



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

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**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

WP No. 39871 of 2025

1. Dr. M. Dilipan
S/o.Muthaiya, 462A,
R.M.K. Nagar, Elambalur Road,
Perambalur-621212

Petitioner(s)

Vs

1. The District Collector
Perambalur-621 212,
Perambalur District.

2.The Divisional Engineer
(Highways)
Construction And Maintenance,
Perambalur-621 212.

3.The Assistant Divisional Engineer
(Highways)
Construction And Maintenance,
Perambalur-621 212.

Respondent(s)

PRAYER

Calling for the records relating to the impugned order dated 16.10.2025 made in Ku.No. Encroachment / 48/ 2025/ A1 (served on 17.10.2025) issued by the 3rd respondent, quash the same and consequently direct the respondents 1 and 2 to consider the petitioner's petition dated 28.07.2025 for granting permission under Sec.26(2) of the TN Highways Act, 2001 to recognize his right of access from the Highways to reach his property measuring 6 cents in



New SF No.333/10B2, Perambalur North Village, Perambalur Taluk and District.

For Petitioner(s): Mr. N. Manokaran

For Respondent(s): Mr. P.Kumaresan,
Additional Advocate General Assisted By
Mr.S.Senthil Murugan,
Special Government Pleader For Rr1 To 3.

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The present writ petition has been instituted challenging the final order dated 16.10.2025, passed by Assistant Divisional Engineer, for eviction from the encroached portion of the Highway property by invoking provisions of Tamil Nadu Highways Act, 2001.

2. During inspection, Highway authorities found that petitioner has constructed reinforced concrete slab, which would affect the bridge situate in the main road. Action was initiated and an order was passed by Assistant Divisional Engineer in Proceedings, dated 04.08.2025. The said order came to be challenged by the petitioner in W.P.No.31006 of 2025. The Division Bench passed final orders on 18.08.2025, directing the authorities to consider the representation submitted by the writ petitioner on 28.07.2025 by District Collector. Pursuant to the directions, District Collector considered and rejected the request of the petitioner for temporary usage of the Highways property from his patta land. In disobedience, petitioner continued the construction and that apart, learned Additional Advocate General would contend that the entire commercial building is an unauthorized construction, and no building plan



permission has been obtained from the local authority.

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3. Learned counsel for the petitioner would submit that construction of reinforced concrete slab would provide strength to the bridge situated in the main road. Therefore, there is no reason for the authorities to reject the claim.

4. Learned Additional Advocate General appearing on behalf of the respondents would oppose by stating that any construction of reinforced concrete slab will weaken the bridge, already constructed in the Highways road.

5. It is useful to extract the inspection report dated 11.11.2025 by the Divisional Engineer, Highways and Assistant Divisional Engineer, Highways and the said report is extracted as follows,

"7. I humbly submit the inspection report dated 11.11.2025 by the 2nd and 3rd Respondents as follows:

i. "Survey No. 334, located in Perambalur North Village, Perambalur Taluk, Perambalur District is classified in the Revenue Department records as Government Poramboke Pathway.

ii. The Reinforced Cement Concrete (RCC) slab constructed by the petitioner has been laid adjacent to the Thuraiyur-Perambalur Road State Highway at Km 37/6, under the jurisdiction of the Perambalur



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Highways (Construction & Maintenance) Division, on the left side of the bridge (upstream side) within Survey No. 334 of Perambalur North Village. This slab connects the top deck of the bridge and the building under construction by the petitioner situated to the south in Survey No. 334/10B2 (Perambalur North Village).

iii. The bridge consists of two spans of 6.60 meters, with a total length of 22.00 meters, a width of 36.00 meters, a deck slab thickness of 0.55 meters, and a vent height of 2.00 meters.

iv. The RCC slab illegally constructed by the petitioner measures approximately 20.00 meters (north), 22.00 meters (south), 5.20 meters (west), and 3.00 meters (east) covering a total encroached area of about 87.00 square meters, as per the Revenue Department's report.

v. The petitioner's house site measures 14.00 m (north), 21.40 m (south), 18.80 m (east), and 10.80 m (west), with the constructed building itself measuring 13.70 m (north), 19.00 m (south), 16.80m (east), and 8.60 m (west).

vi. The ground level of the petitioner's site and the bed level of the water channel are 2.50 meters below the level of the road on the bridge deck.

vii. Rainwater from the northern part of



Perambalur town flows through the city and enters the bridge vent through a curved shape channel, eventually reaching the Thuraimangalam Lake, which is a major water body maintained by the Water Resources Department (WRD). The said channel is one of the main inflow canals to Thuraimangalam Lake.

viii. The area surrounding the bridge is a central urban zone of Perambalur town, densely occupied by commercial establishments, the municipality office, and residential buildings. The roads leading to the District Collectorate, Thuraimangalam (toward Trichy and Chennai), and Ariyalur (toward Chennai) all branch off from the roundabout near the bridge. The Thuraiyur-Perambalur road passing over the bridge is a six-lane road, while the roads toward Thuraimangalam and Ariyalur are four-lane roads. Because the new bus stand, municipal, and government offices are located nearby, traffic density is very high-over 40,000 vehicles cross this bridge daily. If the bridge is damaged, traffic throughout Perambalur town will be severely affected, causing great hardship to the public.

ix. The RCC slab constructed by the petitioner, connecting the ground floor of the building in Survey No. 334/10B2 to the bridge deck, imposes additional load on the bridge due to the construction materials stored and vehicles parked on it.



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This will adversely affect the load-bearing capacity of the bridge.

*x. Furthermore, since the RCC slab covers the upstream side of the drainage channel, the open water flow path is blocked, preventing regular desilting and maintenance during monsoons. **The curved nature of the stream makes it impossible to remove weeds and debris using machines like JCBs, leading to clogging. If maintenance is hindered, the accumulation of silt and garbage in the channel and bridge vents could result in blockages, causing flooding in low-lying residential areas and serious damage to the bridge and traffic flow. Stagnant waste would also pose health hazards.***

xi. The petitioner's site (Survey No. 334/10B2) is a subdivision of the original Survey No. 334. Upon examining the sale deed, it is recorded as a vacant residential plot. The petitioner applied for building approval from Perambalur Municipality on 17.02.2025, but the application was rejected on 07.10.2025, citing discrepancies between the plot measurements in the document and the layout plan. As of this date, no municipal approval has been obtained.

xii. Further, the Perambalur Municipality issued a notice dated 17.10.2025, declaring the building under construction as unauthorized. No approval has been obtained from the District Town and Country Planning (DTCP) authority either. The Water



Resources Department has also confirmed that no "No Objection Certificate" (NOC) was issued. The Highways Department too has denied permission. Despite this, the petitioner has constructed three floors and is working on the fourth, all without any lawful approval, and in violation of setback regulations, leaving no open space in front as required by building rules.

xiii. The petitioner has approached the Hon'ble Court seeking access road to his building. However, his sale deed clearly specifies the pathway leading to his purchased site; it does not mention any access from the State Highway. Hence, he must use the pathway mentioned in his sale deed to access his property and cannot create a new access route over government land (poramboke) without prior permission.

xiv. Residents behind the petitioner's site currently use an existing 1.80-meter-wide concrete slab pathway located 4.10 meters west of his building for pedestrian access.

xv. It is evident that the petitioner, intending to use the vacant land for commercial purposes, has damaged the highway bridge structure and illegally encroached upon the stream path to create access without obtaining any prior approval.

xvi. Under Section 26(2) of the Tamil Nadu Highways Act, 2001, temporary structures such as



tents, pandals, or storage of construction materials on highways may be permitted upon payment of fees. However, the petitioner permanently encroached on the channel by constructing the RCC slab without prior approval. Accordingly, as per Section 26(2) and the District Collector's order, the Divisional Engineer, Highways, rejected the petitioner's request on 14.10.2025.

xvii. Following the Hon'ble High Court's order and in accordance with Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001, a Final Order dated 17.10.2025 was issued by the 3rd respondent to remove the encroaching RCC slab constructed over the drainage channel in Survey No. 334 (Perambalur North Village)."

9. I humbly submit with respect to the Petitioner's request for access, the report clarifies that his Sale Deed mentions an existing "usual pathway" for his land (S.F. No. 333/10B2), but does not specify any right of access from the State Highway. The petitioner created the RCC connecting slab to access only for commercial use without any proper permission. The department asserts that granting access or permission for such a permanent encroachment would contravene the Tamil Nadu Highways Act, 2001 (and Amendment 2024). Specifically, it is noted that **Section 26(2) allows only for temporary permissions to the period of maximum one year and cannot be applied to a**



permanent, obstructive and dangerous structure.”

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6. Close reading of the inspection report would show that construction made by the petitioner is posing danger to the road users and will weaken the bridge constructed in the main road. The inspection report of the Divisional Engineer is an expert report, and this Court has to consider the same, so as to ensure that safety and security of the public roads. Courts are not expected to substitute its views against expert's reports.

7. In the present case, beyond the construction made by the petitioner in the Highways property, the entire commercial building under construction is unauthorized and in this regard, the Highways authorities shall submit a report to the Commissioner, Municipality, who in turn has to conduct field inspection, ascertain the allegations regarding unauthorized construction made before this Court and initiate all further action by following procedures as contemplated under the law.

8. As far as the reinforced concrete slab is concerned, it is to be removed as per the report submitted by the Divisional Engineer on 11.11.2025 as recorded above, and recover the costs by following the procedures. The petitioner has constructed such reinforced concrete slab without obtaining any permission from the Highways Department and more so, District Collector also rejected his representation. For all these reasons, petitioner is not entitled



for any relief and the respondents/authorities are directed to conclude enforcement actions under Section 28 of the Highways Act as expeditiously as possible in public interest and to protect the interest of the road users and people using service road, bridge etc.,

9. Accordingly, the present writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)
11-12-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No



To
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