



W.P.(MD)No.24294 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.11.2025

CORAM:

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.24294 of 2018

and

W.M.P(MD)No.21980 of 2018

M.Ganesan @ Kutti Ganesan

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Municipal Commissioner,
Vickramasingapuram Municipality,
Vickramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.
3. Mr.Ponnambalam,
Municipal Commissioner,
Vickramasingapuram Municipality,
Vickramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 2nd respondent not to construct the bus shelter in front of the property of the petitioner bearing Survey No.525 of Vickramasingapuram Village, Ambasamudram Taluk, Tirunelveli District by blocking the sole access to the property, and pass such further or other orders.

For Petitioner	: Mr.S.S.Thesingan
For R1	: Mrs.D.Farjana Ghoushia Special Government Pleader
For R2	: H.Arumugam

ORDER

The above writ petition has been filed for a mandamus to direct the 2nd respondent not to construct the bus shelter in front of the property of the petitioner bearing Survey No.525 of Vickramasingapuram Village, Ambasamudram Taluk, Tirunelveli District by blocking the sole access to his property.

2. It is the contention of the petitioner that the lands in S.No.525 measuring about 2824.47 Sq.ft originally belonged to his father under a registered Sale Deed dated 22.04.1972. His father has been in exclusive possession and enjoyment of the property since then and on 31.08.2005 executed a registered Will in favour of the petitioner and his brothers.



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3. The petitioner's father passed away on 08.09.2012 and the 'Will' came into effect on the said date. The petitioner would submit that since they were in exclusive possession of the property, the petitioner and his brothers decided to construct a house in the said property.

4. At this juncture, the 2nd respondent decided to construct the bus shelter on the Vickramasingapuram Main Road and despite there being more suitable places else where chose to construct it right in front of the petitioner's property. This decision was taken by the 3rd respondent who is the commissioner of the 2nd respondent owing to a previous enmity between him and the family. The 2nd respondent immediately started work for construction of the bus shelter.

5. The petitioner would submit that if the bus shelter is put up, their access to the property would be totally blocked and they had no other access into their property. The petitioner would further submit that the 2nd respondent was attempting to now proceed hastily with the above construction and immediately on 04.12.2018, the petitioner had addressed



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a representation to the respondents 1 and 2 to not proceed with the construction which representation was not even considered. Therefore, the petitioner is before this Court.

6. It appears that this Court by order dated 29.01.2019, appointed an Advocate Commissioner to inspect the property note down its physical features, measure length and breadth of the bus shelter and the ingress and egress that is available to the petitioner and whether any right of access was obstructed.

7. This Court had passed the above order on account of the fact that the respondents had taken out a defense that the petitioner continued to enjoy 30 feet frontage and there was no question of blocking his property. Pursuant to this order, the Advocate Commissioner has also visited the property in question on 03.02.2019 in the presence of the petitioner's counsel and the staff of the respondents. At the time of the visit, the bus shelter was half constructed. The Advocate Commissioner has opined as follows:-



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“5. In front of the petitioner's vacant site (PQRS in my sketch) the respondent is constructing the disputed new Bus Shelter which prevent the petitioner to approach his property. The distance between the petitioner property and bus shelter is 4 feet (four feet) only. On the eastern side of this property the disputed bus shelter completely prevent the access to the petitioner's vacant site. On the western side the petitioner have only 5 ½ feet access to his property because the roof of the bus shelter at the height of 7 feet prevent any body or vehicle to approach this property.”

8. A mere reading of this together with sketch and photographs submitted by the Advocate Commissioner clearly shows that the petitioner apprehension is justified and in fact the bus shelter would totally prevent access to the petitioner's property. A person owning property adjacent to a road margin is entitled to access the road from any point of their property. It is well open to the respondents to choose another location to put up the bus shelter. Further all these years the bus shelter should have been operated else where as the disputed bus shelter is half finished.



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9. In the light of the above, the writ petition is allowed and the 2nd respondent is restrained from constructing the bus shelter in front of the property of the petitioner bearing S.No.525 of Vickramasingapuram Village, Ambasamudram Taluk, Tirunelveli District. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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