



WP(MD) NO. 24705 of 2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12-09-2025

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE G.R.SWAMINATHAN

WP(MD) NO. 24705 of 2025

and

WMP(MD)No.19409 of 2025

Raja Mohamed M
S/o. Mohamed Yusuf, No.176,
Perumal Malai, Kodaikanal Taluk,
Dindigul District.

Petitioner

Vs

1. The District Collector
Collectorate, Dindigul, Dindigul District.
2. The Block Development Officer
Kodaikanal Panchayat Union, Kodaikanal,
Dindigul District.
3. The Executive Officer
Adukkam Village Panchayat,
Kodaikanal Taluk,
Dindigul District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to remove the shed to put up in front of the petitioner's property in Survey Nos.25/2 and 25/6 situated at Adukkam Village, Perumalmalai, Kodaikanal Taluk, Dindigul District and consequently to forbear the respondents to put up any further construction in the said property detrimental to the ingress and egress of the petitioner's property.



For Petitioner(s): Mr.M. Mohamed Zamil for M/s.Ajmal Associates

For Respondent(s): Mr.S.Kameshwaran, Government Advocate for R3

Mr.B.Saravanan, Additional Government Pleader
for R1 & R2

ORDER

Heard both sides.

2.The petitioner and his brother own about two acres of land in Perumalmalai, Kodaikanal Taluk which is situated very close to the Perumal Malai road intersection. According to the petitioner, the respondents are proposing to construct a toilet in front of his land situated in S.No 25/2 and 25/6. A shed has already been put up. The petitioner alleges that if the construction is allowed to come up, his rights of ingress and egress would be affected. Relying on the decisions reported in **(1987) 1 MLJ 409 (Bharathamatha Desiya Sangam, Madhavaram Vs. Roja Sundaram)** and **(1995) 1 LW 451 (K.V.K.Janardhana Vs. State of Tamil Nadu)**, the learned counsel submitted that the petitioner has the right of access from every point alongside the road.

3.The respondents submit that the District Collector has directed vide order dated 22.04.2025 that Kodaikanal should be totally plastic-free. Hence, a check post has been established at Palani road section in Adukkam Panchayat. A toilet is proposed to be constructed at the spot in question to provide sanitary facility to the staff manning the



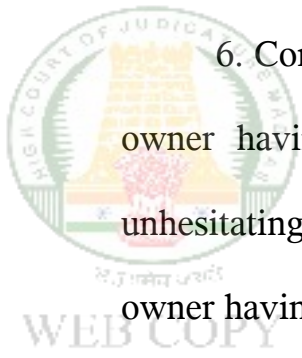
check post. The respondents assert that the construction will not come up in the petitioner's land.

4. I carefully considered the rival contentions and went through the materials on record.

5. The proposition canvassed by the petitioner is found in a textbook (**Mackenzie's Law of Highway Twenty-first Edition at page 58**) in the following terms:-

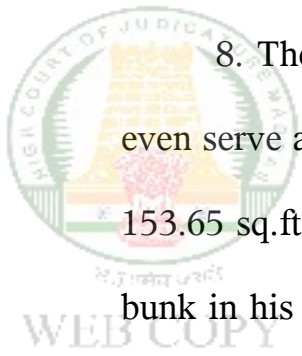
“The owner of land adjoining a highway has a right of access to the highway from any part of his premises. This is so whether he or his predecessors originally dedicated the highway or part of it and whether he is entitled to the whole or some interest in the ground subjacent to the highway or not... The right of the owner of land adjoining a highway to access to or from the highway from or to any part of his land is a private right, distinct from the right to use the highway as one of the public, and the owner of the land whose access to the highway is obstructed may maintain an action for the injury, whether the obstruction does or does not also constitute a public nuisance.”

This was cited with approval in ***Damodara Naidu Vs. Thirupurasundariammal (1972) 2 MLJ 4*** and it was held therein that the plaintiffs are entitled to have access to the public road abutting the suit property free of any obstruction and for a mandatory injunction directing the defendants to remove the wall blocking such entry. In ***Ganapathi Mudaliar Vs. Ponnusami Koundar (1970) 2 MLJ 295***, it was held that the owner of the property adjoining a public street has the right of access to the street. This proposition has been followed even recently in the decision reported in ***2025 (4) CTC 51 (M.N.Prabakaran Vs. Arulmighu Meenakshi Sundareswar Temple)***. There are also decisions of the Lahore and Patna High Courts on the same lines.



6. Coming to the facts on hand, if such a right had been claimed by a house owner having frontage of reasonable length abutting a public road, I would have unhesitatingly allowed the writ petition. Such a right cannot possibly be claimed by a land owner having a very long frontage. What would be too long will have to be decided based on the particular facts and circumstances.

7. The facts on hand partake of different complexion altogether. The petitioner is owning not a small piece of land but over 4 acres having frontage of 114.9 meters. The road in question is located on a hilly terrain. The petitioner's land adjoins a highway. "Highway" as per the definition found in P.Ramanatha Aiyar's Advanced Law Lexicon is a public road open to all members of public. "Highway" also has a technical and statutory definition. Section 2(12) of the Tamil Nadu Highways Act, 2001 means any road, way or land which is declared to be a highway under Section 3 and includes all appurtenant lands. Each of the highways specified in the Schedule to the National Highways Act, 1956 are declared to be a national highway. Access to such highways is statutorily regulated. The Highways Authority can fix the highway boundary, building line and control line. Sections 28 to 30 set out in Chapter IV of the Control of National Highways (Land and Traffic) Act, 2002 deal with the right of access. The common law principle mentioned above would stand superseded when it comes to right of access in respect of highways that have been statutorily declared. It is so because, such right is subject to statutory regulation. Of course, the adjoining land owner is certainly entitled to reach his property from the highway / main road. But he cannot insist that he is entitled to right of access from every point alongside the highway.



8. The toilet is proposed to be constructed under Swachh Bharath scheme and can even serve as a public toilet. It is seen that the total dimension of the construction is only 153.65 sq.ft. The respondents point out that the petitioner is proposing to put up a petrol bunk in his land adjoining a highway at a distance of 70 meters from the toilet site. It is specifically submitted by the respondents that the petitioner can very well reach his land from the highway. It is quite possible that the 4 acre land may be partitioned. But then, the partition must take place in such a way that the individual land holdings are provided pathway right through the access point now available. Recording the stand of the respondents, this writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

12-09-2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
Pmu / Skm

To

1. The District Collector
Collectorate, Dindigul,
Dindigul District.
2. The Block Development Officer
Kodaikanal Panchayat Union,
Kodaikanal, Dindigul District.
3. The Executive Officer
Adukkam Village Panchayat,
Kodaikanal Taluk,
Dindigul District.



WEB COPY



G.R.SWAMINATHA

Pmu/Skm

WP(MD) NO. 24705 of 2025
and
WMP(MD)No.19409 of 2025

12.09.2025