



WP(MD). No.31190 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 28/03/2025

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

WP(MD). No.31190 of 2024 and
WMP(MD) No.26156 of 2024 and 3485/2025

K.Subramani

... Petitioner

Vs

1. The District Collector,
Dindigul District..

2. The Assistant Director,
Survey and Land Records,
Dindigul District..

3. The Tahsildar,
Vedasandur Taluk,
Dindigul District..

4. The Divisional Engineer,
State Highways Department,
Construction and Maintenance,
Palani, Dindigul District..

5. The Assistant Divisional Engineer,
State Highways Department,
Construction and Maintenance,
Vedasandur, Dindigul District..

... Respondents



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PRAYER :- Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorari calling for the records relating to the impugned order dated 10.12.2024 in Memo No. 10/Encroachment / 2024/U issued by the 5th respondent and quash the same as illegal

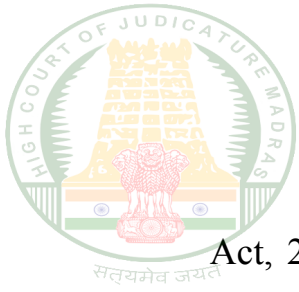
For Petitioner : Mr.A.K.Manikkam
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

(Order of the Court was made by J.NISHA BANU, J.)

The writ petition has been filed challenging the impugned order of the 5th respondent dated 10.12.2024, in and by which, it is alleged that the petitioner has encroached the land belonging to the respondent Department to an extent of 0.00.27 sq.mtr.

2. The petitioner's case is that the land in question originally belongs to his grandfather and they were in possession and enjoyment of the said property from the year 1946 onwards. However, on the premise that the petitioner has encroached the highways department land, the 5th respondent has issued a show cause notice to the petitioner on 02.12.2024 under Section 28(2)(ii) of the Tamil Nadu State Highways



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Act, 2001, for which, the petitioner has given his reply on 05.12.2024.

According to the 5th respondent, the reply is not satisfactory and hence, the impugned order of eviction has been passed. Therefore, challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that notice under Section 28(2)(ii) of the Tamil Nadu State Highways Act, 2001, was issued to the petitioner on 02.12.2024, for which, the petitioner has given his explanation on 05.12.2024. Not considering the said explanation, now the impugned order of eviction has been passed. Hence, the petitioner is before this Court with this writ petition.

4. We have heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

5. It is pertinent to note that as against the order under Section 28(2)(ii) of the Tamil Nadu State Highways Act, 2001, when the petitioner has got an appeal remedy, without exhausting the same, the petitioner has straight away approached this Court by way of filing the



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writ petition invoking Article 226 of the Constitution of India. Therefore, the petitioner is at liberty to file an appeal under the Tamil Nadu State Highways Act, 2001 before the appellate authority, if he is so aggrieved by the order passed by the 5th respondent. In the appeal to be filed, the petitioner is at liberty to file an application for stay.

6. With the above observations, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

[J.N.B.,J]

[S.S.Y.,J]

28.03.2025

NCC : Yes/No

Index : Yes/No

RR



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