



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.SASIDHARAN**

AND

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. [MD].No.17212 of 2013

and

M.P. (MD)No.1 of 2013

Veerammal

: Petitioner

Vs.

The Assistant Divisional Engineer,
Office of Assistant Divisional Engineer,
National High Ways, 19 A Jawahar Street,
Ghandhi Nagar, Madurai-20.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondent in any way demolishing the building bearing Survey No.108/12, bearing door No.7/179, Theni Main Road, Nagamalai Pudukkottai, Madurai in pursuant to the encroachment notice dated: 04.10.2013 issued under Section 26 (2), National Highways Authority (Land and Transport) Act, 2002.

For Petitioner : Mr.PT.S.Narendravasan

For Respondent : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

O R D E R

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

The respondent passed the eviction order without issuing prior notice to the petitioner. The petitioner, without challenging the said order, filed this Writ Petition for a Mandamus, forbearing the respondent from taking action.

2. The order passed by the respondent does not contain any indication that prior notice was issued to the petitioner. The respondent violated the principles of natural justice, while passing the impugned order.

3. Even though there is no challenge to the eviction order, still the same cannot be sustained, as it was passed without following due process. We are, therefore, of the view that the matter requires fresh consideration by the respondent.



4. The respondent is at liberty to issue notice to the petitioner and thereafter, decide the issue on merits and as per law.

5. The Writ Petition is allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

The Assistant Divisional Engineer,
Office of Assistant Divisional Engineer,
National High Ways, 19 A Jawahar Street,
Gandhi Nagar, Madurai-20.

+1 CC to M/s.PT.S.NARENDRAVASAN, Advocate, SR No. 63861

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 64436

SML/MYR

PSM/SV/SAR2/21.07.2017/2P/4C

Order made in
W.P. [MD].No.17212 of 2013
Dated: 06.07.2017