



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.10.2017

CORAM:

**THE HONOURABLE MR. JUSTICE M. VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No. 19850 of 2017

and

W.M.P. (MD) Nos. 16112 and 16113 of 2017

M. Ramasamy : Petitioner

-Vs-

1. The Divisional Engineer,
Highways,
Construction & Maintenance,
O/o. The Divisional Engineer,
Theni,
Theni District.

2. The Assistant Divisional Engineer,
Highways,
Construction & Maintenance,
O/o. The Assistant Divisional Engineer,
Andipatti,
Theni District.

3. The Assistant Engineer,
Highways,
Construction & Maintenance,
O/o. The Assistant Divisional Engineer,
Andipatti,
Theni District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice passed by the 2nd Respondent in his Proceedings in Ka.No. 2363/2017/21, dated 30.09.2017 and quash the same as illegal.

For Petitioner
For Respondents

: Mr. M. A. M. Raja
: Mr. M. Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by **M. VENUGOPAL, J.**]

<https://hcservices.courts.gov.in/hcservices/>
Mr. M. Govindan, Learned Special Government Pleader, takes
notice for the Respondents.



2. Heard both sides. No counter is filed on behalf of the Respondents.

3. By consent, the main Writ Petition itself is taken up for final disposal.

4. According to the Petitioner, he had purchased the land in Survey No.407/2 measuring an extent of 1249-1/2 Square Feet (middle portion) out of 1 Acre 42 Cents in T.Subbulapuram Village, Andipatti Taluk, Theni District, by means of a Sale Deed dated 08.12.1995. Further, he had constructed a house and is residing with his family till now. The specific case of the Petitioner is that the Respondents are carrying out the construction of Drainage Work in both sides of the Road and that the second Respondent surveys the Road belonging to the Highways with the help of Andipatti Taluk Surveyor and Survey was also carried out and mark was made beyond his building limits earlier. Also, during his absence, the Respondents once again made another mark in his building, which is his patta land, in which his house was constructed. This was done by the second Respondent only as an afterthought action and it was also with an inducement of his neighbour, who is powerful man in the local political source. Thereafter, the Petitioner had approached the second Respondent, who had issued the impugned notice dated 30.09.2017 and also informed him to remove the construction upto the second marked level in between the period from 13.07.2017 to 20.09.2017. Before the first Respondent, he had submitted documents and narrated the entire facts and also produced the photographs showing the previous survey mark. In fact, the Respondents had never cared about it and they told him that they would act according to the impugned notice issued. Hence, the Petitioner has filed the present Writ Petition before this Court.

5. It comes to be known that the Petitioner has not submitted his explanation to the notice dated 30.09.2017 issued to him. At this stage, this Court is of the view that the Petitioner is to submit his explanation to the notice dated 30.09.2017 issued by the second Respondent. Therefore, two weeks time is granted by this Court to the Petitioner to offer his remarks/objections before the concerned authority for the notice dated 30.09.2017. Soon after receipt of the explanation/objections from the Petitioner within the time adumbrated by this Court, the second Respondent is directed to look into the explanation/objections of the Petitioner and if there is substance in the contents of the objections to be projected by the Petitioner, then, it is incumbent on the part of the second Respondent to pass a reasoned speaking order on merits, of course, after providing necessary reasons. The Petitioner and Others concerned, by adhering to the Principles of Natural Justice, within a period of four weeks thereafter. It is open to the Petitioner to raise all factual and



legal pleas and also to produce necessary documents before the second Respondent, who, shall take into account of the same and advert to the factual and legal pleas to be made by the Petitioner, at the time of passing the final orders in question.

6. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Divisional Engineer,
Highways,
Construction & Maintenance,
O/o. The Divisional Engineer,
Theni, Theni District.
- 2.The Assistant Divisional Engineer,
Highways,
Construction & Maintenance,
O/o. The Assistant Divisional Engineer,
Andipatti,
Theni District.
- 3.The Assistant Engineer,
Highways,
Construction & Maintenance,
O/o. The Assistant Divisional Engineer,
Andipatti,
Theni District.

+1cc to Mr.M.A.M.RAJA,Advocate,SR.84137
+1cc to M/S.Special Government Pleader,SR. 84544

W.P. (MD)No.19850 of 2017
Dated: 30.10.2017

SML
KK/SV MMS/SAR 2/31.10.2017/ 3P- 6C