



W.P.No.32072 of 2024 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.Nos.32072, 32076, 32078, 32080, 32088, 32090, 32092 and
32093 of 2024

Chandran	.. Petitioner in W.P.No.32072/2024
Rangaramanujan	.. Petitioner in W.P.No.32076/2024
Murugan	.. Petitioner in W.P.No.32078/2024
Rani	.. Petitioner in W.P.No.32080/2024
Murugan	.. Petitioner in W.P.No.32088/2024
Ponnusamy	.. Petitioner in W.P.No.32090/2024
Jagadesan	.. Petitioner in W.P.No.32092/2024



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Jayalakshmi



W.P.No.32072 of 2024 etc.

.. Petitioner in
W.P.No.32093/2024

Vs

- 1.State of Tamil Nadu,
rep. by its Secretary,
Highways Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector,
Salem District,
Salem.
- 3.The Divisional Engineer,
Highways Department,
Salem.
- 4.The Assistant Divisional Engineer,
Highways Department,
Vazhappadi, Salem District.

.. Respondents in
all WPs

Prayer: Petitions filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the fourth respondent in issuance of notices dated 7.10.2024 and quash the same and direct the third respondent, the authority competent under the Highways Act if he chooses to proceed further to comply with the provisions of Highways Act by affording an opportunity of being heard.



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For the Petitioners : Mr.D.Yashwanth Rajan
For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader

COMMON ORDER

(Order of the Court was made by *D.Krishnakumar, J.*)

The prayer in these writ petitions is as follows:

"... to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent in issuance of Notices dated 07.10.2024 and quash the same and direct the 3rd respondent, the authority competent under the Highways Act if he chooses to proceed further to comply with the provisions of Highways Act by affording an opportunity of being heard ..."

2. Learned counsel for the petitioners submitted that the fourth respondent, viz., the Assistant Divisional Engineer, Highways Department, is not the competent authority to issue



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the impugned notices and only the Divisional Engineer, Highways Department has power to issue the notices. Since impugned notices issued by the fourth respondent are without jurisdiction, the same are liable to be quashed.

3. Learned State Government Pleader appearing for the respondents submitted that the petitioners have encroached upon the highways land and, for removal of such encroachment, the impugned notices have been issued. He further submitted that by the proceedings of the Divisional Engineer dated 8.8.2024, an authorisation has been given to the Assistant Executive Engineer, Highways Department to issue eviction notices (impugned notices). Therefore, there is no illegality in issuing the impugned notices. Learned State Government Pleader also placed on record the said proceedings dated 8.8.2024.

4. We have gone through the proceedings of the Divisional



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Engineer dated 8.8.2024, wherefrom it is clear that the Divisional Engineer has given authorisation to the Assistant Divisional Engineer to initiate action for removal of encroachment on the highways land in question. Thus, the argument of learned counsel for the petitioners that the fourth respondent/Assistant Divisional Engineer has no authority to issue the impugned notices cannot be countenanced.

5. Encroachment on the highways land has been alleged against the petitioners, for which the impugned notices dated 7.10.2024 have been issued to the petitioners calling upon them to remove the encroachments within 7 days, failing which the encroachments will be removed on 18.10.2024.

6. It is an admitted case that till date the encroachments have not been removed. In such circumstances, the impugned notices shall be treated as show cause notices and the petitioners shall file explanation to the said show cause notices within a



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period of one week from the date of receipt of copy of this order.

Upon receipt of such explanation, the competent authority, viz., the fourth respondent shall pass orders on merits and in accordance with law after providing an opportunity to the petitioners and then remove the encroachments as per the Highways Act within a period of eight weeks thereafter. Till such time, both the parties are directed to maintain *status-quo*.

7. With the above observation and direction, the writ petitions are disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.34834, 34838, 34840, 34842, 34852, 34853, 34857 and 34858 of 2024 are closed.

(D.K.K., J.) (P.B.B., J.)
29.10.2024

Index : Yes/No
NC : Yes/No
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To:

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Salem District,
Salem.
- 3.The Divisional Engineer,
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AND
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