



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.07.2019**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU  
AND  
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P (MD) NO.9535 OF 2019  
and  
W.M.P (MD) No.7506 of 2019

K.Dharmaraj,  
Son of Krishnasamy,  
No.2/99, Rohini Hotel,  
Valli Mill Opposite,  
Venkateswarapuram,  
Subbiahpuram Post,  
Sattur Taluk,  
Virudhunagar District.

:Petitioner

.vs.

The Deputy Manager(T) & Project Director,  
Project Implementation Unit,  
National Highways Authority of India,  
Madurai.

: Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned notice, dated 8.3.2019 issued by the respondent for removing the sand which levelling the height of the drainage to road surface in front of Petitioner's Hotel at KM CH:90+400(RHS) of Madurai-Kanyakumari Section of NH 7 in Venkateswarapuram Village, Virudhunagar District.

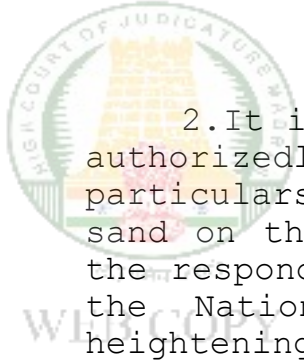
For Petitioner  
For Respondent

:Mr.S.Mahalakshmi  
:Mr.C.Arul Vadivel @ Sekar

### O R D E R

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

The Petitioner is aggrieved against the notice, dated 8.3.2019 issued by the respondent under Section 26(2) of the Control of National Highways(Land and Traffic)Act,2002, wherein and whereby, the Petitioner was called upon to remove the unauthorized occupation within a week from the date of receipt of the said notice.



2.It is stated in the said notice that the Petitioner has unauthorizedly occupied the land belonging to National Highways, particulars of which is referred to in the notice, by dumping more sand on the Service Road. In other words, it is the contention of the respondent that the Petitioner wants to have access directly to the National Highways from his premises by levelling and heightening the Service Road from his premises to the National Highways.

3.Heard the learned counsel for the Petitioner and the learned counsel appearing for the respondent/National Highways. We also perused the materials placed before this Court including the photographs showing the National Highways as well as the Service Road in front of the Petitioner's premises.

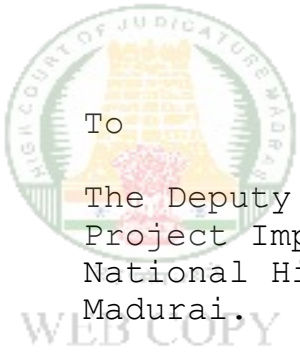
4.It is seen that in between National Highways and the way measuring 9.4 meters, a drainage width of 1.2 meters is constructed. Now, the way measuring 9.4 meters lying adjacent to the Petitioner's premises is sought to be raised by the Petitioner by putting up some sand, so as to level the same to have access to the main carriage namely, the National Highways. In effect, the Petitioner wants to have direct access from the National Highways to his premises. If the Petitioner is seeking to have access to the National Highways from his premises, there are ways and means provided under the guidelines issued by the Ministry of Road Transport and Highways, dated 24.7.2013, wherein, specific guidelines for access permission to properties( excluding fuel stations) along National Highways, is provided. Therefore, it is for the Petitioner to work out such course of action by following the procedures issued under the said guidelines. Without doing so, the Petitioner is not entitled to take action on his own to level the road by putting up soil to have access to the National Highways straight-away. Therefore, we find that the present challenge in the Writ Petition as against the impugned notice, cannot be sustained. However, it is open to the Petitioner to make a representation before the concerned authority to have access to his premises from the National Highways, as per the above-said guidelines. If any such application is made, the same shall be considered by the authorities and pass appropriate orders on merits and in accordance with law.

5.The Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-  
Assistant Registrar (AD-I)

/TRUE COPY/

Sub Assistant Registrar



To

The Deputy Manager(T) & Project Director,  
Project Implementation Unit,  
National Highways Authority of India,  
Madurai.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate ( SR-77023[F] dated  
23/07/2019 )

+1 CC to M/s.S.MAHALAKSHMI, Advocate ( SR-77347[F] dated  
24/07/2019 )

ORDER MADE IN  
W.P (MD) NO.9535 OF 2019  
and  
W.M.P (MD) No.7506 of 2019  
23.07.2019

VSN  
JM/31.07.2019/3P-4C