



WEB COPY

W.P.(MD) No.21610 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.21610 of 2018

and

W.M.P.(MD) Nos.19519 of 2018 & 4017 of 2019

A.Adaikappan

... 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, to issue a writ of certiorari calling for the records pertaining to the impugned order issued by the second respondent in his proceedings, dated 25.09.2018 and quash the same as illegal.



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For Petitioner : Mr.T.Vadivelan
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

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

The notice dated 25.09.2018, issued by the second respondent under Section 29(i) 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.



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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 25.09.2018, issued by the second respondent, is quashed, on the ground of violation of principles of natural justice.
- (iii) The impugned notice, dated 25.09.2018, 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.



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