



W.P.(MD)No.569 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.569 of 2025

and

W.M.P.(MD)No.387 of 2025

N.Anandakumar

: Petitioner

Vs.

1.The Assistant Divisional Engineer,
Highways Department,
(Construction & Maintenance),
Radhapuram,
Tirunelveli District.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

: Respondents



W.P.(MD)No.569 of 2025

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records regarding the impugned notice No.04/2023/A1 dated 30.12.2024 passed by the first respondent and quash the same and consequently direct the respondents to rectify and relay the Nanguneri – Bharathar Oovari Road in SH-89 in the land acquire for the specific purpose in Survey No.63A/2A1B2.

For Petitioner : Mr.S.Mani

For Respondents 1 & 2 : Mr.S.R.A.Ramachandran

Additional Government Pleader

ORDER

[Order of the Court was made by **M.S.RAMESH, J.**]

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

2.This writ petition has been filed seeking to quash the impugned notice No.04/2023/A1 dated 30.12.2024 passed by the first



W.P.(MD)No.569 of 2025

WEB COPY

respondent and for a consequential direction to the respondents to rectify and relay the Nanguneri – Bharathar Oovari Road in SH-89 in the land acquired for the specific purpose in Survey No.63A/2A1B2.

3.Under Section 28(2) of “the Tamil Nadu Highways Act, 2001” [hereinafter referred to as “the Act” for brevity], whenever there are temporary encroachments in the highways property, the department is entitled to remove them forthwith. Likewise, under Sub-section (ii), when permanent structures are erected in highways land, show cause notice requires to be issued to the encroachers, calling upon them to remove the encroachments. In case any reply is given to the show cause notice, the proviso prescribes that such objections have to be considered, before passing final orders.

4.In the instant case, the department has already issued two show cause notices on 12.12.2023 and 16.09.2024. In the said notices, the encroachments in S.No.891 are shown as temporary, as well as permanent structures.



W.P.(MD)No.569 of 2025

WEB COPY

5.The learned Counsel for the petitioner disputes the claim of the department that he has encroached into the property. However, he would also admit that his property has already been acquired by the department and compensation has also been received by him.

6.This Court, in exercise of its powers under Article 226 of the Constitution of India, will not venture to adjudicate disputed facts, which proposition has been consistently reiterated by the Hon'ble Supreme Court, as well as this Court in several of its decisions. Since the petitioner raises a factual dispute with regard to the claim of the department that he is an encroacher, his remedy to establish his rights would be to substantiate the same before the Civil Court.

7.Since the respondents have followed the procedure contemplated under the Act for removal of the encroachment, we do not find any reason to interfere with the impugned show cause notice.



W.P.(MD)No.569 of 2025

WEB COPY

8. Accordingly, this Writ Petition stands dismissed, with liberty to the petitioner to approach the Civil Court, if he chooses to do so. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[M.S.R.,J.] & [A.D.M.C.,J.]

09.01.2025

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



WEB COPY



W.P.(MD)No.569 of 2025

To

1.The Assistant Divisional Engineer,
Highways Department,
(Construction & Maintenance),
Radhapuram, Tirunelveli District.

2.The District Collector,
Tirunelveli District,
Tirunelveli.



WEB COPY



W.P.(MD)No.569 of 2025

M.S.RAMESH, J.

and

A.D.MARIA CLETE, J.

MR

ORDER MADE IN

W.P.(MD)No.569 of 2025

09.01.2025