



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

WP No. 39930 of 2025

and

WMP Nos. 44859 & 44860 of 2025

T.Chandrasekaran
S/o.Thangavelu, No.1/113, Ammapalayam
Village, Attur Taluk, Salem District.

..Petitioner(s)

Vs

1. Assistant Divisional Engineer
Highways Department Ka(ma)pa,
Attur, Salem District.
2. The President,
Ammapalayam Village Panchayat,
Ammapalayam Village, Attur Taluk,
Salem District.

..Respondent(s)

To call for the impugned order of the 1st respondent in
Ku.No.648/2025/U dated 09.10.2025 and quash the same

WP No. 39930 of 2025

For Petitioner(s): Mr.J. Vinoth

For Respondent(s): Mr.Abishek Murthy,
Government Advocate

Order

(Order of the Court was made by S.M.Subramaniam J.)

The final notice dated 09.10.2025 issued by the Assistant Divisional



Engineer, Highways, under Section 28 of the TamilNadu Highways Act is under challenge in the present writ petition.

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2. Learned counsel for the petitioner would mainly contend that the subject land is a patta land and he is the owner. He produced the sale deeds and documents to establish his title but the authorities have failed to consider the same. An enquiry has not been conducted. Based on the explanation submitted by the petitioner in response to the show cause notice, the authorities issued the final notice for eviction. Therefore, the present writ petition is to be considered.

3. Learned Government Advocate appearing on behalf of the respondents would oppose by stating that the procedures as contemplated under Section 28 of the Tamilnadu Highways Act has been followed. Show cause notice came to be issued and admitted, the petitioner submitted his explanation. The petitioner has failed to appear before the authorities, despite an opportunity was granted to him.

4. Learned counsel for the petitioner would submit that the explanation has been submitted but the same has not been considered by the authorities.

5. Let us consider the procedures contemplated under section 28 of the Tamilnadu Highways Act, for prevention of encroachments. Sub Section 2



speaks about removal of movable structures. Section 28(2)(ii) speaks about removal of immovable structures. The provision reads as follows:

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(2) The Highways authority or any person authorised by it in this behalf, may--

(i) remove, without any notice, any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching the highway or in any area where the construction or development of a highway is undertaken or proposed to be undertaken;

(ii) remove any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:

Provided that any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders.

Provision clause indicates that any representation received within the time limit shall be considered by the authority or officer concerned before passing the final order.

6. The contention of the petitioner is that the representation submitted was not considered.

7. Learned Government Advocate would submit that no such representation has been given within the time limit granted by the authorities.



An opportunity of personal hearing afforded was also not availed of by the petitioner. The petitioner in the typed set of papers, filed along with the writ petition, has enclosed the copy of the explanation given by him on 24.09.2025. The grievance of the petitioner is that the said explanation has not been considered. If so, the respondents are directed to consider the representation already available within a period of one week from the date of receipt of a copy of this order and pass final orders afresh and thereafter, proceed with the enforcement action for removal of encroachments, if encroachments are identified.

8. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (K.S.,J.)
09-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSI

To

1. Assistant Divisional Engineer
Highways Department Ka(ma)pa, Attur, Salem
District.
2. The President,
Ammapalayam Village Panchayat,
Ammapalayam Village, Attur Taluk, Salem
District.



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**S.M.SUBRAMANIAM J.
AND
K.SURENDER J.**

vsi

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