

(2013) 01 MAD CK 0053

In the Madras High Court

Case No : Writ Petition No. 31921 of 2012

M.S. Arasa Kumar

APPELLANT

Vs

The Government of Tamilnadu

RESPONDENT

Date of Decision : 08-01-2013

Acts Referred:

Madras City Municipal Corporation Act, 1919 — Section 220, 223, 3(15), 3(17), 365

Citation : (2013) 1 CTC 533 : (2014) WritLR 188

Hon'ble Judges : R. Banumathi, J;K.K. Sasidharan, J

Bench : Division Bench

Advocate : C. Dakshayini Reddy for Mr. D. Suresh, for the Appellant; A. Navaneetha Krishnan Advocate General assisted by Mr. S. Venkatesh Government Pleader and Mr. I.S. Inbadurai Spl. Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

R. Banumathi, J.—Whether erection of Tamilnadu Legislative Assembly's Diamond Jubilee Memorial Arch on Rajaji Salai Kamarajar Salai

(Beach Road) between Fort St. George and War Memorial is in violation of Doctrine of Public Trust and the provisions of Tamil Nadu Highways

Act or Chennai City Municipal Corporation Act are the points falling for consideration in this Public Interest Litigation, at the instance of a Legal

Practitioner. Tamilnadu Legislative Assembly formed in 1952 has completed 60 years of its existence in 2012. Government of Tamilnadu have

accorded permission for construction of an Arch to commemorate the Diamond Jubilee Celebrations of Tamilnadu Legislative Assembly (1952-

2012) at Rajaji Salai between Fort St. George and War Memorial. The Diamond Jubilee Memorial Arch (for short Arch) is to be constructed at

the estimated cost of Rs. 1.33 crores. The Arch would be 41 feet height and 80

feet wide. Design of the Arch is stated to be inspired by the design Cues of the Fort St. George.

2. The Case of Petitioner:- Writ Petitioner who is a practising Advocate in various Courts in Chennai and also in Madras High Court has filed this

Public Interest Litigation contending that construction of Arch will be an obstruction for road expansion in future and it would obstruct larger truck

vehicles which comes to Chennai Port Trust to reach the Port Gate from Royapuram. According to the Petitioner, Rajaji Salai is the main arterial

road which connects High Court and northern Chennai to other parts of city and the road is also used by litigants and Advocates reaching the High

Court and if Rajaji Salai is to be blocked for such construction of Arch, the city will be choked and there will be no roads to reach the High Court

and place like Royapuram.

3. According to the Petitioner, as per Section 26 of Tamil Nadu Highways Act, 2001, no person including the Government is permitted to put up

any permanent structure on the highway under the control of Highways Department. As per Section 26(2) of Tamil Nadu Highways Act,

Highways authority has power to grant permission only to put up temporary structures like tent, pandal or other similar erection or a temporary

stall or scaffolding on the road or overhanging the roads and that too for a specified period i.e. not more than one year and hence, permanent

structure like Arch overhanging the road is totally impermissible and the proposed Arch cannot be allowed to be constructed by the Government.

The Government while taking a decision to put up the Arch totally ignored that the highway is a passage over which members of the public are

entitled to pass and repass. Alleging that the construction of Arch will be a barricade in the road expansion in future and that the decision of the

Government to construct a Memorial Arch across the State highway at Rajaji Salai is against the decision of the Supreme Court in A. Abdul

Farook Vs. Municipal Council, Perambalur and Others, and the provisions of Tamil Nadu Highways Act, Writ Petitioner seeks a Writ of

Mandamus forbearing the Respondents from erecting Tamilnadu Legislative Assembly's Diamond Jubilee Memorial Arch at Rajaji Salai.

4. Counter of Respondents:- The Government of Tamil Nadu resisted the Writ Petition primarily contending that Rajaji Salai is not a highway.

Tamil Nadu Highways Act, 2001 is not applicable to the road belonging to the Corporation of Chennai and that the Corporation of Chennai

granted permission to construct the proposed Arch at Rajaji Salai between Fort St. George and War Memorial. Arch has been designed

structurally and there would not be any intermediate pillar/structure in the middle of the road and therefore, there is no question of obstruction to

larger vehicles. According to the Government, the construction will be carried out in such a manner that it will not have any adverse impact on

vehicular movement, safety, security or of access to the surroundings and the apprehension expressed by the Writ Petitioner is unfounded.

5. The Writ Petitioner filed a reply affidavit stating that even if the road is a Corporation Road, as per the provisions of Chennai City Municipal

Corporation Act, still there is a clear embargo on putting up any permanent structure on a public street which is under the control of Corporation of

Chennai.

6. Summary of Submissions:- Mrs. C. Dakshayini Reddy, learned counsel for Petitioner contended that decision of the Government to erect Arch

on public road is violative of Doctrine of Public Trust and also the provisions of Tamil Nadu Highways Act. Learned counsel contended that Rajaji

Salai is the main arterial road which connects the High Court and northern Chennai to reach the other parts of city and therefore, it is imperative to

prevent any construction on the Beach road as it violates the provisions of Tamil Nadu Highways Act and against the principles of A. Abdul

Farook Vs. Municipal Council, Perambalur and Others, (A. Abdul Farook v. Municipal Council, Perambalur and others), it was contended that

the Hon'ble Supreme Court has laid down that construction of Arch across the main road and highways should not be permitted and hence, the

decision of the Government to construct a Diamond Jubilee Memorial Arch at Rajaji Salai is against the decision of the Supreme Court.

7. Producing the Architect's design of the proposed Arch, Mr. A. Navaneethakrishnan, learned Advocate General submitted that the proposed

Arch from the floor surface of the road will be 6.50 meters and the present road width of 18.70 meters (average) will be maintained to facilitate

free flow of undivided four lane carriageway traffic as of now. Drawing our attention to the resolution passed by the Corporation of Chennai in its

ordinary council meeting held on 29.10.2012, the learned Advocate General submitted that Corporation of Chennai have passed a resolution

according permission for construction of Arch. The Arch has been planned in such a way that it will not pose any hindrance to the movement of

vehicles. Learned Advocate General submitted that Arches are constructed to commemorate historical events, so that it can be remembered for

ever and drawn our attention to several such Arches constructed on various occasions.

8. The first and foremost submission of the learned Advocate General is that Writ Petition has not been filed in public interest and that the Writ

Petition is politically motivated one. Learned Advocate General submitted that Writ Petitioner is attached to rival political party viz., Dravida

Munnetra Kazhagam and the materials downloaded from the website shows that Petitioner is a member of the said political party. Per contra,

learned counsel for Petitioner submitted that the alleged materials produced by the Respondents have no relevance to the Petitioner and they have

been filed to mislead the Court in order to malign the Petitioner. Notwithstanding the objections raised on the bonafides of the Petitioner, we have

proceeded to consider the matter on merits.

9. Re. contention Rajaji Salai (Beach Road) is State Highway and construction of Arch is in violation of the provisions of Tamil Nadu Highways

Act, 2001:-

Contention of Petitioner is that as per the provisions of Tamil Nadu Highways Act, no person including the Government is permitted to put up any

permanent structure on the State Highway which is under the control of Highways Department. Learned counsel for Petitioner submitted that Rajaji

Salai is a State highway. To contend that Rajaji Salai is part of State highways, learned counsel placed reliance upon the materials downloaded

from the website of Tamil Nadu Highways Department and submitted that Rajaji Salai is part of the stretch covered under SH-1, Chennai-Ennore

Road (10.40 kilometers).

10. In Section 2(8) of Tamil Nadu Highways Act, 2001, encroachment is defined as follows:-(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 overhanging the highway or part thereof; or

(b) occupation of such highway or such land, after the expiry of the period for which permission was granted for any temporary use under this Act;

or

(c) excavation or embankments of any sort made or extended on such highways or part thereof or underneath such highway or part thereof;

11. Section 26 of Tamil Nadu Highways Act reads as follows:-

26. Prevention of unauthorised occupation of highway.-(1) No person shall occupy or encroach on any highway within the highway boundaries.

(2) Notwithstanding anything contained in sub-section (1), the Highways Authority may, with the concurrence of the Collector and with due regard

to the safety and convenience of traffic and subject to such conditions, and on payment of such rent or other charges as may be prescribed, grant

permission, of a temporary nature, to any person -

(a) to make any temporary use of any highway in front of any building owned or occupied by him or make a temporary structure overhanging the

highway; or

(b) to put up a temporary awning or tent, pandal or other similar erection or a temporary stall or scaffolding on any highway; or...

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 highway

is authorised and the exact portion of the highway so permitted to be occupied, and shall also be accompanied by a plan or sketch of that portion

of the highway. 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 up 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

highway 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 highway 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.

12. Laying emphasis upon Section 2(8) and Section 26 of Tamil Nadu Highways Act, learned counsel for Petitioner contended that as per these

provisions, no person including the Government is permitted to put up any permanent structure on the State Highway under the control of

Highways Department and the Highways Authority has power to grant permission only to have a temporary structure like tent, pandal or other

similar erection or a temporary stall for a specified period i.e. not more than one year and hence, any permanent structure like Arch is totally

impermissible and that the Government has totally ignored the provisions of Tamil Nadu Highways Act.

13. Rebutting the said contention, learned Advocate General submitted that Rajaji Salai is not a highway, but is a Corporation road and the

provisions of Tamil Nadu Highways Act, 2001 is not applicable. To show that north Beach Road/Rajaji Road is owned by the Corporation, the

Government has produced P.L.R. Extract issued by the District Revenue Officer/L&E. As per P.L.R. Extract, North Beach Road is in Resurvey

Number 11721 of George Town and is classified as Corporation public. The Standing Committee, in its meeting held on 19.10.2012 had passed a

resolution recommending for according permission for construction of Arch to commemorate the Diamond Jubilee Celebrations of Tamilnadu

Legislative Assembly at Rajaji Salai between Fort St. George and War Memorial. In the ordinary council meeting held on 29.10.2012, the

Corporation of Chennai passed a resolution ratifying the recommendation of Standing Committee. The said resolution dated 29.10.2012 reads as

follows:-

(***)

On a perusal of the above said resolution and the P.L.R. Extract, it is clear that Rajaji Salai is not a State Highway and Tamil Nadu Highways Act

do not apply to the said Road and that Rajaji Salai belongs to the Corporation of Chennai.

14. As pointed out earlier, learned counsel for Petitioner placed reliance upon only the materials downloaded from the website of Tamil Nadu

Highways Department to contend that Rajaji Salai is part of SH-1, Chennai-Ennore Expressway Road. Chennai-Ennore Road connects Chennai-

Thiruvallur and not north Beach Road. Rajaji Salai was laid and is being maintained by Corporation of Chennai and not by Highways Department.

The Writ Petitioner has not produced any authenticated material to substantiate the plea that Rajaji Salai road is part of State Highways. In the

absence of any material to substantiate the plea that Rajaji Salai is State highways, we are of the view that the arguments advanced on the alleged

violation of provisions of Tamil Nadu Highways Act cannot be countenanced.

15. Re. contention Violation of provisions of Chennai City Municipal Corporation Act:-As pointed out earlier, Corporation of Chennai in its

ordinary council meeting held on 29.10.2012 passed a resolution according permission for construction of Arch at Rajaji Salai between Fort St.

George and War Memorial.

16. Contending that as per the provisions of Chennai City Municipal Corporation Act, there is a clear embargo on putting up any permanent

structure on a public street which is under the control of Corporation of Chennai, the learned counsel for Petitioner submitted that as per Sections

220, 223 and 365 of Chennai City Municipal Corporation Act the Corporation has got power to grant licence or permission only for putting up a

temporary structure and for a limited period and does not envisage grant of permission to put up any permanent structure as is sought to be done in

the present case. According to the Petitioner, there is a clear violation of provisions of Chennai City Municipal Corporation Act.

17. Section 220 of Chennai City Municipal Corporation Act prohibits obstruction in streets. Section 220 reads as under:-

220. Prohibition against obstructions in streets. - No one shall build any wall or erect any fence or other (obstruction or projection or make any

encroachment) in or over any street (or any public place, the control of which is

vested in the corporation)...

18. Section 223 of Chennai City Municipal Corporation Act is in pari materia with Section 26 of Tamil Nadu Highways Act. Section 223 reads as

follows:-223. Power to allow certain projections and erections.-(1) The commissioner may grant a licence, subject to such conditions and

restrictions as he may think fit, to the owner or occupier of any premises -

(a) to put up or continue to have verandas, balconies, sunshades, weather frames and the like, to project over a street, or

(b) in streets in which the construction of arcades has been sanctioned by the council, to put up or continue to have an arcade, or

(c) to construct or to continue to have any step or drain-covering necessary for access to the premises.

(2) With the concurrence of the commissioner of police, the commissioner may grant a licence, subject to such conditions and restrictions as he

may think fit, for any temporary construction in any street or in any public place, the control of which is vested in the corporation. ...

As per Section 223 of Chennai City Municipal Corporation Act, the Commissioner may grant licence to the owner to put up any verandas,

balconies, sunshades etc.

19. Occupier is defined in Section 3(15) of Chennai City Municipal Corporation Act which reads as under:-

(15) occupier.-occupier includes, -

(a) any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same

in respect of which the word is used or damages on account of the occupation of such land, building or part; and

(b) a rent-free occupant;

20. Owner is defined in Section 3(17) of Chennai City Municipal Corporation Act. Section 3(17) reads as follows:-

(17) owner.-owner includes, -

(a) the person for the time being receiving or entitled to receive whether on his own account, or as agent trustee, guardian, manager or receiver for

another person or for any religious or charitable purpose the rent or profits of the property in connection with which the word is used.

(b) the person for the time being in charge of the animal or vehicle in connection with which the word is used;

21. u/s 220 of Chennai City Municipal Corporation Act, no one has got right to build any wall or erect any fence or other obstruction or projection

or make any encroachment in or over any street. Section 220 thus prohibits obstruction or projection in streets. According to the Government, the

proposed Arch in Rajaji Salai has been planned in such a way and has been designed structurally that there would not be any intermediate

pillar/structure in the middle of the road and it will not pose any hindrance to the movement of vehicles. The width of Rajaji Salai is 18.70 meters

and the said width will be maintained even after the construction of Arch to facilitate free flow of undivided four lane carriageway traffic as of now.

It is stated that the clear height of Arch from the floor surface of the road will be 6.50 meters which is higher than the stipulated mandatory

clearance required for structures like Arch. Before us the structural design of Arch has been produced. On a perusal of the design of Arch, it is

seen that pillars supporting the Arch on both sides have been proposed to be located on the pavement of both sides of road. There will be an

opening inside the pillars on both sides to facilitate the pedestrian movement. It is stated that Arch has been designed based on the Confluence of

Greek and Latin Architecture inspired by the design cues and intricate patterns of the Fort St. George. When the Arch has been structurally

designed without any intermediate pillars in the middle of the road and if the Arch would not affect free flow of traffic or pedestrian movement, it

cannot be said that the proposed Arch in Rajaji Salai would be an obstruction or encroachment on a public street. By passing a resolution

according permission for construction of Arch, it cannot be said that the Corporation of Chennai has exceeded its jurisdiction. It is also pertinent to

note that Writ Petitioner neither impleaded the Corporation of Chennai nor challenged the resolution dated 29.10.2012 according permission for

construction of Arch.

22. Re. contention of Petitioner that the construction of Arch is contradictory to the decision of the Hon"ble Supreme Court in A. Abdul Farook

Vs. Municipal Council, Perambalur and Others, -

The learned counsel for Petitioner contended that in A. Abdul Farook Vs.

Municipal Council, Perambalur and Others, , while setting aside the order of the Division Bench of Madras High Court and quashing the no objection certificate issued by the Municipal Council, Perambalur for construction of Arch in Perambalur Junction Road, the Hon"ble Supreme Court stated that such construction of Arch across the main roads and highways should not be permitted and imposed a cost of Rs. 50,000/- on the Government. According to the Petitioner, the decision of the Government to construct a Memorial Arch across Rajaji Salai is perse against the law laid down by the Hon"ble Supreme Court.

23. In A. Abdul Farook Vs. Municipal Council, Perambalur and Others, , a private individual who was President of Tamil Nadu Handloom

Textiles Development Corporation requisitioned Perambalur Municipality to issue a no objection certificate for the purpose of erecting Arches on

the occasion of 57th Birthday Celebrations of the Chief Minister at two places in Thuraiyur-Perambalur Road and Thirumangalam-Bungalow Road

which were Highways belonging to Government. Referring to various provisions of Tamil Nadu Highways Act and setting aside the order of the

Division Bench and observing that no objection certificate should not have been issued for construction of Arch at the instance of a private

individual, in the said decision in Paragraph (18), the Hon"ble Supreme Court made it clear that in the interest of general public, pedestrians and

others, permission may be granted to construct such buildings even if permanent in character and held as under:-

18. ... 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.

24. The above decision is clearly distinguishable on facts. The Arch propose in the said case was to be constructed on a highways. That apart no

objection certificate was issued by Perambalur Municipality for construction of

Arch in the highways at the instance of a private individual. In the present case, to commemorate the occasion of Diamond Jubilee Celebrations of Tamilnadu Legislative Assembly at Rajaji Salai between Fort St.

George and War Memorial, the Government itself proposed to construct an Arch without obstructing free flow of traffic and also pedestrians.

Therefore, we are of the view that the decision relied upon by the Petitioner is not applicable to the case of Petitioner.

25. It is true that the State is the custodian of public property. In case the decision taken by the Government to construct the Arch is in public

interest and such construction does not violate any of the statutory provisions, the Court is not expected to scan the background materials and

factors which weighed with the Government to take such a decision, and to form an independent opinion as to whether it was necessary in public

interest to construct such an Arch in a public place.

26. The proposal to put up the Arch was not at the instance of a political party. Similarly, it was not at the instance of a private individual. The

decision was taken only by the Government of Tamil Nadu and the Legislative Assembly. The Government is accountable and answerable to the

people. The Legislature represents the people of the State. In case the Government have taken a conscious decision to construct an Arch in

commemoration of the Diamond Jubilee Celebrations of the Legislative Assembly, it cannot be said that the decision was not in public interest.

27. Re. contention hindrance to vehicular movement:-

The learned counsel for Petitioner submitted that Rajaji Salai is the only road which is left out without heavy traffic congestion and connects north

Chennai and Fort St. George with other parts of Chennai city and all the VVIPs including the Hon^{ble} Judges of the High Court and Ministers and

top bureaucrats of the State used to travel to and from their respective offices through this road. According to Writ Petitioner, Rajaji Salai is the

main arterial road to reach Chennai Port Trust and construction of the proposed Arch at Rajaji Salai would obstruct large trucks vehicles coming

to Chennai Port.

28. Refuting the contention, learned Advocate General submitted that height of the Arch from the floor surface of the road will be 6.50 meters

which is higher than the stipulated mandatory clearance required for these kinds

of structures and the proposed Arch is higher than that of headroom clearance required as per the National Building Code, 2005 and also CMDA's Development Rules. Learned Advocate General placed reliance upon Para 3.4.6.1(d) of National Building Code, 2005 and Item No. 2, Chapter No. 28 of CMDA's Development Rules which reads as follows:-

3.4.6.1(d) of National Building Code, 2005 adequate passage way and clearances required for Firefighting vehicles to enter the premises shall be provided. The width of such entrance shall not be less than 4.50 meters. If an Arch or covered gate is constructed it shall have a clear headroom of not less than 5.0 meters.

Item No. 2, Chapter No. 28 Special Rules of Multistoreyed Buildings, gate pillars without arch or with arch with minimum headroom clearance of 5.50 meters, atleast to a width of 3.50 meters may be permitted.

29. As pointed out earlier, Arch is proposed to be constructed with two pillars located on the pavement of both sides of the road and with opening inside pillars of both sides to facilitate pedestrian movement. The primary object of building the roads is to facilitate vehicles/people to travel from one place to another. The Corporation of Chennai has an obligation to maintain the roads and pedestrian paths for the benefit of general public.

When the Arch is proposed to be constructed in commemoration of Diamond Jubilee Celebrations of Tamilnadu Legislative Assembly just near to Fort St. George where Tamilnadu Legislative Assembly is presently functioning, it cannot be said that the Arch proposed to be constructed would amount to hindrance to public. In the counter, the Government stated that the construction would be carried out in such a manner that it will not have any adverse impact on vehicular movement, safety, security or of access to the surroundings.

Such being the position, the contention of Petitioner that construction of Arch at Rajaji Salai would be a hindrance to the vehicular movement is not sustainable.

30. The learned Advocate General has produced photographs to show that an Arch was constructed just opposite to the Chennai Mofussil Bus

Terminus at Koyambedu to commemorate the completion of 50 years of Legislative Assembly membership of the former Chief Minister and

submitted that the Petitioner has not raised a little finger against the said construction as it was at the instance of his political party. We are not here

to examine the merits or demerits of construction of any such Arches in public place. We are primarily concerned only with the issue whether the

Diamond Jubilee Arch proposed by the State Government would cause difficulties to the people. The Government have already obtained

permission from the Chennai Corporation. There are no materials before us to show that the Corporation has no control over the road in question.

The prayer in the Writ Petition is for a Mandamus restraining the Government from constructing any Arch on Rajaji Salai. There is no question of

issuing a Writ of Mandamus in view of the permission granted by the Chennai Municipal Corporation to the Government to construct the Arch in

question.

31. The Petitioner has no case that there is no structural safeguard in respect of the Arch. Merely because the Arch is proposed on a public road,

it cannot be said that it is dangerous to public or hazardous.

32. Significance of Tamil Nadu Legislative Assembly:-

The Petitioner is comparing the proposed construction of Arch with platforms erected on roads and Arches constructed by private people in

violation of the rules and regulations and without any concern to the possible problems and nuisance on account of such construction to the public

at large. The question is whether the Arch proposed to be constructed to commemorate the Diamond Jubilee Celebrations of the Tamil Nadu

Legislative Assembly should be declared as an objectionable construction without any element of public interest.

33. It is a matter of record that many parts of Andhra Pradesh, Kerala and Karnataka were part and parcel of the then State of Madras. The

Legislative Assembly of the composite Madras State and the subsequently formed Legislative Assembly of Tamil Nadu have been functioning from

1952. The Legislative Assembly witnessed introduction of several landmark legislations, touching the lives of common man. The resolution for

creation of the State of Andhra Pradesh was adopted by the Legislative Assembly during 1953. The State Reorganization Bill was passed in 1956.

Similarly with a view to make Tamil as the official language, Madras Official Language Act was passed by the Legislative Assembly during the year

1956. The Madras State was renamed as State of Tamil Nadu by passing a resolution in the Legislative Assembly in July 1967. Hindu Succession

Act was amended by the Legislative Assembly in May 1989 to give equal rights to women in coparcenary property. Similarly, a historical

legislation was passed by the Legislative Assembly during December 1993 to ensure 69% reservation in education and employment.

34. The Government have taken a decision to celebrate the Diamond Jubilee of the Tamil Nadu Legislative Assembly in a grand manner in the

august presence of Sri. Pranab Mukherjee, the President of India. The Government have also taken a conscious decision to construct an Arch near

Fort St. George, which has been the home of the Assembly, in commemoration of the Diamond Jubilee Celebrations of the Tamil Nadu Legislative

Assembly.

35. As stated earlier, the Legislative Assembly of Tamil Nadu has been echoing the views of the people of the State. The Legislative Assembly

witnessed the introduction of so many socio-economic legislations. The State of Tamil Nadu has been a forerunner in the matter of enacting social

welfare legislations. The Diamond Jubilee Arch can be constructed only in the place where the Legislative Assembly functioned all these years. The

Petitioner would be justified only in case the decision taken by the State Government is to construct a permanent structure by closing the road once

for all or to curtail the pedestrian or vehicular movement in gross violation of statutory provisions.

36. The Government by constructing the Arch has not done anything against public interest. The learned Advocate General is correct in his

submission that the construction of Arch in commemoration of the Diamond Jubilee Celebrations is a tribute to the people of the State. Therefore,

we are of the view that the Petitioner is not justified in his contention that the proposal to construct an Arch at Rajaji Salai would cause hindrance

to the vehicle as well as pedestrian movement and the decision was not in public interest. For the foregoing reasons, the Writ Petition is dismissed.

Consequently, connected M.P. is closed. No costs.
