



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2018

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE T.RAJA**  
**AND**  
**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P(MD)No.22449 of 2018  
and W.M.P. (MD) No.20313 of 2018

Gunasekaran

... Petitioner

**vs.**

1. The District Collector,  
Theni District,  
Theni.
2. The Tahsildar  
Andipatti  
Theni District.
3. The Divisional Engineer,  
Highways Department  
Construction and Maintenance  
Theni District.
4. Assistant Divisional Engineer,  
Highways Department  
Construction and Maintenance  
Kadamalaigundu, Andipatti  
Theni District.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the fourth respondent in issuance of impugned notice vide கு.எண்.ஆக்சிரமிப்பு/2018/அ1 நாள் 01.10.2018 and quash the same as illegal and thereby forbear the respondents from in any manner proceeding to demolish a portion of the property comprised in Survey No.1614/9 situated at Subbiahnaicker Street, Kadamalaigundu, Andipatti Taluk, Theni District without following the provisions of the Tamil Nadu Panchayats Act, 1994 and Tamil Nadu Land Encroachment Act.

For Petitioner

: Mr.K.Kevinkaran

For Respondents

: Mr.C.Ramar

Additional Government Pleader

**ORDER****(Order of the Court was made by T.RAJA, J.)**

The present writ petition is directed against the impugned proceedings dated 01.10.2018 issued by the fourth respondent calling upon the petitioner to remove the encroachment made on the highways.

2.Learned counsel for the petitioner, assailing the impugned order, drawing our notice to the same, submitted that when the petitioner has put up his construction in his own land, without there being any notice calling upon the petitioner to submit his explanation for removal of encroachment, the respondents informed the petitioner to evict from the land in question. It is further submitted that there is no measurement has been made. Therefore, he is aggrieved by the same.

3.Learned Additional Government Pleader submitted that survey and measurement have already been made and only thereafter, the present impugned notice has been issued, after noticing that the petitioner has encroached the highway road.

4. Be that as it may, since the action notice has been issued, without issuance of any prior notice to the petitioner, both the petitioner as well as the respondents are directed to treat the impugned proceedings dated 01.10.2018 as a show cause notice, calling upon the petitioner to submit his explanation and the petitioner is given two weeks time to submit his explanation from today and on receipt of the explanation/objection from the petitioner, if any, the fourth respondent shall consider and pass appropriate orders.

5. With the above observation, this writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

**To**

1. The District Collector,  
Theni District,  
Theni.

2. The Tahsildar,  
<https://hcservices.ecourts.gov.in/hcservices/>  
Andipatti,  
Theni District.



3. The Divisional Engineer,  
Highways Department  
Construction and Maintenance  
Theni District.

4. Assistant Divisional Engineer,  
Highways Department  
Construction and Maintenance  
Kadamalaigundu, Andipatti  
Theni District.

+ 1 CC TO Mr.K.KEVIN KARAN, ADVOCATE IN SR No. 94135  
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 94444

RR

TE/PM/SAR-1 : 13/12/2018 : 3P/7C

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