



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.896 of 2021
and W.M.P. (MD) No.755 of 2021
(Through Video Conferencing)

Thangamuthammal : Petitioner
Vs.

1.The Assistant Divisional Engineer,
Highways and Rural Works,
(Maintenance), Radhapuram
Tirunelveli District.

2.The Junior Engineer
Highways, Radhapuram,
Tirunelveli District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned show cause notice No.68-2/Encroach/2020/A1 dated 04.01.2021 of the 1st respondent and to quash the same.

For Petitioner : Mr.J.Ashok

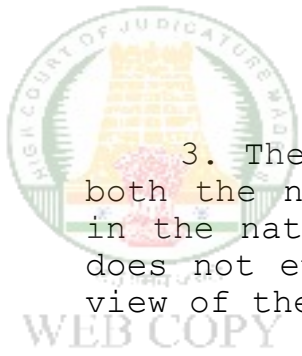
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

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

The petitioner has come forward to challenge the impugned notice dated 04.01.2021, by which, the petitioner was asked to remove the encroachments, failing which, proper action will be taken.

2. On perusal of the records, it is seen that even on an earlier occasion, the petitioner was issued with a show cause notice dated 15.12.2020. Even in the said notice, the petitioner was asked to remove the encroachment. In fact, only thereafter the petitioner made a representation on 29.12.2020.



3. The learned counsel for the petitioner submitted that though both the notices dated 15.12.2020 and 04.01.2021 indicate they are in the nature of show cause notices, the subsequent impugned order does not even refer to the reply given by the petitioner. In such view of the matter, the order requires interference.

4. The learned Special Government Pleader appearing for the respondent No.2 submitted that only in pursuant to the earlier notice, the second one was issued. There is admittedly an encroachment on the part of the petitioner.

5. We are not inclined to go into the factual adjudication, as it is for the respondent No.1 to take appropriate action, after considering the representation/reply given by the petitioner.

6. In such view of the matter, while treating the impugned show cause notice dated 04.01.2021 as such, we direct the respondent No.1 to pass a final order within a period of four weeks, provided, the representation said to have been made by the petitioner dated 29.12.2020. Till such time, status quo as on today shall be maintained.

7. The writ petition stands disposed of with the above direction. No costs. Consequently connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Assistant Divisional Engineer,
Highways and Rural Works,
(Maintenance), Radhapuram
Tirunelveli District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Junior Engineer
Highways, Radhapuram,
Tirunelveli District.

+1 CC to SGP (SR-1632[F] dated 21/01/2021)

WEB COPY

**Order made in
W.P. (MD) No.896 of 2021
Dated: 20.01.2021**

KM (02.02.2021) 3P 4C