



W.P.(MD)No.10979 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.10979 of 2025

and

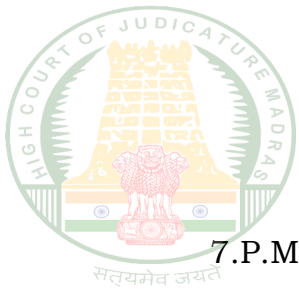
W.M.P.(MD) No.8185 of 2025

Sangari

... Petitioner

vs.

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Regional Director of Municipal Administration,
Regional Municipal Administration Office,
Tirunelveli.
- 3.The Revenue Divisional Officer,
Tenkasi,
Tenkasi District.
- 4.The Commissioner,
Tenkasi Municipality,
Tenkasi.
- 5.The Tahsildar,
Taluk Office,
Tenkasi District.
- 6.The Inspector of Police,
Tenkasi Police Station,
Tenkasi.



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7.P.Mariappan

(R7 has been suo motu impleaded vide
order dated 24.04.2025)

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... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to take appropriate action by implementing the order of the 3rd respondent dated 10.10.2024 pursuant to the reports of the 5th respondent dated 31.01.2024 and 05.09.2024 and remove the obstructions in the pathway which is the subject of said section 133 CrPC proceedings within the time frame fixed by this Court.

For Petitioner	:Mr.V.R.Shanmuganathan
For R1 to R5	:Mr.S.Shaji Bino Special Government Pleader
For R6	:Mr.M.Karunanithi Government Advocate

ORDER

The petitioner seeks for the following relief:-

“Writ of Mandamus, directing the respondents herein to take appropriate action by implementing the order of the 3rd respondent dated 10.10.2024 pursuant to the reports of the 5th respondent dated 31.01.2024 and 05.09.2024 and remove the obstructions in the pathway which is the subject of said section 133 CrPC proceedings within the time frame fixed by this Court.”



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2.It is the claim of the petitioner that the pathway running across T.S.Nos.108 and 109/1 of Ward B, Block 37, Tenkasi Town, Taluk and District is a public pathway. She pleads that proceedings had been initiated under Section 133 of the erstwhile Code of Criminal Procedure. As no final orders had been passed, she had come forward with the present writ petition.

3.Taking into consideration that the plea is of a construction on a public pathway, I directed Mr.S.Shaji Bino, who appears for the respondents 1 to 5 and Mr.M.Karunanithi, who appears for the 6th respondent, to take notice and to come up with instructions. I impleaded the alleged encroacher as 7th respondent to the writ petition and issued notice to him.

4.When I took up the matter today for hearing, Mr.S.Shaji Bino has produced an order of the third respondent in Na.Ka.No.A1/862/2024 dated 28.04.2025 to the effect that the pathway, which the petitioner claims as a public pathway, is not one of that character. The order states that the pathway is one of a private character. Therefore, further proceedings under Section 133 of the Code of Criminal Procedure have been dropped. As the fact finding



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authority has come to a conclusion that the pathway is a private pathway, I am not in a position to grant a Mandamus that the writ petitioner wants.

5.At this stage, Mr.V.R.Shanmuganathan, pleaded that between the petitioner and the private respondent, a suit is pending before the Principal Sub Court, Tenkasi in O.S.No.1015 of 2024 and that in the said suit, the petitioner has taken out an application for mandatory injunction to remove the Grill Gate, which has been put over the pathway.

6.In the light of the above facts, I pass the following order:-

i) The learned Principal Subordinate Judge, Tenkasi, is requested to take up the application for mandatory injunction filed by the petitioner and dispose of the same within a period of 8 weeks from the date of receipt of a copy of this order.

ii) The period of vacation shall stand excluded from the period of 8 weeks mentioned in this order.



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7. With the aforesaid directions, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

28.04.2025

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Note: Registry is directed to issue a copy of this order to the learned Principal Subordinate Judge, Tenkasi.

To

1. The District Collector,
Tenkasi District,
Tenkasi.
2. The Regional Director of Municipal Administration,
Regional Municipal Administration Office,
Tirunelveli.
3. The Revenue Divisional Officer,
Tenkasi,
Tenkasi District.
4. The Commissioner,
Tenkasi Municipality,
Tenkasi.
5. The Tahsildar,
Taluk Office,
Tenkasi District.

5/7



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6.The Inspector of Police,
Tenkasi Police Station,
Tenkasi.



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V. LAKSHMINARAYANAN, J.

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