



WEB COPY



W.P.No.25520 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.P.No.25520 of 2023

K.THANGAVEL
S/O.KUMARASWAMY,
3/6, MERKKU THOTTAM,
SOLAPALYAM VILLAGE,
POLLACHI TALUK 642 107.

.. Petitioner

Vs.

1.THE DIVISIONAL ENGINEER (H),
TAMILNADU HIGHWAYS DEPARTMENT,
HIGHWAYS CONSTRUCTION AND MAINTENANCE,
OFFICE OF THE DIVISIONAL ENGINEER,
POLLACHI.

2.THE ASSISTANT DIVISIONAL ENGINEER (H),
HIGHWAYS CONSTRUCTION AND MAINTENANCE,
POLLACHI.

3.THE TAHSILDAR,
POLLACHI.

...Respondents



W.P.No.25520 of 2023

Petition filed under Article 226 of the Constitution of India, praying

to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the proceedings bearing Notice-1/2023/Ka/dated 18.08.2023 made by the second respondent and to quash the same and consequently direct the respondents 1 and 2 to consider the petitioner's representations dated 07.08.2023 and 17.08.2023 in accordance with the provisions of the Tamil Nadu Highways Act, 2001, within the time that may be fixed by this court.

For Petitioner : Mr.R.Nandhakumar
For Respondents : Mr.A.Selvendiran
Special Government Pleader

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The prayer made in this writ petition is to call for the records relating to the proceedings bearing Notice -1/2023/Ka/dated 18.08.2023 passed by the second respondent, quash the same and consequently direct the respondents 1 and 2 to consider the petitioner's representations dated 07.08.2023 and 17.08.2023 in accordance with the provisions of the Tamil Nadu Highways Act, 2001, within a stipulated time to be fixed by this court.



W.P.No.25520 of 2023

2. It is the case of the petitioner that he is an agriculturist and owning lands in S.F.Nos.111/5B, 121/2A and 121/2B2B totally measuring 4.50 acres situated in Solapalayam Village, Pollachi Taluk. It is his further case that for irrigating lands, drinking purpose and maintaining cattle, he dug a well in S.F.No.121/2B2B, installed a motor and is drawing water from that well by laying pipelines in the strip of mud pavement adjacent to his lands situated on the eastern corner of the 40 feet Pollachi – Kanchampatti Highway Thar Road belonging to the Highways Department. According to the petitioner, he has been utilizing the said strip of mud pavement for nearly seven years. While that being so, the second respondent without following any procedure as laid down under the law, issued a proceedings *vide* bearing Notice -1/2023/Ka/dated 18.08.2023 captioning it as a show cause notice directing him to remove the said pipelines. Aggrieved by the same, the petitioner is before this court with the present writ petition.

3. The learned counsel for the petitioner submitted that the petitioner already made representations dated 07.08.2023 and 17.08.2023 to the respondents, seeking permission to use the edge of the strip of mud



W.P.No.25520 of 2023

pavement in S.F.Nos.119 and 120, in which, the pipelines are laid to draw and transit/carry water from the land in S.F.No.121/2B2B to the lands in S.F.No.121/2A on payment of rent or charges as may be fixed. However, the said representations have not been considered by the respondent authorities, till date. It is also submitted by the learned counsel that without providing due opportunity of hearing to the petitioner, the second respondent issued the impugned notice, captioning it as a show cause notice, for removal of the pipelines in the subject land, which is absolutely arbitrary, illegal and against the principles of natural justice. Therefore, the learned counsel prayed for setting aside the impugned notice and thereby, allowing this writ petition.

4. On the other hand, the learned Special Government Pleader appearing for the respondents fairly submitted that the petitioner may be directed to file necessary objections raising all the grounds, to the notice impugned herein, and on such filing, the respondent authorities would consider the same, on merits.



W.P.No.25520 of 2023

5. By way of reply, the learned counsel appearing for the petitioner has agreed to submit the objection to the notice impugned herein to the respondent authorities.

6. In view of the above, we direct the petitioner to file necessary objections along with the required documents, if any, to the impugned notice dated 18.08.2023 treating it as show cause notice, to the respondent authorities, within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of the same, the respondent authorities shall consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned.

7. With the aforesaid directions, this writ petition stands disposed of. No costs.

[R.M.D., J.] [M.S.Q., J.]
30.08.2023

nsd
Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No

5/6



WEB COPY



W.P.No.25520 of 2023

R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

To

1.THE DIVISIONAL ENGINEER (H),
TAMILNADU HIGHWAYS DEPARTMENT,
HIGHWAYS CONSTRUCTION AND MAINTENANCE,
OFFICE OF THE DIVISIONAL ENGINEER,
POLLACHI.

2.THE ASSISTANT DIVISIONAL ENGINEER (H),
HIGHWAYS CONSTRUCTION AND MAINTENANCE,
POLLACHI.

3.THE TAHSILDAR,
POLLACHI.

W.P.No.25520 of 2023

30.08.2023