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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

and

THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.P.(MD)No.23307 of 2026

and

W.M.P.(MD).Nos.17361 and 17392 of 2026

K.Pandiselvam

: Petitioner

Vs.

1.The Divisional Engineer (Highways),
Construction and Maintenance,
Thanjavur.

2.The Assistant Divisional Engineer,
Office of Assistant Divisional Engineer,
Highways Department,
Construction and Maintenance,
Pattukkottai Sub Division,
Thanjavur.

3.The Firka Surveyor,
Pattukottai,
Thanjavur District.

: Respondents

Prayer: This petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari and Mandamus, to call for the records relating to the impugned order of the second respondent in K.No.237/Proceedings for removal of Encroachment / 2026 / A1 dated 01.06.2026 quash the same and restore the



survey sketch issued to the petitioner in respect of his property in Survey No. 21A6 measuring 5.1/4 cents, Survey No.21A9 measuring 9 cents and Survey No.33B2 measuring 2/3 cents in all 14.2/3 cents in Chinniah Street, Pattummottai Town and Taluk, Thanjavur.

For Petitioner : Ms.J.Gayathri

For Respondents : Mr.M.Mahaboob Athiff,
Special Government Pleader

ORDER

(Order of the Court was made by **M.DHANDAPANI.J.**)

This writ petition has been filed challenging the impugned proceedings of the second respondent in K.No.237/Proceedings for Removal of Encroachment/2026/A1, dated 01.06.2026, and to quash the same and consequently, to restore the survey sketch issued to the petitioner in respect of his property comprised in Survey No.21A6, measuring 5¼ cents, Survey No. 21A9, measuring 9 cents, and Survey No.33B2, measuring 2/3 cents, in all measuring 14 2/3 cents, situated at Chinniah Street, Pattukkottai Town and Taluk, Thanjavur District.

2. Heard Ms.J.Gayathri, learned counsel appearing for the petitioner and Mr.M.Mahaboob Athiff, learned Special Government Pleader, who takes notice on behalf of the respondents.



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3. By consent of both parties, the writ petition is taken up for final disposal at the stage of admission itself.

4. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the subject property comprised in Survey Nos. 21A6, 21A9 and 33B2, measuring 14 $\frac{2}{3}$ cents in all, situated at Chinniah Street, Pattukkottai Town and Taluk, Thanjavur District, pursuant to the sale deed dated 27.11.2006. However, the respondents have come to a conclusion that the petitioner has encroached upon a portion of the Government land and, without issuing a show-cause notice as contemplated under Section 28 of the relevant Act, have straightaway passed the impugned eviction order dated 01.06.2026. He would further submit that the impugned order has been passed in clear violation of the principles of natural justice and the mandatory procedure contemplated under Section 28 of the Act. Hence, this Court may set aside the impugned order and direct the respondents to issue a proper show-cause notice to the petitioner and afford him an opportunity to submit his explanation along with all necessary documents, including the FMB sketch, to establish that there is no encroachment on the Government land.

5. The learned Special Government Pleader appearing for the respondents would submit that though no formal show-cause notice was issued



under Section 28 of the Act, the petitioner was orally informed with regard to the alleged encroachment made by him. Thereafter, the petitioner submitted his explanation and upon considering the same, the impugned order came to be passed. Hence, the learned Special Government Pleader would pray for dismissal of the writ petition.

6. This Court has considered the submissions made on either side and perused the materials available on record.

7. The fact remains that the impugned order dated 01.06.2026 has admittedly been passed without issuing a show-cause notice to the petitioner. Section 28 of the Act mandates issuance of a show-cause notice to the alleged encroacher and affords him an opportunity to submit his objections/explanation within the stipulated period of seven days. In the present case, the said mandatory requirement has admittedly not been complied with by the respondents. An oral intimation cannot be construed as compliance with the statutory requirement of issuance of a show-cause notice.

8. In view of the above, this Court is of the considered view that the impugned proceedings of the second respondent cannot be sustained and the same is liable to be set aside on the ground of violation of the mandatory statutory procedure and principles of natural justice.



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9. Accordingly, the impugned proceedings of the second respondent in K.No.237/Proceedings for Removal of Encroachment/2026/A1, dated 01.06.2026, is set aside. The petitioner is directed to treat the impugned order as a show cause notice and submit his explanation, along with all relevant documents, including the sale deed, FMB sketch and other revenue records, within a period of one week from the date of receipt of a copy of this order. Upon receipt of such explanation and documents, the second respondent shall consider the same, conduct a proper enquiry, if necessary, and pass a fresh order on merits and in accordance with law, after affording due opportunity of hearing to the petitioner.

10. The writ petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

[M.D.I.,J] [N.D.K.,J]
13.08.2026

Index:Yes/No
Internet:Yes/No
TSG

To
1.The Divisional Engineer (Highways),
Construction and Maintenance,
Thanjavur.



2. The Assistant Divisional Engineer,
Office of Assistant Divisional Engineer,
Highways Department,
Construction and Maintenance,
Pattukkottai Sub Division,
Thanjavur.

3. The Firka Surveyor,
Pattukottai,
Thanjavur District.



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**M.DHANDAPANI, J
AND
N.DILIP KUMAR, J**

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