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W.P. Nos.11413 of 2025 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

W.P. Nos.11413, 11416, 11420, 11422, 11425, 11426, 11430, 11431, 11433,
11434, 11436, 11438, 11439, 11440, 11441 and 11443 of 2025

&

W.M.P.Nos.12883, 12890, 12987, 12902, 12903, 12904, 12909, 12907,
12910, 12912, 12913, 12915, 12917, 12918, 12919 and 12920 of 2025

G.Kumar	... Petitioner in W.P.No.11413 of 2025
S.Kumar	... Petitioner in W.P.No.11416 of 2025
C.Jaya	... Petitioner in W.P.No.11420 of 2025
Pachaiyammal	... Petitioner in W.P.No.11422 of 2025
R.Marimuthu	...Petitioner in W.P.No.11425 of 2025
C.Rajendiran	... Petitioner in W.P.No.11426 of 2025
G.Venkatesan	... Petitioner in W.P.No.11430 of 2025
Deivayani	...Petitioner in W.P.No.11431 of 2025
R.Kavitha	... Petitioner in W.P.No.11433 of 2025
K.Sekar	... Petitioner in W.P.No.11434 of 2025
S.Magadevan	...Petitioner in W.P.No.11436 of 2025
Deivayani	... Petitioner in W.P.No.11438 of 2025
S.Arunagiri	... Petitioner in W.P.No.11439 of 2025
Vasanthi	... Petitioner in W.P.No.11440 of 2025
P.Gobi	... Petitioner in W.P.No.11441 of 2015
E.Seakar	... Petitioner in W.P.No.11443 of 2015



W.P. Nos.11413 of 2025 etc., batch

VS.

1. The Assistant Divisional Engineer
Highways Department, Construction And Maintenance
Office Of The Assistant Divisional Engineer,
Walajah Division,
Walajah 632 513
Ranipet District

2. M.Pari
S/o.Mani

... Respondents in all WPs

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records pertaining to the impugned show cause-notice dated 06.03.2025 culminating in the impugned order in final order Nos.167/2023-(3)/U, 167/2023-(15)/U, 167/2023-(9)/U, 167/2023-(13)/U, 167/2023-(1)/U, 167/2023-(6)/U, 167/2023-(4)/U, 167/2023-(12)/U, 167/2023-(7)/U, 167/2023-(2)/U, 167/2023-(16)/U, 167/2023-(14)/U, 167/2023-(11)/U, 167/2023-(10)/U, 167/2023-(5)/U and 167/2023-(8)/U dated 17.03.2025 passed by the first respondent and quash the same.

For petitioner : Mr.T.Mohan
in all WPs Senior counsel
Instructed by Mr.C.Harish

For Respondents : Mr.V.Ravi
in all WPs Special Government Pleader for R1



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COMMON ORDER

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[Order of the Court made by M. SUNDAR, J.]

Captioned 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of brevity] pertain to 'lands comprised in S.Nos.657/1 and 658/1 in Ammoor (57) Village, Walajah Taluk, Ranipet District' [hereinafter 'said lands' for the sake of convenience].

2. The second respondent before us filed a writ petition in W.P.No.38043 of 2024 arraying three of the 16 writ petitioners in the captioned writ petitions, Mr.S.Kumar (petitioner in W.P.No.11416 of 2025), Mr.S.Mahadevan (petitioner in W.P.No.11436 of 2025) and Mr.K.Sekar (petitioner in W.P.No.11434 of 2025) as R7 to R9. This W.P.No.38043 of 2024 was predicated on a representation dated 11.03.2024 i.e., representation sent by Mr.M.Pari and a direction was sought to the jurisdictional Revenue Tahsildar to measure a pathway said to be situate in S.No.657 of Ammoor Village (57), Walajah Taluk, Ranipet District. This writ petition was disposed of by a Division Bench of this Court to which one us (M.SUNDAR.J.,) was a party vide order dated 12.12.2024 and this order reads as follows:

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'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2024

CORAM:

*THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR*

W.P. No.38043 of 2024

*M. Pari
Petitioner*

vs.

- 1. The District Collector
Office of the District Collector
Ranipet District*
- 2. The Divisional Engineer
Office of the Highways Department
Construction and Maintenance
Wallajah Taluk
Ranipet District*
- 3. The Assistant Divisional Engineer
Office of the Highways Department
Construction and Maintenance
Wallajah Taluk
Ranipet District*
- 4. The Superintendent of Police
Office of the Superintendent of Police
Ranipet District*
- 5. The Divisional Engineer
Office of the TANGEDCO*



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*Wallajah Taluk
Ranipet District*

6. *The Revenue Tahsildar
Office of the Revenue Tahsildar
Wallajah Taluk
Ranipet District*
7. *S. Kumar*
8. *S. Mahadevan*
9. *K. Sekar*
10. *E. Arumugam
Respondents*

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 6 to consider the petitioner's representation for removal of encroachment in Ammoor Village of Wallajah Taluk in Ranipet District dated 11.03.2024 within a time limit and for a further direction to the sixth respondent to measure the said pathway in S.No.657 of Ammoor Village of Wallajah Taluk in Ranipet District and file a report before the respondents 1 to 5.

For petitioner

Mr. M. Anantharaj

For RR 1-3 & 5 & 6 Mr. V. Ravi

Special Govt. Pleader



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For R4

Mr. E. Raj Thilak
Additional Public Prosecutor

ORDER

(made by M. SUNDAR, J.)

Captioned 'Writ Petition' (for the sake of brevity 'WP') pertains to land comprised in Survey No.657, Ammoor Village, Wallajah Taluk, Ranipet District (for the sake of brevity 'said property').

2. *Mr. M. Anantharaj, learned counsel for writ petitioner seeks a mandamus qua a representation dated 11.03.2024 and the burden of the song of the writ petitioner in the representation as well as in the hearing is that there is encroachment in said property and that the alleged encroachers are respondents 7 to 10 (private respondents).*

3. *Learned counsel for writ petitioner submits that in spite of representation dated 11.03.2024, there is inaction and that has necessitated the filing of the captioned WP.*

4. *Issue notice to official respondents.*

5. *Mr. V. Ravi, learned Special Government Pleader, accepts notice for respondents 1 to 3, 5 and 6. Mr. E. Raj Thilak, learned Additional Public Prosecutor, accepts notice for respondent 4.*

6. *Learned Special Government Pleader, on instructions, submits that survey has been conducted qua said property, encroachment has been found and action will be initiated under Tamil Nadu Highways Act, 2001 (for clarity and convenience 'T.N. Highways Act'). Learned Special Government Pleader makes a specific submission that action under T.N.Highways Act would necessarily mean show causing the alleged encroachers inter alia under Section 28 (2) (ii) of T.N. Highways Act. This means that the*



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rights and contentions of private respondents (respondents 7 to 10) and/or any other encroacher will stand preserved when show caused. As there is adequate safety valve in terms of private respondents being show caused, captioned main WP is taken up with the consent of learned counsel on both sides.

7. If action under T.N. Highways Act is initiated, private respondents and/or other similarly placed encroachers would be show caused and as already alluded to supra, all the rights and contentions of the private respondents and/or other similarly placed encroachers are preserved. We deem it appropriate to dispose of captioned WP by recording stated position of the learned Special Government Pleader who has accepted notice for respondents 1 to 3, 5 and 6. We do so.

8. Ergo, sequitur is captioned main WP is disposed of recording the stated position of the learned Special Government Pleader albeit with preservation of rights of respondents 7 to 10 and/or other similarly placed persons in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)

12.12.2024

Index : Yes/No

NC : Yes/No

cad

M. SUNDAR, J.

and

K. RAJASEKAR, J.

cad

To

1. The District Collector
Office of the District Collector
Ranipet Distrcit



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2. *The Divisional Engineer
Office of the Highways Department
Construction and Maintenance
Wallajah Taluk, Ranipet District*
3. *The Assistant Divisional Engineer
Office of the Highways Department
Construction and Maintenance
Wallajah Taluk, Ranipet District*
4. *The Superintendent of Police
Office of the Superintendent of Police
Ranipet District*
5. *The Divisional Engineer
Office of the TANGEDCO
Wallajah Taluk, Ranipet District*
6. *The Revenue Tahsildar
Office of the Revenue Tahsildar
Wallajah Taluk, Ranipet District*

W.P. No.38043 of 2024

12.12.2024'

3. Mr.T.Mohan, learned Senior counsel instructed by Mr.C.Harish, counsel on record for all the writ petitioners, advertng to the aforementioned order submits that the writ petitioners have no grievance qua aforementioned order as all the rights and contentions of both private



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respondents and / or other similarly placed persons stand preserved.

Thereafter, learned Senior counsel submitted that R1 sent 'Show-cause Notice' ['SCN'] signed by R1 on 06.03.2025 and a scanned reproduction of this SCN as placed before this Court is as follows:

புதிது அஞ்சல் ஒப்பந்தம்

தமிழ்நாடு அரசு தொழில்நுட்ப அமைச்சு

കുറ്റകരണം: മോശമാണ് ഒരു ജനം. മറ്റേവരേയും
പോലെ ചികിത്സിക്കണം, അല്ലെങ്കിൽ

ചിത്രങ്ങൾ: സി.എസ്.എസ്. 2001. പേജ് 20. II-ഭാഗം ചാർട്ട്

செய்தம்: ஆலோசனை - சிவஞானமேதாரத்தார், சென்னை & திரு-
 ஆர்ச்சுனம், சென்னை, ஜூன் 28 இல், சிவ-
 ஜெயந்தி விழா கொண்டாட்டம் & ஆர்ப்பாட்டம்.

[illegible]

Selbst geht aus dem Bericht hervor, dass die in der
ersten der beiden Besprechungen am 20. März 1944 in der Wohnung des Präsidenten
abgehaltenen und danach abgehaltenen beiden Besprechungen nur aus
einem einzigen Gespräch.

சென்னை, 15.05.2019

NAME:

சி.கே.எஸ்.எஸ்.கே. கல்விப்பள்ளம்
 89, வால்ட்டுரோ - சோலிங்கம் தாலுகா, கெ.சி.அ.
 சிங்கப் பட்டி வீதி, சென்னை
 அ.நா.கல்விப்பள்ளம், தாலுகா, கெ.சி.அ. 612501

தமிழ் மொழியில் மொழிபெயர்த்து விடப்பட்டிருக்கிற அனைத்து
தமிழ் மொழியைப் பற்றிய அனைத்துப் பதிவுகள்
தமிழ் மொழியைப் பற்றிய அனைத்துப் பதிவுகள்
தமிழ் மொழியைப் பற்றிய அனைத்துப் பதிவுகள்



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4. Notwithstanding very many averments and grounds in the writ affidavit, learned Senior counsel restricted his argument to one point and that one point is that the aforementioned SCN is not returnable within a period of '7 days from the date of receipt thereof'. Elaborating on this sole and solitary point, learned Senior counsel adverted to Section 28(2)(ii) of 'Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' [hereinafter 'TN Highways Act' for the sake of brevity] and submitted that it is statutorily imperative to issue SCN returnable within a period of 7 days from the date of receipt thereof but in the captioned matters, SCNs say that the noticees/writ petitioners should respond within 7 days from the 'date of SCNs'. To be noted, SCNs do not contain a date but they have been signed by R1, who issued the SCNs. It is submitted that SCNs were received by the noticees/writ petitioners on 08.03.2025 and therefore, the noticees did not have 7 days time to respond. It is the further say of learned Senior counsel that owing to the abridged /truncated time, the noticees sent terse responses and the same have resulted in 'orders dated 17.03.2025 bearing reference Nos.167/2023-(3)/U, 167/2023-(15)/U, 167/2023-(9)/U, 167/2023-(13)/U, 167/2023-(1)/U, 167/2023-(6)/U, 167/2023-(4)/U,



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167/2023-(12)/U, 167/2023-(7)/U, 167/2023-(2)/U, 167/2023-(16)/U,

167/2023-(14)/U, 167/2023-(11)/U, 167/2023-(10)/U, 167/2023-(5)/U and

167/2023-(8)/U made by R1' [hereinafter 'impugned orders' for the sake of brevity]. Assailing the impugned orders, captioned writ petitions have been filed seeking issue of writ of certiorari is learned Senior counsel's say. If the writ petitioners / noticees had been given 7 days time, which is statutorily imperative, they would have been able to send a detailed representation raising very many points but the writ petitioners have been deprived of such an opportunity same resulting in impugned orders pursuant to which the writ petitioners are under imminent threat of dispossession / demolition, is learned Senior counsel's say.

5. Issue notice to official respondent.

6. Mr.V.Ravi, learned Special Government Pleader accepts notice for the official respondent (R1) and submits, on instructions, that SCNs signed by R1 on 06.03.2025 provides 7 days time.

7. Learned Senior counsel very fairly submitted that it will suffice if impugned orders are set aside and if writ petitioners are given 7 days from today to send an additional representation.



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8. In the light of the learned Senior counsel for writ petitioners restricting his submissions, this Court examined the SCNs and finds that the same are not happily worded. Section 28(2)(ii) of TN Highways Act clearly mentions that a SCN is returnable within a period of '7 days from the date of receipt' thereof but '7 days from the date of SCN' has been mentioned in SCNs in captioned writ petitions. To be noted, SCNs itself do not contain a date and the same have been signed by R1 on 06.03.2025. Therefore, the time taken for the SCNs to be served on the noticees eats into the 7 days. This is the reason why this Court has observed that the SCNs are not happily worded. This Court has also noticed that SCNs have been despatched to noticees through Registered Post with acknowledgement due. Therefore, the time spent in the postal transit will obviously eat into 7 days. Be that as it may, as regards SCNs itself, the same can be issued either by 'Administrator' or 'any person authorized by Administrator'. The term 'Administrator' is defined vide Section 2(13) of TN Highways Act, which takes us to Section 5(2). To put it differently, effectively an Administrator is the jurisdictional Divisional Engineer. The submission of learned State counsel that there is a generic authorization by the jurisdictional Divisional



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Engineer qua Assistant Divisional Engineer as regards Section 28 of TN

Highways Act is recorded and this point is given a closure. This means that SCNs have been issued by a person authorized by the Administrator.

9. As none of the other points raised in the writ affidavit are being urged, we are not embarking upon a legal drill as regards those points, which means that all questions in that regard are left open.

10. In the light of the narrative, discussion and dispositive reasoning thus far, the following order is made:

i) Impugned orders of R1 are set aside solely on the point that SCN returnable in 7 days from date of the same, was not given prior to the making of the impugned orders. This means that we have not expressed any view or opinion on the merits of the matter and all questions are left open;

ii) Writ petitioners will now have 7 days times from today i.e., time upto 04.04.2025 to send a further representation /additional representation, which shall be treated as an integral part and parcel of the representation dated 11.03.2025, which has already been sent by the writ petitioners and considered as one comprehensive representation;



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iii) Treating 11.03.2025 representation and additional / further representation if any (to be sent in such a manner that it reaches R1 on or before 04.04.2025) as one comprehensive representation, final orders shall be made by Authority or Officer concerned under proviso to Section 28(2)(ii) of TN Highways Act as expeditiously as the business of the Authority or Officer concerned permits. As we are dispensing with notice to R2, R1 shall communicate this order to R2 forthwith and it will be open to R2 also to send a representation. Such representation (if any) shall also be considered by the Authority or Officer concerned before passing final orders;

iv) If no representation is received in the aforesaid manner on or before 04.04.2025, it will be open to Authority or Officer concerned to pass orders afresh under proviso to Section 28(2)(ii) on available records and on the available representation;

v) The final orders under proviso to Section 28(2)(ii) of TN Highways Act made in the aforesaid manner by the Authority or Officer concerned shall be communicated to the writ petitioners as well as R2 under due acknowledgment within



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5 working days from the date on which the orders are made;

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vi) Coercive action, if any and if that be so, will be subject to and depending on the orders to be made afresh by Authority or Officer concerned under proviso to Section 28(2)(ii) of TN Highways Act.

Ergo, the sequitur is, captioned WPs are disposed of in the aforesaid manner. Consequently, WMPs thereat are also disposed of as closed. There shall be no order as to costs.

(M.S., J.) (R.K.M., J.)

28.03.2025

Index: Yes

Neutral Citation: Yes

gpa

To

The Assistant Divisional Engineer
Highways Department, Construction And Maintenance
Office Of The Assistant Divisional Engineer,
Walajah Division,
Walajah 632 513
Ranipet District

M.SUNDAR, J.

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and

R. KALAIMATHI, J.

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