



WEB COPY



W.P.(MD)No.22011 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2024

CORAM:

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

**W.P.(MD)No.22011 of 2024
and
W.M.P.(MD)No.18643 of 2024**

K. Dharmar

... Petitioner

-VS-

The Assistant Engineer,
(State Highways)
Construction and Maintenance,
Dindigul.

...Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned public notice issued by the respondent in his proceedings Nil dated 03.09.2024 and to quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Mr. B. Saravanan,
Senior Counsel
For M/s.Saravanan Associates

For Respondent : Mr.P.T. Thiraviam
Government Advocate



W.P.(MD)No.22011 o

ORDER

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

WEB COPY

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The prayer in the writ petition reads as follows:

“To issue a Writ of Certiorari, to call for the records relating to the impugned public notice issued by the respondent in his proceedings Nil dated 03.09.2024 and to quash the same as illegal, arbitrary and in violation of principles of natural justice.”

3. Though the notice of eviction is under challenge, Mr.B.Saravanan, learned Senior Counsel appearing for the petitioner would submit that Section 26(2) enables the Highways authority to grant permission to individuals for storing building materials or other goods for sale in the land belonging to the Highways department for a specific period on payment of rent or other charges. The learned Senior Counsel would submit that the space which is now used by the petitioner is an Island between two roads and its user does not affect the free flow of traffic. It is also stated the petitioner has also made an application on 09.09.2024.

4. In view of the above, the authorities will consider the application made by the petitioner in accordance with law and if they find that the occupation of



W.P.(MD)No.22011 o

the petitioner will be a hindrance to traffic, it is well open to them to refuse such permission. If it is found that the petitioner will satisfy the requirements of Section 26(2), permission can be accorded. The action for eviction contemplated under the impugned notices will be deferred till the authorities pass orders on the application filed by the petitioner.

5. With the above directions, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

13.09.2024

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

To

The Assistant Engineer,
(State Highways)
Construction and Maintenance,
Dindigul.



WEB COPY



W.P.(MD)No.22011 of 2024

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Sml

W.P.(MD)No.22011 of 2024

13.09.2024