



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.16524 OF 2021

AND

W.M.P.NO.17490 OF 2021

V.Elango

.. Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by its Secretary,
Highways and Minor Ports Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector,
Vellore District,
Vellore,
Tamil Nadu.
- 3.Tahsildar,
Gudiyatham,
Vellore District,
Tamil Nadu.
- 4.Divisional Engineer,
Operation and Maintenance,
Highways Department,
Vellore,
Tamil Nadu.
- 5.The Sub-Divisional Engineer,
Operations and Maintenance,
Highways Department,
Gudiyatham Taluk,
Vellore District.



6. Junior Engineer,
Operation and Maintenance,
Highways Department,
Gudiyatham, Vellore,
Tamil Nadu.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order dated 27.07.2021 in Na.Ka.No.428/2019/0o by the 5th respondent and quash the same and consequently, forbearing the respondents from evicting or interfering or disturbing with the peaceful possession and enjoyment of the petitioner's property situated at Door No.50A, Kallapadi Village, Gudiyattam Taluk, Vellore District except by following the due process of law.

For petitioner : Mr.S.Saravanakumar

For respondents : Mr.K.V.Sajeevkumar,
Govt. Counsel

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

This writ petition has been filed challenging the order issued by the fifth respondent, dated 27.07.2021, in Na.Ka.No.428/2019/0o, wherein a direction is issued to the petitioner to remove the encroachment made in the land belongs to the Highways Department.

2.The learned counsel appearing for the petitioner Mr.S.Saravanakumar would submit that though the fifth respondent has competency to pass the impugned order, but it came to be passed without issuing show-cause notice and without providing an opportunity to the petitioner. It is also stated that the petitioner sent a detailed representation, dated 30.07.2021, but it was not considered by the fifth respondent. According to the learned counsel, principles of natural justice has not been followed in this case.

3.We have heard Mr.K.V.Sajeevkumar, learned Government Counsel appearing for the respondents.



4.Perusal of the records would reveal that the impugned order was passed by the fifth respondent without affording an opportunity to the petitioner. In the representation dated 30.07.2021, though the petitioner seeks for an opportunity to submit his explanation, the learned counsel submitted that it can be taken as reply of the petitioner. Since the impugned order has been issued in violation of the principles of natural justice, it can be treated as show-cause notice and the petitioner's representation dated 30.07.2021 shall be treated as reply to the impugned order.

5.Hence, the fifth respondent shall pass orders afresh on merits and in accordance with law, after providing opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. Till then, status quo is to be maintained.

6.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

skn

To

1. The Secretary,
Highways and Minor Ports Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Vellore District,
Vellore,
Tamil Nadu.
3. The Tahsildar,
Gudiyatham,
Vellore District, Tamil Nadu.
4. The Divisional Engineer,
Operation and Maintenance,
Highways Department,
Vellore, Tamil Nadu.



5. The Sub-Divisional Engineer,
Operations and Maintenance,
Highways Department,
Gudiyatham Taluk,
Vellore District.

6. The Junior Engineer,
Operation and Maintenance,
Highways Department,
Gudiyatham, Vellore,
Tamil Nadu.

+1cc to Mr.S.Saravanakumar, Advocate, S.R.No.41972

+1cc to the Government Pleader, S.R.No.42646

W.P.No.16524 of 2021

GPL(CO)
RLP(22/09/2021)