



WEB COPY



W.P.(MD)No.15888 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)No.15888 of 2023

and

W.M.P.(MD)Nos.13301 & 13304 of 2023

Nachiyar

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Executive Engineer,
State Highways, Tirunelveli Division,
Tirunelveli District.

3.The Assistant Executive Engineer,
State Highways, Ambasamudram,
Tirunelveli District.

4.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 3rd respondent in No.343/2023/U, dated 03.05.2023 and quash the same.

1/5



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For Petitioner : Mr.V.S.Kishok Kumar
For Respondents : Mr.J.Villavan Kothai,
Additional Government Pleader

ORDER

(Order of the Court was made by ***S.VAIDYANATHAN, J.***)

The petitioner has come forward with this Writ Petition, questioning the notice of the 3rd respondent dated 03.05.2023, contending that without giving any opportunity, a decision has been taken to remove the encroachment, when there is no encroachment at all.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Mr.J.Villavan Kothai, learned Additional Government Pleader, who took notice on behalf of the respondents, submitted that through the impugned notice, the petitioner was asked to remove the encroachment herself within a period of seven days, which she failed to do. Therefore, yet another notice was issued to the petitioner on 29.05.2023.



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4.He further submitted that these two proceedings may be treated as show cause notice, for which, the petitioner may be directed to file her reply, failing which, the respondents may be permitted to proceed against the petitioner in accordance with law.

5.Though it has been contended that no survey has been conducted, a reading of the proceedings dated 03.05.2023 would make it very clear that only after conducting survey, the extent of encroachment has been identified. Hence, accepting the contentions made by the learned Additional Government Pleader for the respondents, the impugned notice dated 03.05.2023 and subsequent notice dated 29.05.2023 shall be treated as show cause notice and the petitioner is expected to file her reply for the same within a period of seven (7) working days from the date of receipt of a copy of this order. On receipt of such reply being given, after hearing the petitioner in person, if the petitioner is willing to appear in person, the respondent concerned is directed to pass appropriate orders and remove the encroachment, if any, within a period of three months thereafter.



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6. With these directions, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

(S.V.N., J.) & (D.B.C., J.)

03.07.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva

To

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Tirunelveli District,
Tirunelveli.
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