



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2021

CORAM

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**W.P. (MD)No.94 of 2021
and
W.M.P. (MD)No.98 of 2021**

D.Pushpa

... Petitioner

Vs.

1.The Divisional Engineer,
National Highways,
Subramaniyapuram,
Trichy - 20.

2.The Assistant Divisional Engineer,
National Highways,
Subramaniyapuram,
Trichy - 20.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of the second respondent, dated 15.12.2020 and quash the same.

For Petitioner : Mr.J.Anandkumar

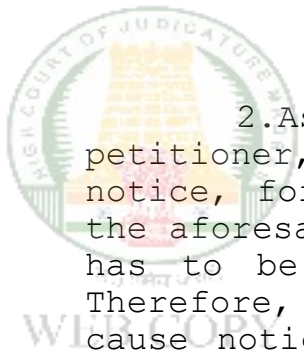
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

* * * * *

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has been issued with the show cause notice, dated 15.12.2020, asking her to show cause as to why the encroachment said to have been made by her shall not be removed. On receipt of the said show cause notice, the petitioner gave replies on 16.12.2020 and 02.01.2021. Without considering the said cause shown by the petitioner, the respondents are proceeding to demolish the un-authorized construction and remove the encroachments. Under those circumstances, the present Writ Petition has been filed.



2.As rightly submitted by the learned counsel for the petitioner, the notice, dated 15.12.2020, is only a show cause notice, for which, replies have been given by the petitioner. Once the aforesaid notice is termed as a show cause notice, a final order has to be passed by considering the replies of the petitioner. Therefore, the notice, dated 15.12.2020, cannot be termed as show cause notice as well as final order. Perhaps, respondent No.2 has considered it to mean that it is an intimation for the petitioner to remove the encroachments. This is not the correct understanding of the notice issued. The very nomenclature of the notice itself shows that it is a show cause notice. In such view of the matter, the misconception, leading to dispossession of the petitioner after removing the construction put up her, cannot be legally sustained.

3.In such view of the matter, respondent No.2 is directed to pass appropriate final orders on merits and in accordance with law on the replies given by the petitioner within four weeks from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken by the respondents.

4.The Writ Petition is disposed of with the above direction. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AD-II)

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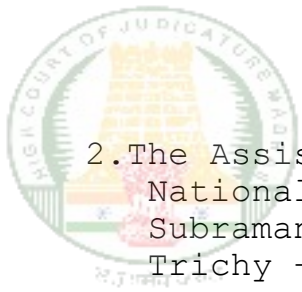
Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Divisional Engineer,
National Highways,
Subramaniyapuram,
Trichy - 20.



2.The Assistant Divisional Engineer,
National Highways,
Subramaniyapuram,
Trichy - 20.

WEB COPY

+1 CC to SGP (SR-228[F] dated 06/01/2021)

W.P. (MD)No.94 of 2021

05.01.2021

MK (CO)

NR (19/01/2020) 3P : 4C