



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.1462 of 2022

and

W.M.P.No.1605 of 2022

Arulmigu Mariamman Koil

Rep by its Hereditary Trustee, E. Venkatesan

Siruvanthadu

Siruvanthadu Village

Mochakulam (Post)

Villupuram District.

.....Petitioner

Vs

The Assistant Divisional Engineer

Construction and Maintenance

Highways and authorized Officer

Highways Department

Villupuram Division

Villupuram.

.....Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondent from interfering with the peaceful possession and enjoyment of the petitioner's Patta land to the extent of 0.27.0 Ares comprising in Patta bearing No.4 situated in Survey No.314/1, Sirivanthadu Village, Villupuram District except under Section 15 of the Tamil Nadu Highways Act, 2001.

For petitioner

: Mr. C. Munusamy

For Respondent

: Mr. K. Karthikeyan,
Government Advocate

ORDER

The petitioner has filed the present petition seeking a direction to restrain the respondents from interfering with the possession of the petitioner's property.

2. Mr. K. Karthikeyan, learned Government Advocate takes notice for the respondent.

3. It is the case of the petitioner that he is the hereditary trustee of the petitioner temple which is situated at Siruvanthadu Village, Villupuram District. There is a land belonging to the temple, wherein some shops and sheds have been constructed and rented out to various persons, for which the patta and Electricity connection has been granted by the authorities concerned. While being so, the 1st respondent had



issued a showcause notice dated 23.12.2021 to the tenants of the temple land under Section 28 of the Tamil Nadu Highways Act, though the said land does not belong to the Highways Department. Aggrieved by the same, the petitioner had made a representation dated 05.01.2022 to the respondent herein. However, till date, the same has not been considered. Hence, the present petition is filed seeking the aforesaid relief.

4. Heard the learned counsel appearing on the either side and perused the materials available on record.

5. In view of the materials available on record, it has been the consistent view of the Courts that not to interfere with the show cause notice at the initial stage unless it is issued without authority. It is the case on hand, it is not the case of the petitioner that the respondent has no authority to issue the show cause notice. Therefore, this Court without going into the merits of the case, directs the petitioner to submit explanation to the show cause notice issued and on receipt of the same, the respondent is directed to give an opportunity of personal hearing to the petitioner before taking any further action. Failing submission of the explanation, the respondent is at liberty to proceed further in accordance with law.

7. With the aforesaid direction, this Writ Petition is disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

NHS
To

The Assistant Divisional Engineer
Construction and Maintenance
Highways and authorized Officer
Highways Department
Villupuram Division
Villupuram.

+1 cc to Government Pleader Sr.NO. 7735

W.P.NO.1462 of 2022

KG(CO)
A.SK(28.02.2022)