decision to construct karur New bus stand at Water body. The following are salient feature of the Thoranakkalpatti land is that:-

- The entire stretch of 14.50 acres are Government Promboke land,
- In the year, 2009 itself the 4<sup>th</sup> respondent passed resolution for establishing Karur Bus stand.
- The said land also classified as Commercial Land and permission also granted.
- The said land is located at outside of the karur town and also the four National Highways and a State Highways are running outside the Karur Town, which would be easily accessible to transportation and also there would not cause traffic congestion inside the karur town.

25

- Further the Thorānkkaipatti government land is located at High attitude and also its dry Punjai land.
- Thoranakkaipatti land totally having extent of 14.50 acres, out of which 9.50 acres would be utilized for construction of present bus stand and remaining 5 acres of land would be utilized for future expansion of bus stand.

11. I humbly submit that at the same time Thirumanilaiyur land which is now earmarked for establishing Karur bus stand has so many legal and practical obscurities:-

- The total extent of donated land is 12.14 acres which is private land.
- As per one condition 4 acres of land must be utilized for laying road, so there would be available only 8 acres of land for bus stand, so it is not possible to expand the bus stand in future.
- The entire land is private land, donors donated land to government with some onerous conditions.
- If the Municipality construct the bus stand in donate land at the cost of Rs.62 crores, municipality would not gain commercial benefits, only the donors of said land would be benefited indirectly.
- The land is not yet classified and till now it remains as Nanjai land.
- Thirumanilaiyur land is located within 1.5km from the Old Karur bus stand, so, the purpose of establishment of bus stand would not be served and it would cause more traffic congestion in future.
- Thirumanilaiyur land is sited within 450 meters from Amaravathi River, in the year 2015 due to heavy rainfall the said donated land has been affected by flood and for the said reason the government also proclaimed the area surrounded by Amaravathi River as 'Vulnerable Area'
- Thirumanilaiyur donated land bisect five common water sub canal which

... called as 'Korambu Vaikal', the water from said vaikal is used for irrigation around agriculture land. A Writ Petition in W.P.(MD).No.3854 of 2021 is pending, the main ground assigned therein was if the Karur New Bus stand is established at aforesaid land by destroying the five common water canal, then water source of irrigation to their land would be affected. . .

12. I humbly submit that originally the proposed Thirumanilaiyur land for construction of bus stand is earlier dropped by the government and now the government is published tender for establishing bus stand. If the bus stand is established at aforesaid land it would destroy the water body and also practically and legally it is not feasible to construct bus stand. In the above circumstances I have no other efficacious, alternate or speedy remedy, except to invoke the extraordinary special jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India, by way of filing this writ petition for the reliefs prayed for in this writ petition.

13. I humbly submit that the 4<sup>th</sup> respondent has already concluded the tender proceedings for establishing Karur Bus stand at Thirumanilaiyur land and work order is yet to issue. In such circumstances it is just necessary to pass an order of interim injunction restraining the 4<sup>th</sup> respondent not to construct Karur New Bus stand at S.Nos.95 Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118, 119, 120, 121, 122, 123 Part, 146 part, 147 part, 148 part, 149, 150 Part, 151 Part, 152 Part, 243 Part, 246 Part, 247 Part, 248 Part which is situated at Thirumanilaiyur revenue village, Karur, if interim injunction is not granted then I would suffer irreparable loss and hardship.

It is therefore just and necessary that this 'Hon'ble' Court may be pleased to pass an order of interim injunction restraining the 4<sup>th</sup> respondent not to construct Karur New Bus stand at S.Nos.95 Part, 97 Part, 98 Part, 113 Part, 114

Part, 115 Part, 116 Part, 117 Part, 118, 119, 120, 121, 122, 123 Part, 146 part, 147 part, 148 part, 149, 150 Part, 151 Part, 152 Part, 243 Part, 246 Part, 247 Part, 248 Part which is situated at Thirumanilaiyur revenue village, Karur, Karur District, till pending disposal of the above writ petition and pass other necessary and just orders as may be deemed fit and proper in the circumstances of the case and render justice.

Therefore it is prayed that this Hon'ble Court may be pleased to issue an order or writ in the nature of WRIT OF MANDAMUS directing the respondents to construct the Karur New Bus stand at Thoranakkalpatti land or some other suitable place at karur except the land in S.Nos.95 Part, 97 Part, 98 Part, 113 Part, 114 Part, 115 Part, 116 Part, 117 Part, 118, 119, 120, 121, 122, 123 Part, 146 part, 147 part, 148 part, 149, 150 Part, 151 Part, 152 Part, 243 Part, 246 Part, 247 Part, 248 Part which is situated at Thirumanilaiyur revenue village, Karur, Karur District and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of this case and thus render justice.

Solemnly affirmed at Madurai on  
this the day of August, 2022  
and signed his name in my presence.

Before me

Advocate, Madurai

**WORK ORDER**

28

From  
Thiru.N.Ravichandran,  
Commissioner,  
Karur City Municipal Corporation.

To,  
M/s.Sri Pathy Associates Private  
Limited,  
Civil Engineering Contractor,  
62, Thangaperumal Street,  
Erode - 638001

**Roc. No. 8560/2021/E1**

**Date : 25.08.2022**

**Sub:- "Infrastructure and Amenities Fund 2021-22 - Construction of New Bus Stand at Thirumanilaiyur in Karur City Municipal Corporation – issuing of notice to proceed with the work Order -Regarding.**

- Ref:-**
- 1.Estimate Amount Rs.4000.00 Lakhs**
  - 2. Your Tender dated on 03.08.2022**
  - 3. Municipal Council Resolution No.445 Dated.18.08.2022**
  - 4. Letter of Acceptance dated. 22.08.2022**

\*\*\*\*\*

Pursuant to your requisite of Security Deposit as stipulated in ITB clause 30 and signing of the contract agreement for the work of "**Construction of New Bus Stand at Thirumanilaiyur in Karur City Municipal Corporation**" @ a Bid Price of (Excluding GST) of **Rs.34,83,69,395.00/-** (Rupees Thirty four Crores eighty three lakhs sixty nine thousand three hundred and ninety-five only ) you are hereby instructed to proceed with the execution of the said works in accordance with the contract terms and conditions. The Contract Period is 18 months from the date of issue of work order.

You are hereby instructed to proceed with the execution of the above said work in accordance with the conditions stipulated as per the agreement. Your attention is drawn to the following specific conditions for strict compliance

- 1. Contract Period:** The Contract period is for 18 months from the date of issue of Work Order to the successful contractor.
- 2. Payment Schedule:** Part or complete Payment will be made every month by the Corporation Commissioner based on the outturn of satisfactory completion of work in the previous month and value of work executed shall be determined, based on the measurements and check measurements by the Engineer in the M.Book.
- 3. Milestones and Liquidated Damages:** The work will have two milestones

In case of the following Milestones have to be met

29

a. Minimum one third of the value of work should be completed by the end of the 1<sup>st</sup> 9 month, and

b. Work should be completed in all respects by the end of the 2<sup>nd</sup> 9 month.

If there is default in meeting either or both these deadlines, Liquidated damages @ 0.1% of the unfinished value of work (in relation to the two milestones) will be levied per day till their completion.

4. **Retention Money:** The Corporation shall retain a sum equivalent to 5% of the value of the each bill as retention money from each payment due to the Contractor. Out of the 5% of the retention amount, on issue of completion certificate for the work 2.5% will be released to the Contractor, while the balance 2.5% will be retained during defect liability period (ie, 1 year for the BT Roads and 2 years for the Storm Water Drain). The retained 2.5% will be released by the Commissioner /Executive Officer, after ensuring no liability in connection with work executed.
5. **State Quality Monitors:** In order to ensure quality of the work, Third party checks and inspections by the State Quality Monitors will be taken up. Any defects pointed out by the State Quality monitors shall be attended by the Contractor at his own cost and rectified.
6. **Fraudulent Practices:** If it is found any time during the tender process, award of contract, or during the contract period, that the Contractor has furnished false certificate or if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for, getting the contract or in the executing the Contract, the Contract will be summarily terminated and Criminal Proceedings will be initiated.
7. **Price Adjustment Clause:** Price Adjustment Clause as per G.O. 227, MAWS Dept Dated. 23.11.2009 is applicable for the tenders of Rs.1.00 crore and above, even if the contract period is less than 1 year.
8. **Termination of the Contract:** If the work is not completed even 45 days after the contract period (2monthsperiod), the contract is liable for summary cancellation
9. **Defect Liability Period:** The defect liability period is 1 year for the BT roads and 2 years for Storm Water Drains
10. **Taxes and Insurance Policies:** The Contractor should remit all the taxes regarding labour and concerned insurance policies (EPF & ESI)

Commissioner,  
Karur City Municipal Corporation.

  
25.8.22

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 - 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City  
Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 - 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City  
Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 - 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 - 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 – 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 - 22**



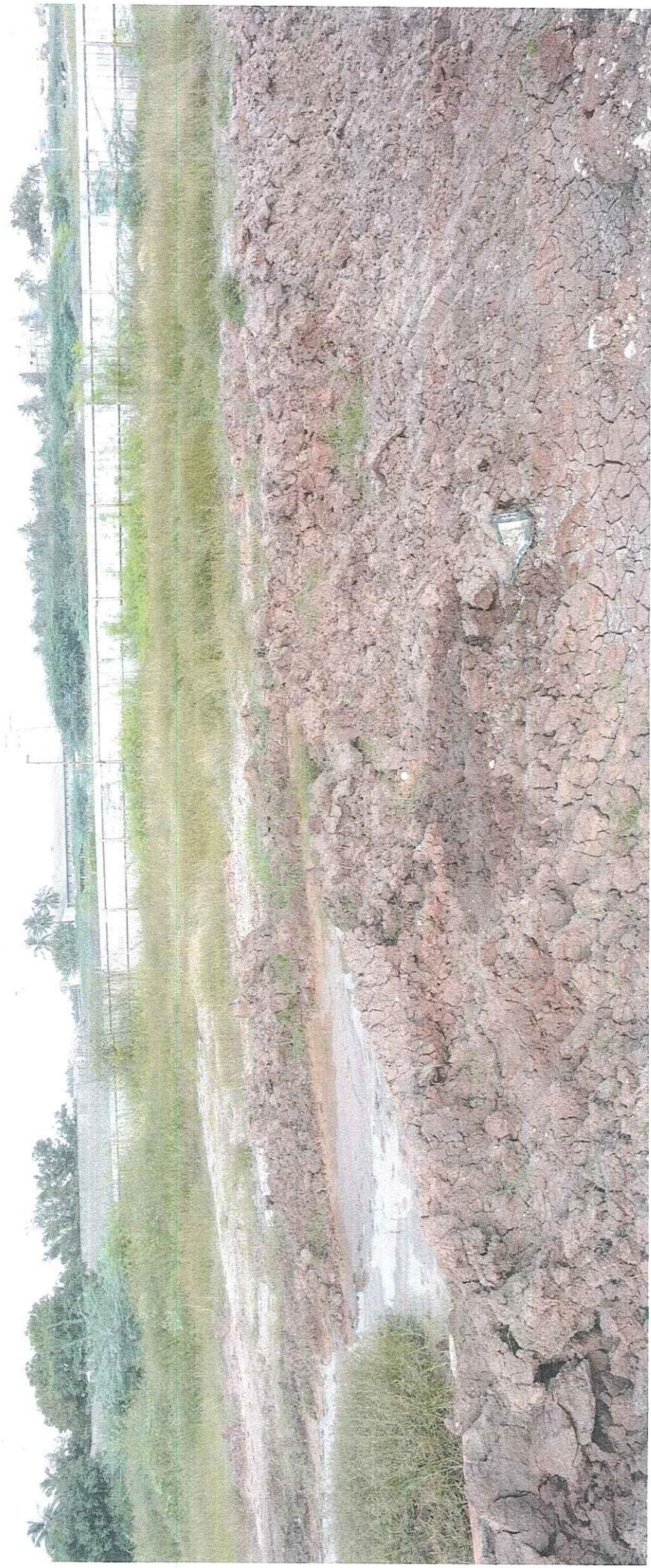
**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 – 22**



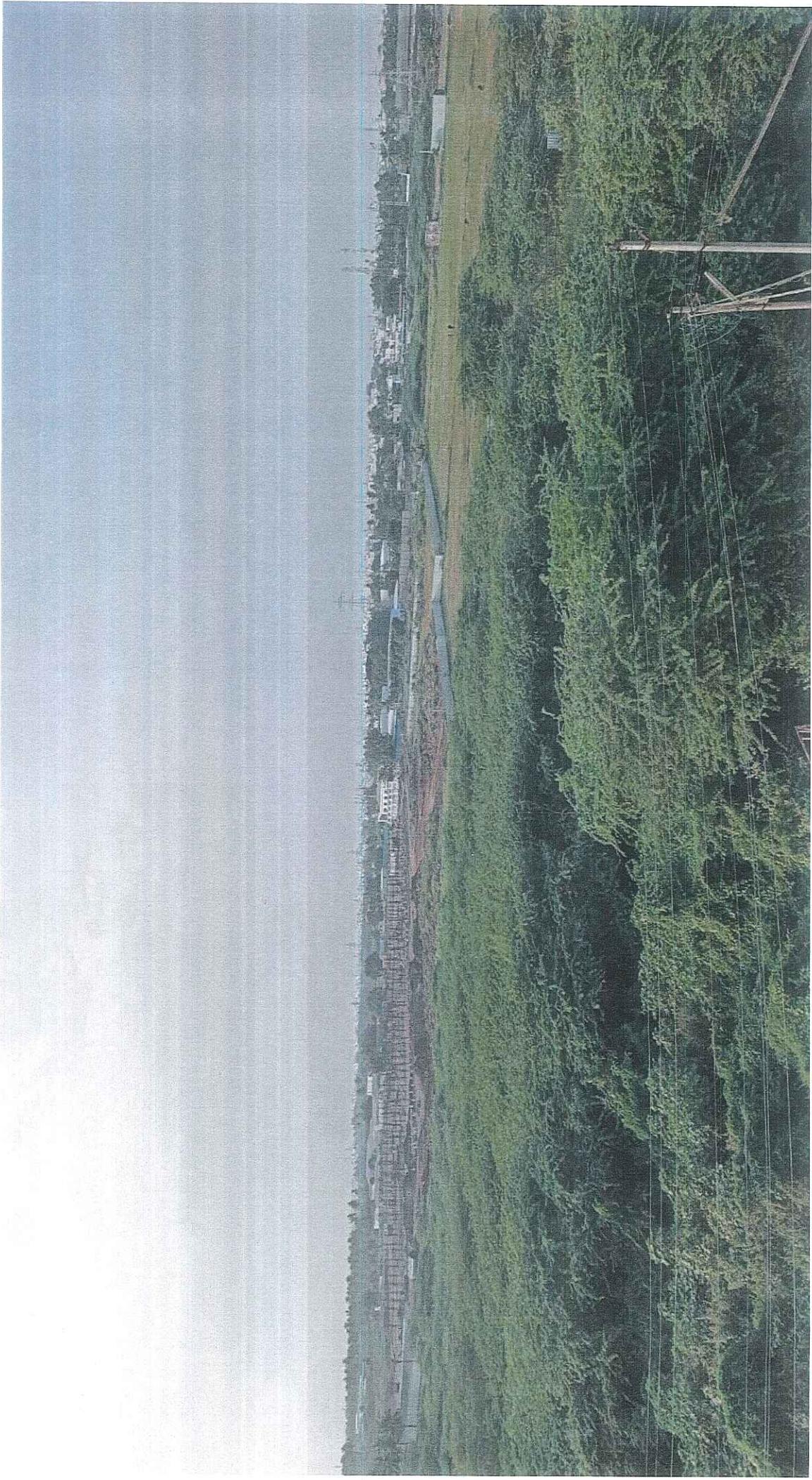
**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City  
Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 – 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City  
Municipal Corporation.

**KARUR CITY MUNICIPAL CORPORATION**  
**INFRASTRUCTURE AND AMENITIES FUND 2021 - 22**



**NAME OF WORK:** Construction of New Bus stand at Thirumanilaiyur in Karur City Municipal Corporation.







മുൻപ് മാറ്റിയിട്ടില്ല  
6400-6600 : 4915  
പാശ്ചാത്യ ഉപഭോഗ മാറ്റം  
WINE SHOP  
100% Sulfite Free, Allergens Free, No Added Sugar

പ്രകൃതിദത്തമായ  
കുറഞ്ഞ സുഗന്ധം  
21 മാസം സൂക്ഷ്മമാണ്  
1999 മുതൽ 2005 വരെ

പ്രകൃതിദത്തമായ  
കുറഞ്ഞ സുഗന്ധം  
21 മാസം സൂക്ഷ്മമാണ്  
1999 മുതൽ 2005 വരെ  
NO HELMET - NO SERVICE

