



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2017**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.18201 of 2017
and
W.M.P. (MD) .No.14647 of 2017

Masjideen Noor Jumma Mosque,
Rep. by its President,
Kamal Basha, Near Annasalai,
Thiruppathur Town & Taluk,
Sivagangai District.

.. Petitioner

Vs.

The Assistant Divisional Engineer,
Highway (Construction & Maintenance),
Thiruppathur Town & Taluk,
Sivagangai District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent pertaining to its proceedings in Na.Ka.No.35/2017-18/Ka, dated 22.08.2017 and quash the same.

For petitioner : Mr.N.Balakrishnan

For respondent : Mr.M.Govindan
Special Government Pleader

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this Writ Petition challenging the order dated 22.08.2017, on the file of the respondent, directing removal of encroachment.

2. According to the petitioner, the subject property is in the possession of the mosque, pursuant to the order to grant patta. However, notwithstanding the factual position, the respondent initiated proceedings for eviction and that too, without issuing notice to the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

3. We have heard the learned counsel appearing for the



petitioner. We have also heard the learned Special Government Pleader appearing for the respondent.

4. The impugned order does not contain any indication that prior notice was issued to the petitioner. The impugned order would involve civil consequences and as such, the petitioner should have been given prior notice.

5. We are, therefore, of the view that the impugned order should be treated as a notice so as to enable the petitioner to submit its response.

6. The order dated 22.08.2017 is treated as a notice issued by the respondent. The petitioner is given time till 13.10.2017 for filing objection. The respondent shall consider the objection and pass appropriate orders on merits. The question of removal of encroachment would depend upon the ultimate orders to be passed by the respondent.

7. The Writ Petition is disposed of, with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

The Assistant Divisional Engineer,
Highway (Construction & Maintenance),
Thiruppathur Town & Taluk,
Sivagangai District.

+ 1 cc TO Mr.N.Balakrishnan , Advocate in SR No. 80679
+1cc to The Special Government Pleader in SR.No.81114

NB

AE/KK/SAR3/12.10.2017/2P/4C

**ORDER MADE IN
W.P. (MD) No.18201 of 2017
and
W.M.P. (MD) .No.14647 of 2017
22.09.2017**