



WEB COPY



W.P.(MD)No.21613 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)No.21613 of 2018

and W.M.P.(MD) Nos.19522 of 2018 and 4018 of 2019

Ramalingam

... Petitioner

Vs.

1.The Divisional Engineer,  
Highways,  
Pudukottai District ,  
Pudukottai.

2.The Assistant Divisional Engineer,  
(Construction and Maintenance),  
Highways,  
Thirumayam,  
Pudukottai District.

...Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to calling for the records in pertaining to the impugned order issued by the 2nd Respondent in his proceedings, dated 25.09.2018 and quash the same as illegal.



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**W.P.(MD)No.21613 of 2018**

For Petitioner : Mr.T.Vadivelan  
For Respondents : Mr.M.Lingadurai  
Special Government Pleader

### **ORDER**

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

The order dated 25.09.2018, passed by the second respondent under Section 29(1) of the Tamil Nadu Highway Act, 2001 is sought to be set aside in the present Writ Petition.

2. It is not in dispute that the petitioner received the notice issued under Section 28(2) of the Highways Act dated 10.09.2018. On receipt of the said notice the petitioner submitted his objections on 14.09.2018.

3. Learned counsel for the petitioner submitted that the objections submitted by the petitioner was not considered by the Highway authorities and erroneously they made a finding that the petitioner has failed to submit his explanation.



**W.P.(MD)No.21613 of 2018**

4. It is factually incorrect since the petitioner has submitted his objections on 14.09.2018. The said representation is to be considered before passing final order under Section 29(1) of the Highways Act. Thus, we are inclined to remit the matter back to the Assistant Divisional Engineer for fresh consideration.

5. Accordingly, the impugned order of the second respondent dated 25.09.2018 is set aside and the matter is remanded back to the second respondent Assistant Divisional Engineer to consider the objections submitted by the writ petitioner on 14.09.2018 and pass an order on merits and thereafter proceed with the removal of encroachments, if any, identified.

6. With this, the Writ Petition stands partly allowed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

**(S.M.S., J.) & (V.L.N., J.)**  
**20.12.2023**

NCC : Yes / No  
Index : Yes / No  
SJ



W.P.(MD)No.21613 of 2018

**S.M.SUBRAMANIAM, J.**

**AND**

**V.LAKSHMINARAYANAN, J.**

*SJ*

To

- 1.The Divisional Engineer,  
Highways,  
Pudukottai District ,  
Pudukottai.
- 2.The Assistant Divisional Engineer,  
(Construction and Maintenance),  
Highways,  
Thirumayam,  
Pudukottai District.

W.P.(MD)No.21613 of 2018

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