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W.P.No.18919 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.18919 of 2025

and

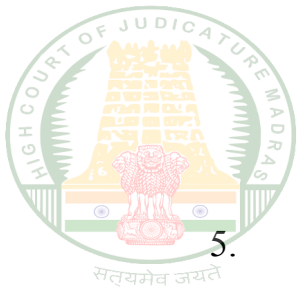
W.M.P.Nos.21199, 21200 & 25864 of 2025

K.Kolanjinadhan

... Petitioner

VS.

1. The Secretary to Government
Government of Tamil Nadu
Highways and Minor Ports Department
Fort St.George, Chennai-600 009.
2. The District Collector
Cuddalore District
Cuddalore - 607 001.
3. The Divisional Engineer
State Highways Department
Cuddalore Division,
Cuddalore District - 607 001.
4. The Assistant Engineer
Highways Department
Construction and Maintenance
Veppur, Cuddalore District - 606 302.



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5. The Tahsildar
Veppur Taluk,
Cuddalore District - 606 302.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records from the 4th respondent relating to the proceedings dated 14.05.2025 bearing Reference K.No.40/2025/Vu.Po and quash the same as illegal, arbitrary, without jurisdiction and to consequently, direct the respondents 1 and 2 to consider the petitioner's appeal dated 01.04.2025 on merits and if at all they find any encroachment to permit the petitioner to occupy the same by collecting rent in terms of the Tamil Nadu Highways Rules, 2003.

For Petitioner : Mr.S.Saravana Kumar
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R5
Mr.T.Velu, for intervenor

ORDER

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

Subject matter of the captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} is 'land comprised in S.No.73

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in Nallur Village, Veppur Taluk, Cuddalore District' {hereinafter 'said land' for the sake of brevity, convenience and clarity}.

2. One Mr.S.Muniyamuthu, Son of Selvarasu, came to this Court vide W.P.No.35414 of 2024 stating that said land is Highway / area vested with the Government under 'the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity}, there is alleged encroachment and sought removal. This earlier writ petition being W.P.No.35414 of 2024 was predicated on a representation dated 08.11.2023. This earlier writ petition came to be disposed of by a Hon'ble Division Bench, to which one of us [M.Sundar. J.,] was a party vide order dated 09.12.2024 and the same reads as follows :

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2024

Coram

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.35414 of 2024

& W.M.P No.38299 of 2024

in W.P.No.35414 of 2024

Mr.S.Muniyamuthu

S/o.Selvarasu

Petitioner

..



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W.P.No.18919 of 2025

VS

1. *The District Collector*
Cuddalore District
Cuddalore
 2. *The District Revenue Officer*
Cuddalore District
 3. *The Revenue Divisional Officer*
Sub Division
Viruthasalam, Cuddalore District
 4. *The Tahsildar*
Veppur Taluk
Cuddalore District
 5. *The Block Development officer*
Nallur Union Office
Nallur
Veppur Taluk
Cuddalore District – 606 302
 6. *The Inspector of Police*
Veppur Police Station
Veppur Taluk
Cuddalore Taluk
 7. *The President*
Nallur Panchayat
Veppur Taluk
Cuddalore District
 8. *Mr.K.Ayyamperumal*
S/o.Kolanganathan
 9. *Mr.K.Katturaja*
S/o.Kolanganathan
 10. *The Divisional Engineer*
State Highways Department,
Cuddalore Division, Cuddalore District ..
- Respondents*
(R10 suo motu impleaded vide this order)

*Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of mandamus to direct 4th respondent
to remove the illegal encroachment from the Government land in*



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W.P.No.18919 of 2025

Survey No.73 situated at Nallur Village, Veppur Taluk, Cuddalore District to enable the petitioner and the public to use the road for agriculture purpose and pass order based on the petitioner representation dated 08.11.2023.

*For Petitioner : Mr.T.Velu
For Respondents : Mr.T.K.Saravanan
Government Advocate
for R1 to R7 and R10*

ORDER

(Order of the Court was made by M.SUNDAR, J.)

Captioned writ petition has been filed alleging encroachment in 'S.No.73 in Nallur Village, Veppur Taluk, Cuddalore District' [hereinafter 'said land' for the sake of convenience]. To be noted, R8 and R9 (private respondents) are alleged encroachers.

2. When the matter was listed before another Hon'ble Division Bench on 06.12.2024, the following proceedings were made:

Sl.No.	Date	Main Case/ Misc. Case No.	Office Notes, Reports, Orders or Proceedings with Signatures
	06.12.2024.	WP.No. 35414 of 2024 & WMP.No. 38299 of 2024.	<u>JNB & RSVJ</u> Mr. T.K. Saravanan, learned Govt. Advocate 'taka notice' for respondents 1 to 4 and seek time to get instructions. Post on 09.12.2024. Bk. 6/12/24

3. Today, Mr.T.Velu, learned counsel for writ petitioner is before us. Mr.T.K.Saravanan, learned Government Advocate submits that he accepts notice for R5 to R7 also.

4. Learned State counsel submits, on instructions, that there



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is encroachment qua said land and that action is warranted under the 'Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' {hereinafter 'State Highways Act' for the sake of brevity}. This means that the alleged encroachers have to be show-caused inter alia under Section 28(1)(ii) of State Highways Act and if any representation is received within the show-cause period of 7 days, Authority or Officer concerned should pass final orders.

5. As there is adequate safety valve for private respondents, with the consent of both sides, main writ petition was taken up making it clear that all the rights and contentions of private respondents are preserved when they are show-caused.

6. The power to show-cause is vested in Highways Authority. The term 'Highways Authority' has been defined vide Section 2(13) of State Highways Act, Section 2(13) of State Highways Act takes us to Section 5(2) and as per Section 5(2) of State Highways Act, it is jurisdictional Divisional Engineer. In this case it is Divisional Engineer, State Highways Department, Cuddalore Division, Cuddalore District. Therefore, we implead Divisional Engineer, State Highways Department, Cuddalore Division, Cuddalore District as R10 and Mr.T.K.Saravanan, learned Government Advocate accepts notice for R10 also.

7. Let the alleged encroachers be it R8 or R9 or any other encroachers be show-caused under Section 28(2)(ii) of State Highways Act and let the proceedings be carried to its logical end on its own merits and in accordance with law. When we say logical end, we make it clear that R8, R9 and/or any other alleged



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encroachers would be show-caused under Section 28(2)(ii) of State Highways Act. If any representation is received within the show-cause period of 7 days, the Authority or Officer concerned, shall pass final orders. If the final order is in favour of noticees, that would be the end of the matter and if that not be so, further proceedings will continue and rights of R8 and R9 to assail such final order is also preserved. For this purpose, all the rights and contentions of R8 or R9 or any other person, who may be show-caused, are preserved. This is the safety valve we put in and therefore there is no impediment in captioned writ petition being disposed of in the Admission Board, when R8 and R9 are not before us.

Captioned writ petition disposed of in the aforesaid manner (recording the stated position of the learned State counsel). Consequently, writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.'

3. Aforementioned order speaks for itself and therefore, we deem it appropriate to not to dilate on the same. Suffice to say that private respondents (R8 and R9) in the aforementioned earlier writ petition are two sons of writ petitioner before us in the captioned WP i.e., Mr.K.Kolanjinadhan.



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4. Post aforementioned earlier judicial order dated 09.12.2024, the writ petitioner in the captioned WP i.e., Kolanjinadhan and his two sons namely, K.Ayyamperumal and K.Katturaja (R8 and R9 in earlier writ petition) were show caused under Section 28(2)(ii) of said Act vide notices dated 10.02.2025 and 27.03.2025.

5. Before we proceed further, we deem it appropriate to record the submission of learned State Counsel (submission made on instructions) that a survey was conducted in which, writ petitioner in earlier writ petition Mr.S.Muniyamuthu was also found to be an encroacher and he was also show caused. Mr.S.Muniyamuthu has come up with a Writ Miscellaneous Petition vide W.M.P.No.25864 of 2025 in W.P.No.18919 of 2025 to implead himself as 6th respondent in the captioned WP (one of the captioned WMPs). Considering the facts and circumstances of the case and the nature of the matter and also taking into account the fact that neither learned counsel for writ petitioner nor learned State Counsel opposed Muniyamuthu being heard as an intervenor (without being impleaded as respondent), we

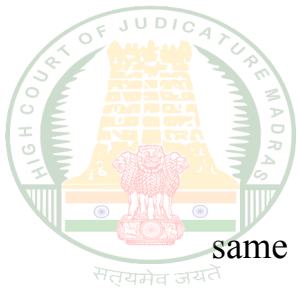


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order W.M.P.No.25864 of 2025 by writing that WMP petitioner S.Muniyamuthu shall now be heard as an intervenor without being added as respondent.

6. Mr.T.Velu, learned counsel for intervenor submitted that the intervenor has also received a 'Show Cause Notice' {'SCN'} and he is in the process of dismantling the structure which he has put up.

7. Be that as it may, reverting to the SCNs dated 10.02.2025 and 27.03.2025, writ petitioner in the captioned WP has sent a detailed response dated 01.04.2025 together with annexures but without considering the response of the writ petitioner or annexures, on the contrary recording that the writ petitioner has not responded to SCNs, R4 has made an 'order dated 14.05.2025 bearing reference Ku.No.40/2025/Vu.Po which has been called in question vide certiorari limb of the captioned WP' {hereinafter 'impugned order' for the sake of brevity, convenience and clarity}. As regards mandamus limb, Mr.S.Saravana Kumar, learned counsel for writ petitioner submits that the writ petitioner has filed an appeal dated 01.04.2025 and the



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same has to be considered. It is submitted that the afore-referred response to SCNs is what is being referred to as an appeal and it is styled as appeal under Section 55 of said Act. However, as learned State Counsel has placed before us 01.04.2025 response of writ petitioner, considering the language in which Section 28 of said Act is couched, more particularly, proviso to Section 28(2)(ii) of said Act, it is only appropriate that R4 should have considered the writ petitioner's response and made final orders which obviously, will be a speaking order but the impugned order does neither as would be evident from the allusion supra. Sequitur is, we have no hesitation in dislodging the impugned order by issuing a writ of certiorari. As regards the mandamus limb, Mr.S.Saravana Kumar, learned counsel for writ petitioner points out that there is a provision to lease out said land and such a plea has been made in writ petitioner's response dated 01.04.2025. It is open to the authorities to consider the same on its own merits and in accordance with law untrammelled by the instant order.

8. Ergo, the sequitur is following order is made:

(i) Impugned order of R4 dated 14.05.2025 bearing



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reference K.No.40/2025/Vu.Po is set aside;

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(ii) 'Authority or officer concerned' shall now consider 01.04.2025 response of the writ petitioner and make orders afresh vide proviso to Section 28(2)(ii) of said Act;

(ii) Orders to be made in the aforesaid manner shall be communicated to writ petitioner under due acknowledgement within 7 working days from the date of the order;

(iii) Though obvious, we have made it clear that the writ petitioner's request for lease can also be considered on its own merits and in accordance with law but we hasten to add that we have not expressed any view or opinion on the writ petitioner's request;

(iv) It is also made clear that coercive action, if any and if that be so, shall be subject to final orders to be made by 'authority or officer concerned' in the aforesaid manner;

(v) If the final orders to be made by 'authority or



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officer concerned' in the aforesaid manner is in favour of writ petitioner, that will be the curtains on the matter;

(vi) If the final orders to be made by 'authority or officer concerned' vide proviso to Section 28(2)(ii) of said Act is not in favour of writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of order on the writ petitioner so as to enable the writ petitioner to avail judicial review qua final orders of 'authority or officer concerned' if so advised and if so desired;

(vii) Proviso to Section 28(2)(ii) of said Act talks about 'any representation'. Therefore, we make it clear that it is open to the intervenor also to send a representation, if so advised and if so desired within 7 days from today i.e., on or before 01.07.2025 and if it is sent, the same shall also be considered by 'authority or officer concerned' in making final orders.

Captioned WP is disposed of in the aforesaid manner. Captioned



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W.M.P.Nos.21199 & 21200 of 2025 have become otiose and the same are disposed of as closed. Captioned W.M.P.No.25864 of 2025 is ordered as above (treating WMP petitioner as intervenor without adding him as respondent). There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

24.06.2025

Index : Yes / No

Neutral Citation : Yes

Speaking / Non-speaking

mk

To

1. The Secretary to Government
Government of Tamil Nadu
Highways and Minor Ports Department
Fort St.George, Chennai-600 009.
2. The District Collector
Cuddalore District
Cuddalore - 607 001.
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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