



W.P.(MD)No.21273 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.21273 of 2019

Johncilin Saviour Raj

... Petitioner

-Vs-

**1.The Tahsildar,
Taluk Office,
Thiruvattar,
Kanyakumari District.**

**2.The Executive Officer,
Second Grade Panchayat,
Attur Panchayat,
Kanyakumari District.**

**3.S.Senthilkumar
(R3 is impleaded vide order dated 05.11.2019) ... Respondents**

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to consider the petitioner's representation dated 14.08.2019 and further direct the second respondent to restore the public pathway which runs between Verkilambi Main Road to



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Arulmigu Pathireswari Amman Temple at Pandaraivillai, Attoor by removing its encroachment.

For Petitioner : Mr.V.Rajiv Rufus
For R1 & R2 : Mr.P.Thilak Kumar
Government Pleader

ORDER

(Order of the Court was made by **G.ARUL MURUGAN, J.**)

The writ petition is filed seeking for a direction to the second respondent to restore the public pathway which runs between Verkilambi Main Road to Arulmigu Pathireswari Amman Temple at Pandaraivillai, Attoor by removing its encroachment.

2. The learned counsel for the petitioner contends that the land in pathway that is sought for in the writ petition originally has been gifted in favour of the Panchayat. Though proper registered document had not been executed but still right by the owners has already been passed on to the local body and therefore, the road has been maintained as a public road.

3. The learned Government Pleader appearing for the respondents 1 & 2 contends that in respect of the same issue, the petitioner had already approached the Civil Court, wherein, suit came to be dismissed.



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4. It is to be noted that the petitioner had filed a suit before the Civil Court in O.S.No.36 of 2015 and by judgment and decree dated 02.11.2018 the suit came to be dismissed by categorically recording the finding that the petitioner had not sought for any declaration as against the authorities to declare the road as a public road. The Civil Court has also recorded that if the road has already been used as a public road, even then, it is for the local body and the appropriate Government authority to maintain as a road. Even in the present writ petition filed before this Court the petitioner had not filed a copy of the gift deed to show that the rightful owners have already executed a gift deed in favour of the local body.

5. In view of the above, the petitioner having not established that the private parties have executed the gift deed, whereby, pathway has been gifted to the local authorities, the relief sought for cannot be maintained. Accordingly, the writ petition is dismissed. No costs.

(S.M.S., J.) & (G.A.M., J.)

11.08.2025

NCC : Yes / No

Index : Yes / No

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S.M.SUBRAMANIAM, J.



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