



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 23.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.1592 of 2018
and
W.M.P. (MD) .No.1680 of 2018

K.M.Subramanian

... Petitioner

Vs.

1. National Highways Authority of India,
88, 8th Floor, Government Office, Annex Building,
Spic House, Mount Road,
Guindy, Chennai, Tamil Nadu-600 032.
2. The Project Director,
National Highways Authority of India,
307, Melur Road, K.K.Nagar,
Madurai, Tamil Nadu 625 020.
3. The Regional Officer,
National Highways Authority of India,
307, Melur Road, K.K.Nagar,
Madurai, Tamil Nadu 625 020.
4. The Tolgate Manager,
Kodai Road Tolgate,
Kodai Road,
Dindigul District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachment, the weighing bridge installed by the respondents in S.No.79 and 273 in the Oruthattu Vilage, Nilakottai Taluk, Dindigul District and further not to put up any construction in the approach road comprised in S.No.79 and 273 by obstructing the petitioner free access from his land in S.NO.272 to the National Highway road comprised in S.No.79.

For Petitioner : Mrs.S.Vijayashanthi
<https://hcservices.ecourts.gov.in/hcservices/>
For Respondents : Mr.C.Arulvadivel @ Sekar
Standing Counsel for NHA

**ORDER**

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mrs.S.Vijayashanthi, learned counsel appearing for the petitioner and Mr.C.Arulvadivel @ Sekar, learned Standing Counsel for the respondents/National Highways Authority of India.

2.The petitioner has filed this writ petition praying for a direction to remove the weigh bridge, which has been installed by the respondents in the National Highways.

3.The learned counsel appearing for the respondents has produced a sketch, from which, it is seen that the weigh bridge has been erected only in the road margin. Further, it is seen that between the National Highways and the petitioner's property, there is a water channel(Odai), which is comprised in Survey No.273. Thus, the stand taken by the petitioner that they have no right of access to the National Highways appears to be factually incorrect.

4.The learned counsel for the petitioner, in the course of argument, would submit that already the weigh bridge has been installed and therefore, the petitioner cannot raise any objection. But there is a proposal to construct a Toilet, which will definitely hinder the interest of the petitioner. As pointed out earlier, the petitioner does not have right of access to the National Highways, even assuming that he has right of access it is subject to the provisions of the Control of National Highways (Land and Traffic) Act, 2002, (hereinafter referred to as 'the Act') comes into play. Section 29 of the Act provides the procedure for obtaining access permission to the National Highways. Therefore, the plea raised by the petitioner cannot be sustained.

5.However, we are concerned about the proposal to construct the toilet. No doubt, it is true, as a part of such proposal, the National Highways are bound to provide such facility in every Toll Plaza and the location of the toilet can always be recited to suit the requirements. Therefore, we are inclined to make these observations because it may affect the petitioners property, but we are more concerned about the water-channel, which is running along with the said National Highways. Admittedly, the area in which, the toll plaza is located will not have underground drainage facility. Therefore, we direct the respondents 2 and 3 to consider the proper location for the proposed toilet, so that it does not affect the water channel and while doing so, it may also be considered that the petitioner may not be prejudiced by locating the toilet right in front of the petitioner's property.

With the above observations, this writ petition is disposed



of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-III)

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/True Copy/

Sub Assistant Registrar

To

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4. The Tolgate Manager,
Kodai Road Tolgate,
Kodai Road,
Dindigul District.

+ 1 cc TO Mr.C.Arul Vadivel @ Sekar , Advocate in SR No. 51090
+ 1 cc TO Mr.R.Suresh Kumar , Advocate in SR No. 50885

Ns

AE/SKN RSK/SAR4/03.04.2018/3P/7C

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