



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.05.2017

CORAM:

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD)Nos.9482, 9485, 9625, 9623,
9624, 9483 and 9484 of 2017
and connected WMP's

V.Maruthamuthu	... Petitioner in WP(MD)No.9482/2017
M.Savari	... Petitioner in WP(MD)No.9485/2017
A.Maruthappan	... Petitioner in WP(MD)No.9625/2017
V.Arul Selvarani	... Petitioner in WP(MD)No.9624/2017
M.Subramaniam	... Petitioner in WP(MD)No.9623/2017
Pechiraja	... Petitioner in WP(MD)No.9483/2017
M.Kolusammal	... Petitioner in WP(MD)No.9484/2017

Vs.

1.The Divisional Engineer,
Highways Department (Construction & Maintenance),
Ramanathapuram District.

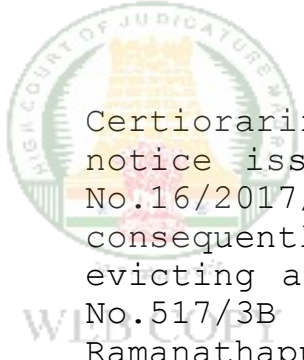
2.The Assistant Divisional Engineer,
Highways Department (Construction & Maintenance),
Mudukulathoor Taluk,
Ramanathapuram District.

3. The Thasildar,
Kadaladi,
Ramanathapuram District. ... Respondents in all WP's

PRAYER IN WP(MD)No.9482/2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the notice issued by the second respondent in the proceedings in Memo No.16/2017/A2 dated 08.05.2017 and quash the same as illegal and consequently forebear the respondents from any way dispossessing, evicting and demolishing the petitioner's house situated in Survey No:1037/23 at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth his case.

Prayer in WP(MD). 9485/ 2017 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of



Certiorarified Mandamus to call for the records relating to the notice issued by the 2nd respondent in his proceedings in Memo No.16/2017/A 2 Dated 08.05.2017 and quash the same as illegal and consequently forebear the respondents from any way dispossessing evicting and demolishing the petitioners house situated in Survey No.517/3B at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth his case.

Prayer in WP(MD). 9625/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 2nd respondent in his proceedings in Memo No.16/2017/A 2 Dated 08.05.2017 and quash the same as illegal and consequently forebear the respondents from any way dispossessing evicting and demolishing the petitioners house situated in Survey No.577/3 at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth his case.

Prayer in WP(MD). 9623/ 2017 :

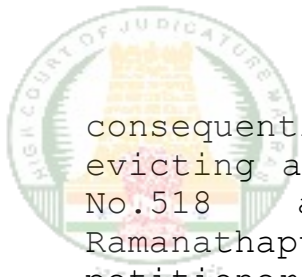
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 2nd respondent in his proceedings in Memo No.16/2017/A 2 Dated 08.05.2017 and quash the same as illegal and consequently forebear the respondents from any way dispossessing evicting and demolishing the petitioners house situated in Survey No.1037/23 at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth his case.

Prayer in WP(MD). 9624/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 2nd respondent in his proceedings in Memo No.16/2017/A 2 Dated 08.05.2017 and quash the same as illegal and consequently forebear the respondents from any way dispossessing evicting and demolishing the petitioners house situated in Survey No.518 at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth her case.

Prayer in WP(MD). 9483/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 2nd respondent in his proceedings in Memo No.16/2017/A 2 Dated 08.05.2017 and quash the same as illegal and



consequently forebear the respondents from any way dispossessing evicting and demolishing the petitioners house situated in Survey No.518 at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth his case.

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Prayer in WP(MD). 9484/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 2nd respondent in his proceedings in Memo No.16/2017/A 2 Dated 08.05.2017 and quash the same as illegal and consequently forebear the respondents from any way dispossessing evicting and demolishing the petitioners house situated in Survey No.1037/23 at S.Tharaikudi Village, Mudukulathoor Taluk, Ramanathapuram District without affording opportunities to the petitioner to put forth her case.

For Petitioners	: Mr. R.Gandhi
For Respondents	: Mr. V.R.Shanmuganathan Special Government Pleader

C O M M O N O R D E R

Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents.

2. By consent of parties, the main Writ Petitions are taken up for final disposal.

3. The petitioners averred in the affidavit among other things that the second respondent has directly passed an order for removal of encroachment without issuing notice or opportunity of hearing as contemplated under Section 28(2) of Tamilnadu Highways Act, 2001. The petitioners have been in possession and enjoyment of the property for more than 50 years and the properties were assessed with house tax and electricity connections were given and it is not proper on the part of the respondents to demolish the building as an encroachment without giving an opportunity to the petitioners and therefore, the impugned order is liable to be set aside.

4. Considering the fact that the second respondent has passed the impugned order without issuing notice to the petitioners, which is in violation of principles of natural justice, the impugned order passed by the second respondent dated 08.05.2017 is set aside and the same is set aside. The matter is remanded back to the authorities concerned and the said authorities are directed to give personal opportunity to the



petitioners as well as the necessary parties and pass orders on merits and in accordance with law and the said exercise shall be done by the respondents within a period of eight weeks from the date of receipt of copy of this order.

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5. In the result, this writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSIII)

/True Copy/

Sub-Assistant Registrar

To

1. The Divisional Engineer, Highways Department (Construction & Maintenance), Ramanathapuram District.

2. The Assistant Divisional Engineer, Highways Department (Construction & Maintenance), Mudukulathoor Taluk, Ramanathapuram District.

3. The Thasildar, Kadaladi, Ramanathapuram District.

+One cc to The Special Government Pleader, SR.No.57431

+One cc to The Special Government Pleader, SR.No.57342

+One cc to M/s.R.Gandhi, Advocate, SR.No.57100

+One cc to M/s.R.Gandhi, Advocate, SR.No.57106

+One cc to M/s.R.Gandhi, Advocate, SR.No.57105

+One cc to M/s.R.Gandhi, Advocate, SR.No.57104

+One cc to M/s.R.Gandhi, Advocate, SR.No.57103

+One cc to M/s.R.Gandhi, Advocate, SR.No.57102

+One cc to M/s.R.Gandhi, Advocate, SR.No.57107

CM/MR/KM

RL/13c/4p/MMS/SAR1/1.6.2017

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