



W.P.(MD) No.5169 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.5169 of 2024

and

W.M.P.(MD)No.4959 of 2024

1.S.Ponnupillai

2.S.Sasi Kumar

... Petitioners

-Vs-

The Assistant Divisional Engineer,
National Highways,
Kanniyakumari,
Kanyakumari District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records related to the impugned proceedings of the respondent dated 23.02.2024 in Lr.No.47/2024/Asst Divisional Engineer and quash the same.

For Petitioners : Mr.N.Dilipkumar

For Respondent : Mr.N.Satheeshkumar

Additional Government Pleader

Page 1 of 5



W.P.(MD) No.5169 of 2024

WEB COPY

ORDER

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

Challenging the proceedings of the respondent dated 23.02.2024 directing the petitioners to remove the encroachments made by the petitioners in the property belonging to the Highways.

2.Mr.N.Satheeshkumar, learned Additional Government Pleader takes notice for the respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel for the petitioners submits that the respondent had directly issued the eviction notice without issuing any show cause notice to the petitioners and without conducting any enquiry. He further submits that the respondent is not the competent authority to initiate eviction proceedings in respect of the government poromboke land. Hence, he prays for necessary relief.



W.P.(MD) No.5169 of 2024

WEB COPY

4.The learned Special Government Pleader appearing on behalf of the respondent fairly submits that prior to the eviction notice, no show cause notice was issued to the petitioners. Hence, the present eviction notice shall be treated as show cause notice and the explanation be submitted by the petitioners and the same will be considered and necessary orders will be passed.

5.In view of the above submission, this Court without going into the merits of the matter, issues the following directions:

(1)The notice issued by the respondent dated 23.02.2024 shall be treated as a show cause notice and the petitioners shall submit their explanations/objections before the respondent within a period of two weeks from the date of receipt of a copy of this order.

(2)on receipt of such explanations /objections, the respondent shall consider and pass orders on its own merits and in accordance with law after affording an opportunity of hearing to the petitioners, within a period of eight weeks therefrom.



W.P.(MD) No.5169 of 2024

WEB COPY

6. 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.]
05.03.2024

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

To

The Assistant Divisional Engineer,
National Highways,
Kanniyakumari,
Kanyakumari District.



WEB COPY



W.P.(MD) No.5169 of 2024

D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

ta

W.P.(MD)No.5169 of 2024

05.03.2024

Page 5 of 5