



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P. (MD) No.6713 of 2019
and W.M.P. (MD) Nos.5359 and 5360 of 2019

Leela Rajan : Petitioner

Vs.

The Assistant Divisional Engineer,
National Highways
Construction and Maintenance
Trichy : Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records in connection with the impugned notice of the respondent in Notice/Encroachment/2019/A2 dated 06.03.2019 and quash the same.

For Petitioner : Mr.K.K.Senthil
For Respondent : Mr.V.R.Shanmuganathan
Special Government Pleader

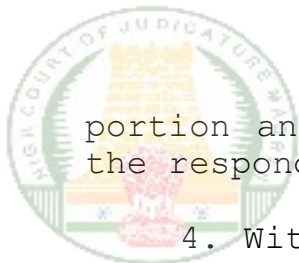
ORDER

B. PUGALENDHI, J

Challenging the impugned order of eviction issued by the Assistant Divisional Engineer, dated 06.03.2019, under Section 28 (2) of the Tamil Nadu Highways Act, 2001 (hereinafter referred to as 'the Act'), this petition has been filed.

2.The case of the petitioner is that Section 28(2) of the Act mandates a show cause notice to be issued before ordering for removal of any immovable structure. However, the respondent has not followed the statutory provisions contemplated under Section 28(2) of the Act. Though the impugned order reads that the petitioner was orally informed and also informed by way of notice, there is no reference about the same in the impugned notice.

3.Be that as it may, the petitioner shall treat the impugned order as a show cause notice and give his reply to the respondent within a period of seven days from the date of receipt of a copy of this order and on receipt of the said reply, the respondent shall conduct a survey with regard to the encroachment and mark the



portion and act in accordance with law thereafter. Till such time, the respondent shall maintain status quo.

4. With the above direction, this writ petition is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Assistant Divisional Engineer,
National Highways
Construction and Maintenance
Trichy

+1cc to Mr.K.K.Senthil, Advocate, SR.No.55711

Order made in
W.P. (MD) No.6713 of 2019
21.03.2019

SP/21.03.2019/ 2P/3C