

PRESIDENT, PANCHAYAT UNION COUNCIL

v.

P.K. MUTHUSAMY & OTHERS
(Civil Appeal No.4774 of 2009)

JULY 27, 2009

[MARKANDEY KATJU AND ASHOK
KUMAR GANGULY, JJ.]

PUBLIC PREMISES:

Allotment of accommodation for court – High Court directing a particular building belonging to State Government to be allotted for Munsif-cum-Judicial Magistrate Court – Held: It was not within the jurisdiction of High Court to direct the Government to allot a particular land or building for the purpose – High Court can only make a request to Government in this regard – There must be restraint on the part of judiciary on these matters – Order of High Court set aside – Chief Secretary to the State Government requested to discuss the matter with Registrar General of the High Court so as to resolve the problem – Judicial restraint – Administration of justice.

Divisional Manager, Aravali Gold Club & Another vs. Chander Hase & Another, (2008) 1 SCC 683, Common Cause vs. Union of India, (2008) 5 SCC 511, relied on.

Case Law Reference:

(2008) 1 SCC 683 relied on para 5

(2008) 5 SCC 511 relied on para 5

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4774 of 2009.

From the Judgment & Order dated 19.2.2008 of the High

A Court of Judicature at Madras in W.P. No. 30663 of 2007.

N. Shoba and Sri Ram J Thalapathy for the Appellants.

V. Prabhakar (for Revathy Raghavan) for the Respondents.

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The following Order of the Court was delivered

ORDER

Leave granted.

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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.

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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.

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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 matter on the part of the judiciary. We are confident that if the judiciary makes a request to the

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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. A

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. B C

Registry is directed to send a copy of this order to the Chief Secretary, State of Tamil Nadu as well as Registrar General of the Madras High Court.

R.P.

Appeal allowed. D