



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.16447 of 2021

and

W.M.P(MD) No.13332 of 2021

M.Rajendran

... Petitioner

Vs.

1.The Divisional Engineer (Highways),
Construction & Maintenance,
Theni.

2.The Assistant Divisional Engineer (Highways),
Construction & Maintenance,
Andipatti, Theni District.

3.Manivannan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating with the impugned notice in Ku.No.2/Encroachment/2021/A1 dated 02.09.2021 issued by the second respondent and quash the same as it is arbitrary and illegal.

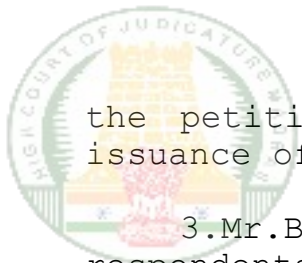
For Petitioner : Mr.R.Suriyanarayanan
For RR 1 & 2 : Mr.B.Saravanan
Government Advocate

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari, to call for the records relating to the impugned notice, dated 02.09.2021 issued by the second respondent and to quash the same.

2.It is the contention of the petitioner that the second respondent has not issued any show-cause notice prior to the issuance of the impugned order dated 02.09.2021. Though the second respondent has mentioned in the reference of the impugned order that a notice dated 17.10.2020 was sent to the petitioner, the learned counsel appearing for the petitioner submitted that no such notice was sent to the petitioner. The issuance of notice under Section 28 (2) of the Tamil Nadu Highways Act, 2001, is mandatory and therefore



the petitioner should be put on seven days notice prior to the issuance of the order of eviction.

3.Mr.B.Saravanan, learned Government Advocate appearing for the respondents 1 and 2 submitted that the petitioner may be directed to treat the impugned order, dated 02.09.2021 as a show-cause notice and may be directed to give his reply within a time frame.

4.Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner also agreed for the submissions made by the learned Government Advocate appearing for the respondents 1 and 2.

5.Having regard to the submissions made by the learned counsel on either side, since the petitioner was not served any notice prior to the issuance of the impugned order dated 02.09.2021, we direct the petitioner to treat the impugned order dated 02.09.2021 as a show-cause notice and give his reply within seven days from the date of receipt of a copy of this order, as contemplated under Section 28 (2) of the Tamil Nadu Highways Act, 2001. On receipt of the reply, the second respondent shall pass final orders on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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 (Highways),
Construction & Maintenance,
Theni.

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



2.The Assistant Divisional Engineer (Highways),
Construction & Maintenance,
Andipatti, Theni District.

+1 CC to M/s.SPL. GP (SR-29104[F] dated 15/09/2021)

W.P (MD) No.16447 of 2021
14.09.2021

GC(24.09.2021) 3P 4C