



W.P.(MD) No.20802 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.20802 of 2024
and
W.M.P.(MD)Nos.17621 and 17623 of 2024**

Jerin Jenila

... Petitioner

-VS-

1.The District Collector,
Kanyakumari District.

2.The Assistant Divisional Engineer,
Tamil Nadu State High ways Department,
Construction and Maintenance,
Thakkalai,
Kanyakumari District.

3.The Tahsildar,
Kalkulam Taluk,
Kanyakumari 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 in Ka.No.140/2024/A2, dated 13.08.2024, passed by the second respondent and quash the same.

For Petitioner

: Mr.N.Jeyaram Sidharth

For Respondents

: Mr.S.R.A.Ramachandran

Additional Government Pleader



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ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.S.R.A.Ramachandran, learned Additional Government Pleader takes notice for the respondents. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

2.Challenge is to the notice dated 13.08.2024, issued under Section 28 of the Tamil Nadu Highways Act, 2001.

3.The Encroachment in question is an immovable encroachment. Section 28(2) of the Tamil Nadu Highways Act, 2001, requires the authority to issue notice granting seven days period to show cause against the removal and the proviso requires the authority to consider any representation received within the time limit. Admittedly, the said procedure has not been followed.

4.Hence, the Writ Petition is allowed and the notice dated 13.08.2024, is set aside with liberty to the respondents to take action strictly in



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accordance with Section 28 of the Act. No costs. Consequently, connected miscellaneous petitions are closed.

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[R.S.M., J.]

[L.V.G., J.]

02.09.2024

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

To

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