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W.P.No.48167 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.P.No.48167 of 2025
and
W.M.P.No.53824 of 2025**

T.Maheshraj,
S/o Late K.V.Thirumal

... Petitioner

Vs.

1. The District Collector,
Tiruvallur.
2. The Assistant Divisional Engineer(H),
Office of the Assistant Divisional Engineer(H),
Thiruttani Sub-Division,
Thiruttani.
3. The Revenue Divisional Officer,
Revenue Division Office,
Thiruttani.
4. The Tahsildar,
Thiruttani.
5. The Assistant Engineer (H),
C & M,
Thiruttani Division.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 2nd respondent in connection with the memorandum No.512/2024/A1 dated 28.11.2025 and to quash the same.



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For Petitioner : Mr.R.Srinivas, Senior Counsel
for Mr.Lakshmi Vijayakumar

For Respondents : Mr.A.Selvendran,
Special Government Pleader

ORDER

S.M.SUBRAMANIAM,J.

The final notice dated 28.11.2025 issued under Section 28(2) of the Highways Act, 2001 is sought to be assailed in the present writ proceedings.

2. The present writ petition is the fourth writ petition instituted by the petitioner. The Highways Department is struggling to remove the encroachments for the past about 2 years on account of legal battle launched by the petitioner continuously, challenging the show cause notice and final orders. As per the submission of the learned Special Government Pleader, encroachments in the Highways is to be removed for construction of storm water drain, which is delayed on account of non-removal of encroachment in S.No.306, which is the portion of the highways property belonging to the Highways Department.

3. The facts in nutshell would show that notice was initially issued on 06.11.2023 asking the petitioner to remove the encroachments in the Tamil Nadu Highways Road, failing which, eviction proceedings will be initiated. The first writ petition came to be instituted by the petitioner in W.P.No.2091/2024 and the Division Bench of this Court passed an order



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on 31.01.2024 treating the impugned order dated 06.11.2023 as a show cause notice. Liberty was granted to the petitioner to file his reply within a period of ten days and thereafter, the authorities shall consider the reply and take a decision on its own merits. The petitioner submitted his reply on 07.02.2024 mainly stating that he is the owner of the property situated at S.No.307/5A at Thiruthani Village an extent of 25 cents. The property was purchased by his grandfather in the year 1947 and the family of the petitioner continue to be in possession of the subject property. The petitioner contended that the initiation of eviction proceedings *per se* is erroneous, since it is a private property and the lands in S.No.307/5A belongs to the family of the petitioner.

4. Not considering the above explanations, further notice was issued by the Assistant Engineer, Highways, on 12.08.2024. The said notice came to be challenged by the petitioner in W.P.No.24367/2024 and the Division Bench passed the final order on 03.10.2024, directing the Assistant Divisional Engineer, Highways, to hold an enquiry and pass orders after considering the petitioner's representation dated 07.02.2024. A personal hearing shall also be given to the petitioner, a notice whereof shall be given atleast 5 working days in advance. The petitioner, vide his letter dated 27.11.2024 produced a copy of the order passed by this Court. The Assistant Divisional Engineer, Highways, conducted an enquiry and considered the objections raised by the petitioner vide its order dated 29.04.2025. Perusal of the said final order passed by the



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Assistant Divisional Engineer would show that the encroachments identified in S.No.306 belongs to Highways Department. The Assistant Divisional Engineer considered the survey report of the revenue authorities and arrived at a conclusion that the petitioner has encroached upon the Highways property. Therefore, it is made clear that the final order has been passed as early as on 29.04.2025 by the Assistant Divisional Engineer. The said order came to be challenged by the petitioner in W.P.No.17475/2025. The Division Bench disposed of the said writ petition on 06.06.2025, elaborately recording the earlier order passed by the Division Bench in two writ petitions and issued the following directions.

- i. The impugned order bearing reference Memorandum No.512/2024/A1 dated 29.04/2025 made by R2 is set aside on the short point that it is contrary to the 31.01.2024 judicial order and Section 28 of the TN Highways Act as it has not considered the writ petitioner's response dated 07.02.2024;*
- ii. We make it clear that we have not expressed any view or opinion on the merits of the matter qua encroachment, all questions are left open and it is for the authorities concerned to make an order after considering the writ petitioner's response*



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*dated 07.02.2024 vide proviso to Section 28(2)(ii)
of the TN Highways Act;*

*iii. The order made in the aforesaid manner by R2
shall be served on the writ petitioner within a
period of seven working days from the date of the
order under due acknowledgment;*

*iv. Coercive action, in any manner, if any and if
that be so can only be subject to and depending
on the order to be made by R2 in the aforesaid
manner; and*

*v. It is made clear that all rights and contentions of
writ petitioner shall stand preserved for assailing
such an order, if it is adverse to the writ petitioner.*

5. Pertinently, even after the order dated 06.06.2025 in W.P.No.17475/2025, a joint survey has been conducted by the Revenue department in the presence of the writ petitioner. The inter departmental communication issued by the Tahsildar, Thiruthani dated 15.10.2025 would show that the survey has been conducted in respect of road poromboke S.No.306 which belongs to Highways Department. The said survey has been conducted and the petitioner admittedly, participated in survey proceedings and raised his objections. The surveyor submitted a detailed report holding that encroachments are identified in Survey



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No.306. After conduct of joint survey and based on the report of the surveyor as affirmed by the revenue authorities, final notice has been issued in proceedings dated 28.11.2025, which is impugned in the present writ proceedings.

6. Learned Senior Counsel, Mr.Srinivas, would reiterate that the subject land belongs to the petitioner's family was purchased in the year 1947 by the grandfather of the petitioner. They continue to be in possession and they are the owners of the property. Patta had been issued in their name. Therefore, the authorities has misidentified the survey number and issued notice which is untenable. Earlier orders of this Court would show that no proper enquiry has been conducted nor final order has been passed. Even the impugned order would indicate that it is a notice. Therefore this writ petition has to be considered.

7. Learned Special Government Pleader, Mr.A.Selvendran, would oppose stating that it is not an initial show cause notice issued to the petitioner. Three writ petitions had been earlier filed by the petitioner. Initial show cause notice was issued on 06.11.2023. More than one occasion, survey was conducted and finally, joint survey was conducted in the presence of the petitioner. The authorities have held that encroachments are identified in S.No.306 and they have no say about the claim of the writ petitioner in respect of S.No.307/5A. That apart, on account of encroachment, the road works are stalled and the Highways Department is unable to complete the storm water drain project and



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therefore, eviction proceedings are accelerated and on account of continuous litigations launched at the instance of the petitioner, the public project is unable to be implemented.

8. Section 28 of the Tamil Nadu Highways Act, 2001 contemplates Prevention of encroachment. Sub-Section (1) enumerates that Administrator or any person authorised by it in this behalf shall, at such time as may be considered necessary, conduct such checks and periodical inspection of the highway boundaries, with the view to ensure the prevention of unauthorised encroachment and the removal of such encroachment.

9. Section 28(2)(i) would speak about removal of movable temporary structure, enclosures, stall, booth, any article etc., However Sub-Section 2(ii) provides removal of any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act. The provision contemplates, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof, provided any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders.

10. It is to be considered whether the provision in *stricto sensu* has been complied with by the competent authorities.

11. To reiterate the facts, first notice issued on 06.11.2023 which was challenged in W.P.No.2091/2024, the petitioner submitted his



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detailed explanation on 07.02.2024. The second notice dated 12.08.2024

was challenged in W.P.No.24367/2024. Thereafter, the Assistant

Divisional Engineer, pursuant to the direction conducted a detailed

enquiry by affording an opportunity to the petitioner and passed final

order in proceedings dated 29.04.2025, which is a speaking order. The

said order came to be challenged in W.P.No.17475/2025 and in the said

writ petition, the Division Bench issued certain directions. Even

thereafter, a joint survey was conducted by the Highways Department

through Revenue Officers and in the presence of the petitioner. Even

during the said joint survey the authorities identified the encroachments

in S.No.306, which belongs to Highways Department. Therefore, the

final notice came to be issued in proceedings dated 28.11.2025, which is

under challenge the present writ petition. The said notice cannot be

construed as a first show cause notice. The writ petitioner has earlier filed

three writ petitions and in all the three writ petitions, this Court considered

the issues and provided opportunity to the petitioner to submit his

explanations and directed the authorities to decide the issue. The

authorities also conducted more than one survey and identified the

encroachments and final order also had been passed by the Assistant

Divisional Engineer and when the final notice had been issued, the said

notice has been challenged once again. The repeated filing of the writ

petitions by the petitioner would show that he is trying to prolong the

eviction proceedings one way or other which cannot be encouraged by



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this Court. The Highways encroachments would cause greater inconvenience and would pose threat to the road users. That is the reason why Highways Act contemplates simplified procedures for the purpose of eviction of encroachers from the Highways. Any obstructions in Highways may result in accidents and the consequences are also disastrous. Under these circumstances, Highway projects need not be stalled by entertaining repeated writ petitions by the encroachers as done in the present case.

12. Considering the overall facts and circumstances, this Court is able to arrive at an irresistible conclusion that the present writ petition is one that filed with a view to prolong the eviction proceedings and that being so, we are not inclined to entertain the writ petition. The respondents are directed to evict the petitioner forthwith without any delay. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (C.K.,J.)
08.12.2025

vsi
Index : Yes
Speaking order : Yes



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