

W.P.(MD)No.10929 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 28.04.2025

CORAM:

THE HON'BLE MRS JUSTICE J. NISHA BANU

AND

THE HON'BLE MRS JUSTICE S.SRIMATHY

W.P.(MD)No.10929 of 2025

and

W.M.P.(MD)Nos.8136 and 8139 of 2025

1.Ganesamoorthy

2.Seenivasan

...Petitioners

-Vs-

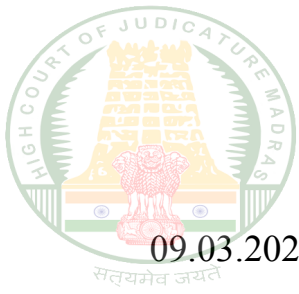
1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Taluk Office,
Aranthangi,
Pudukkottai District.

3.The Divisional Engineer,
Highways Department,
Aranthangi,
Pudukkotai District.

...Respondents

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned proceeding in Ni.Mu.1874494/2024/E1, dated



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09.03.2025 passed by the 1st respondent consequently proceeding in Na.Ka. No. 487/2024/Aa5 dated 28.03.2025 passed by the 2nd respondent and quash the same and consequently direct the 3rd respondent to allow the petitioners to run the shops in unused land in Survey No.78/13B with an extent of 50 sq.ft., situated at Paravakottai Revenue Village, Aranthangi Taluk, Pudukkottai District.

For Petitioners : Mr.M.Ramu
For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

(Order of the Court was made by **S.SRIMATHY, J.**)

This writ petition is filed challenging the eviction notice issued by the respondent 09.03.2025.

2.The contention of the petitioner is that the petitioners and the other residents are permissive occupants in the subject property for years together. While so, the second respondent treating the petitioners as encroachers has issued eviction notice under Section 6 of the Tamil Nadu Removal of Land Encroachment Act, 1905 in pursuant to the order passed by this Court in a writ petition filed by one Chitra in W.P.(MD)No.23395 of 2023. The said notice was put to challenge before the first respondent by way of appeal proceedings. However, the said appeal was rejected by the first respondent. Challenging the same, the petitioners have filed this writ petition.



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WEB COPY 3. Admittedly, the properties mentioned in Serial Nos.6 and 7 of the eviction notice issued by the second respondent are classified as Road. Hence, the competent authority to issue eviction notice, is the Highways Department and not the revenue officials. Therefore, on the point of jurisdiction, the eviction notice issued by the second respondent is set aside with regard to Serial Nos.6 and 7. The Highways Authority is directed to initiate necessary action for removal of encroachment made in the properties mentioned in Serial Nos.6 and 7. As far as the remaining extent of property is concerned, the concerned official respondents are directed to take appropriate action in accordance with law.

4. At this juncture, the learned counsel for the petitioner submits that the petitioners are the permissive occupants of the property in question, hence they cannot be treated as encroachers. Further, the third respondent is vested with power to grant permissive possession of the property in question.

5. In view of the above submission, the third respondent is directed to consider the request of the petitioners on its own merits and in accordance with law.



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WEB COPY 6. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B.,J.) (S.S.Y.,J.)
28.04.2025

Index: Yes/No
Internet : Yes/No
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To

1. The District Collector,
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