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W.P.No.13520 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.13520 of 2023

T.Kumar

...Petitioner

Vs.

1.The Block Development Officer,
Kilpennathur,
Tiruvannamalai District.

2.The Commissioner,
Panchayat Union,
Kilpennathur,
Tiruvannamalai District.

3.The President,
Somasipadi Panchayat,
Somasipadi,
Tiruvannamalai Taluk and District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing respondents herein, their agents or their men from any way putting up the bus stop in front of the petitioner's property in Natham S.F.Nos.97/10A2, 99/2, 99/30 and 99/32 respectively situate at Somasipadi Village, Kilpennathur Taluk, Tiruvannamalai District.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.J.Ravindran

Additional Advocate General

Assisted by Mr.K.Tippu Sultan

Government Advocate



W.P.No.13520 of 2025

ORDER

The petitioner seeks a writ of mandamus forbearing the respondents from putting up any bus stop in front of petitioners property in Natham S.F.Nos.97/10A2, 99/2, 99/30 and 99/32 situated at Somasipadi Village, Kilpennathur Taluk, Tiruvannamalai District.

2. According to the petitioner, he is an absolute owner of the lands in Survey Nos.97/10A2, 99/2, 99/30 and 99/32. The petitioner proposed to put up residential house in the above said lands and he also filed an application for approval of land before the competent authority. In these circumstances, the 1st and 2nd respondents issued a tender for erection of a bus stop in front of his land. Immediately, the petitioner sent a representation and legal notice to the respondents requesting them not to put up any bus stop in front of his property. In spite of his request, the respondents are taking steps to put up bus stop by calling for tender. It is also the case of the petitioner that if bus stop is put up in front of his lands, it would cause inconvenience to him. As a owner of the land, the petitioner has got every right to have ingress and egress from any point of his land to the public road. The erection of bus stop in front of his land would cause serious prejudice to the legal right available to the petitioner to have access to public road from any point of his property. It is also stated by the petitioner that the frontage of his property is 49 feet and the respondents



have decided to put up bus stop for nearly 40 feet. On these averments, the petitioner has come up with the above writ petition.

3. The 1st respondent herein filed a counter affidavit wherein it is stated that the place in front of the petitioner's property has been used as a bus stop for several years. Now, the respondents are only planning to put up a shelter. It is also stated that the width of the petitioner's property is 49 feet and the respondents proposed to put up construction only to the extent of 24 feet leaving the remaining 25 feet open to the petitioner. It is also stated that by construction of shelter, the right of the petitioner over his property is not at all affected. The proposed construction by the respondent would no way cause hindrance to the access of the petitioner through two gates already put up by him.

4. The right to have access to the public road from every point of petitioners land is a civil right available to the petitioner and the petitioner has got effective remedy before the Civil Court. Whether the construction proposed to be put up by the respondents would cause hindrance to the right of access available to the petitioner or not is a disputed question of law which cannot be gone into conveniently by the writ Court. The right available to the petitioner to have access to public road from each and every point of his property has to be asserted by the petitioner in a properly instituted civil suit.



Therefore, this writ petition is disposed of with liberty to the petitioner to seek appropriate remedy before the Civil Court within a period of two weeks from today. Till then the respondents shall maintain a status quo.

5. It is stated by the learned Additional Advocate General appearing for the respondents that the petitioner has encroached a portion of panchayat land and notice has already been issued to the petitioner to take action against the petitioner in accordance with law. The order passed by this Court will not affect the right of the respondents to act against the petitioner, in accordance with law, in case of any encroachment of the panchayat property.

6. With the above observations, this writ petition stands disposed of. No costs.

13.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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Note: Issue order copy on 14.07.2023.



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S.SOUNTHAR, J.
nr

To

- 1.The Block Development Officer,
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Tiruvannamalai District.
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Kilpennathur,
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