



WEB COPY

W.P.(MD) No.2010 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.2010 of 2018
and**

W.M.P.(MD) Nos.2230 of 2018 & 16776 of 2019

Balu @ Balakrishnan

... Petitioner

-VS-

1.The Divisional Engineer (Highways)
Office of the Divisional Engineer (Highways)
Dindigul District

2.The Assistant Divisional Engineer (Highways)
Construction and Maintenance
Kodaikanal, Dindigul District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.92/2017/A1, dated 28.12.2017 in respect of house and Tin Shed, Saloon Shop and quash the same as illegal.



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W.P.(MD) No.2010 of 2018

For Petitioner : Mr.K.Kulanthai Vickram

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

ORDER

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

The notice dated 28.12.2017, issued by the second respondent under Section 28(2) of the Tamil Nadu Highways Act, 2001, directing the petitioner to remove the encroachments made by him in the subject property is under challenge in this writ petition.

2. According to the petitioner, he was not given an opportunity to submit his objections before the impugned notice is issued.

3. A perusal of the impugned notice shows that though it appears to be one as a show-cause notice, the terms of the said notice indicate that it is a final order directing removal of encroachments made by the petitioner. Further, there is no reference with regard to the objections of the petitioners were called for.



W.P.(MD) No.2010 of 2018

WEB COPY

4. In the said circumstances, this Court is inclined to pass the following orders:

- (i) The writ petition is allowed.
- (ii) The impugned notice, dated 28.12.2017, issued by the second respondent, is quashed, on the ground of violation of principles of natural justice.
- (iii) The impugned notice, dated 28.12.2017, issued by the second respondent, shall be treated as a show-cause.
- (iv) The petitioner is directed to submit his objections / explanations to the show-cause notice, within a period of two weeks from the date of receipt of a copy of this order.
- (v) After receiving the objections / explanations from the petitioner as directed above, the respondents shall pass appropriate orders on merits and in accordance with law for removal of encroachments, within a period of eight weeks thereafter.



WEB COPY

W.P.(MD) No.2010 of 2018

(vi) No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[R.V., J.]

08.02.2024

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

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To:

- 1.The Divisional Engineer (Highways),
Office of the Divisional Engineer (Highways),
Dindigul District.
- 2.The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Kodaikanal, Dindigul District.



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