



W.P.(MD)No.2116 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.2116 of 2025 and

W.M.P.(MD)No.1492 of 2025

N. Balasubramanian

... Petitioner

Vs

1. The District Collector,
Sivagangai District, Sivagangai..

2. The Revenue Divisional Officer,
Devakottai, Sivagangai District..

3. The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Karaikudi, Sivagangai District..

4. The Kallachiyamman Kovil Uravinmurai,
Periyanagar, Alampatti Village,
Kallal Union,
Karaikudi, Sivagangai District..

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the impugned order of the 3rd respondent in Na.Ka.No.



W.P.(MD)No.2116 of 2025

769/2024/E.va.a dated 09.12.2024 and quash the same as illegal.

WEB COPY

For Petitioner : Mr.S.Vimalraj

For Respondents 1 to 4 : Mr.S.Shaji Bino for R1 to R3

Special Government Pleader

Mr.Jeyaram Siddharth for R4

ORDER

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

This writ petition has been filed challenging the impugned order of the third respondent dated 09.12.2024.

2.The main ground on which the order made under Section 28(2) of “the Tamil Nadu Highways Act, 2001” [hereinafter referred to as “the Act” for convenience] is challenged is that prior to issuance of the eviction order, a show cause notice as mandated under Section 28(2)(ii) was not made.

3.The learned Special Government Pleader would submit that fairly admitted that no show cause notice was issued.



W.P.(MD)No.2116 of 2025

WEB COPY

4. There is no justification on the part of the respondents in taking such a stand, in view of the fact that this Court, while passing orders earlier, had only directed the official respondents to take necessary action for removal of the encroachments by following due process of law. Section 28 of the Act mandates for issuance of a prior show cause notice under Section 28(2)(ii) before any order of eviction is passed. When this Court had specifically directed the authorities to follow the due process of law, it goes without saying that the show cause notice should have been issued before Section 28(2) notice. Therefore, the present impugned order cannot be legally sustained.

5. Accordingly, the impugned order dated 09.12.2024 on the file of the third respondent is set aside. However, liberty is granted to the respondents herein to initiate eviction proceedings by following the due procedure contemplated under the Act and take further course of action by extending due opportunity to all the persons who may be interested in the subject matter.



W.P.(MD)No.2116 of 2025

WEB COPY

6. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

24.01.2025

Neutral Citation : Yes/No

Index : Yes/No

RR

To

1. The District Collector,
Sivagangai District, Sivagangai..

2. The Revenue Divisional Officer,
Devakottai, Sivagangai District..

3. The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Karaikudi, Sivagangai District..



WEB COPY



W.P.(MD)No.2116 of 2025

M.S.RAMESH, J.

and

A.D.MARIA CLETE, J.

RR

ORDER MADE IN

W.P.(MD)No.2116 of 2025

24.01.2025