



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2021

CORAM:

**THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and**

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
W.P. (MD)Nos.13786 to 13789 of 2021**

and

W.M.P. (MD)Nos.10759, 10760, 10762 and 10761 of 2021

W.P. (MD)No.13786 of 2021:

A.Singan ... Petitioner

Vs.

1.The District Collector,
Madurai,
Madurai District.

2.The Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Peraiyur,
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned eviction notice in Ku.No.1/2021/E.Va.A, dated 16.07.2021, on the file of the second respondent and quash the same.

W.P. (MD)No.13787 of 2021:

S.Desinkuraja ... Petitioner

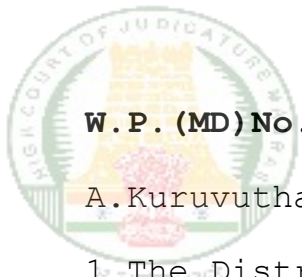
Vs.

1.The District Collector,
Madurai,
Madurai District.

2.The Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Peraiyur,
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned eviction notice in Ku.No.1/2021/E.Va.A, dated 16.07.2021, on the file of the second respondent and quash the same.



W.P. (MD)No.13788 of 2021:

A.Kuruvuthai

... Petitioner

Vs.

1.The District Collector,
Madurai,
Madurai District.

2.The Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Peraiyur,
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned eviction notice in Ku.No.1/2021/E.Va.A, dated 16.07.2021, on the file of the second respondent and quash the same.

W.P. (MD)No.13789 of 2021:

K.Chinnasamy

... Petitioner

Vs.

1.The District Collector,
Madurai,
Madurai District.

2.The Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Peraiyur,
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned eviction notice in Ku.No.1/2021/E.Va.A, dated 16.07.2021, on the file of the second respondent and quash the same.

For Petitioner

in all petitions : Mr.S.Rajasekar

For Respondents

in all petitions : Mr.B.Saravanan

Government Advocate

COMMON ORDER

(Order of the Court was made by **N.KIRUBAKARAN, J.**)

All the writ petitions have been filed by the petitioners challenging the order passed by the second respondent, by which, the



petitioners were directed to remove the encroachment alleged to have been made in S.No.112/3, to an extent of 0.30.5 sq.meter respectively.

2. Mr.S.Rajasekar, learned counsel appearing for the petitioners submitted that the second respondent had passed the impugned order, dated 16.07.2021, under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001, without giving a show cause notice as contemplated under the said provision.

3. On a reading of the impugned order, dated 16.07.2021, it is clear that the third respondent had called upon the petitioners to remove the encroachment within a period of fifteen (15) days. As per Section 28(2)(ii) of the Act, the authority should give 7 days show cause notice calling upon the encroacher to give his reply. In the case on hand, the second respondent has not given any such show cause notice as contemplated under the Act.

4. Mr.B.Saravanan, learned Government Advocate, taking notice for the respondents, submitted that the impugned order, dated 16.07.2021 itself may be considered as a show cause notice as contemplated under the Act and the petitioners may be directed to give their reply within a period of 7 days.

5. The learned counsel appearing for the petitioners also agreed to the submissions made by the learned Government Advocate and submitted that the petitioners would give their reply within 7 days to the impugned order, dated 16.07.2021.

6. In view of the submissions made by the learned counsel on either side, the impugned order, dated 16.07.2021, shall be construed as a show cause notice as contemplated under Section 28(2)(ii) of the Act and the petitioners are directed to give their reply within 7 days from the date of receipt of a copy of this order and the second respondent shall give an opportunity of hearing to the petitioners and pass orders on merits and in accordance with law, within a period of three weeks from the date of receipt of reply from the petitioners. Till the date of passing of final order, the petitioners' possession shall not be disturbed.

7. With these observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

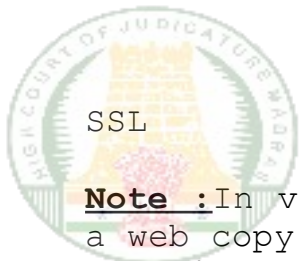
Sd/-

Assistant Registrar (CrL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



SSL

W.P.(MD)Nos.13786 to 13789 of 2021

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 District Collector,
Madurai,
Madurai District.

2.The Assistant Divisional Engineer(Highways),
Construction and Maintenance,
Peraiyur,
Madurai District.

+1 CC to M/s.SPL GP (SR-25882[F] dated 11/08/2021)

+4 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-25935[F] dated
11/08/2021)

W.P. (MD) Nos.13786 to 13789 of 2021
10.08.2021

PK(CO)
KB(17.08.2021) 4P 8C