



WEB COPY



W.P.(MD) No.4931 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.4931 of 2024

and

W.M.P.(MD)No.4730 of 2024

T.Saravanan

... Petitioner

-Vs-

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Assistant Executive Engineer,
National Highways,
Kanyakumari,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the second respondent herein in his proceedings in Ka.No.14/2024/U.Ko.Po/dated 05.02.2024 and quash the same.

For Petitioner : Mr.R.Paranjothi

For Respondents : Mr.S.P.Maharajan
Special Government Pleader



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W.P.(MD) No.4931 of 2024

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Against the notice issued by the second respondent dated 05.02.2024 directing the petitioner to remove the encroachment made in the property belonging to the National Highways Department.

2.Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, the property in Survey No.530/1B to an extent of 4.59 acres belongs to the father of the petitioner and now the petitioner is in possession and enjoyment of the same. Patta also stands in the name of the petitioner. While the things being so, the notice impugned in this writ petition was issued to the petitioner as if the petitioner has encroached the land belongs to the National Highways and directing him to remove the same.

4.The learned counsel for the petitioner submits that the second respondent has not issued any show cause notice to the petitioner before issuing



W.P.(MD) No.4931 of 2024

the order of eviction. Further, no survey was conducted before passing the impugned order and the same is liable to be quashed.

5.The proceedings, which is put to challenge in this writ petition is only a notice calling upon the petitioner to submit his objection within a period of 21 days, failing which action will be initiated in accordance with law. Writ petitions filed challenging the show cause notices are not entertainable, unless such show cause notices have been issued by an incompetent authority having no jurisdiction. Persons, receiving show cause notices regarding removal of encroachments, are at liberty to submit their objections / explanations along with the documents, if any, enabling the competent authority to decide the issues on merits and in accordance with law and proceed thereafter. Without submitting such objections/explanations, the petitioner has filed the present writ petition.

6.For the reasons stated above, this Court is inclined to issue the following directions:

(i)The petitioner shall make his objection/explanation to the notice issued by the second respondent within a period of one week from the date of receipt of a copy of this order.



W.P.(MD) No.4931 of 2024

(ii) On receipt of such objection, the second respondent shall conduct enquiry on the same and appropriate orders after surveying and demarcating the property in the presence of the petitioner.

(iii) If there is any encroachment, the same shall be removed by following due process of law.

With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
01.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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W.P.(MD) No.4931 of 2024

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AND

R.VIJAYAKUMAR, J.

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