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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2026

CORAM
THE HONOURABLE MR. JUSTICE M.DHANDAPANI
and
THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.P.(MD)No.23434 of 2026
and
W.M.P.(MD).Nos.17430 of 2026

Thiyagarajan

: Petitioner

Vs.

- 1.The District Collector,
Karur District.
- 2.The Revenue Divisional Officer,
Kulithalai,
Karur District.
- 3.The Tahsildar,
Kulithalai,
Karur District.
- 4.The Executive Officer,
Krishnarayapuram Town Panchayat,
Karur District.

: Respondents

Prayer:This petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records of the fourth respondent's eviction order by this proceedings in Na.Ka.No.269 / 2024 dated 10.07.2026 and quash the same.



For Petitioner : Mr.S.Muthiah Poosari Amalan,
for M/s.Tamil Law Firm
For R-1 to R-3 : Mr.G.Mohan Kumar,
Additional Government Pleader
For R-4 : Mr.A.Mohan,
Government Advocate (Civil)

ORDER

(Order of the Court was made by **M.DHANDAPANI.J.**)

This writ petition has been filed challenging the eviction order passed by the fourth respondent in his proceedings in Na.Ka.No.269/2024, dated 10.07.2026.

2. Heard Mr.S.Muthiah Poosari Amalan, learned counsel appearing for the petitioner; Mr.G.Mohan Kumar, learned Additional Government Pleader, who takes notice on behalf of respondent Nos.1 to 3; and Mr.A.Mohan, learned Government Advocate (Civil Side), who accepts notice on behalf of the fourth respondent.

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



4. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the subject property and that an assignment patta was granted in his favour on 07.09.2004. It is submitted that certain neighbouring landowners made allegations that the petitioner had encroached upon the pathway and instituted a suit in O.S.No.305 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Krishnarayapuram. The said suit came to be dismissed. However, according to the learned counsel, certain observations were made in the said judgment with regard to the alleged encroachment by the petitioner. Aggrieved by the said observations, the petitioner preferred an appeal in A.S.No.25 of 2023 on the file of the Sub Court, Kulithalai. It is submitted that the petitioner has also filed I.A.No.2 of 2023 in the said appeal and the same is still pending consideration. In the meantime, the respondents have initiated proceedings for eviction of the petitioner from the subject property by invoking the powers under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998.

5. The learned counsel appearing for the petitioner would further submit that, when the appeal is pending before the competent Civil Court, the respondents ought not to have proceeded with the eviction proceedings, particularly when no prior show-cause notice was issued to the petitioner as contemplated under Section 128 of the Tamil Nadu Urban Local Bodies Act,



1998. It is therefore submitted that this Court may grant some reasonable time to the petitioner to pursue the interlocutory application pending in A.S.No.25 of 2023 and, till then, protect the petitioner from coercive steps pursuant to the impugned proceedings.

6. Per contra, the learned counsel appearing for the respondents would submit that, in O.S.No.305 of 2021, there is a categorical finding with regard to the encroachment allegedly made by the petitioner over the pathway, which would affect the use of the pathway by the neighbouring landowners. It is therefore submitted that the impugned proceedings have been initiated on the basis of the said finding.

7. However, the learned Government Advocate (Civil) appearing for the fourth respondent, on instructions, fairly submitted that before passing the impugned order under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998, no prior show-cause notice was issued to the petitioner.

8. This Court has considered the submissions made by the learned counsel appearing for both sides and perused the materials available on record.



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9. The fact that the petitioner was a defendant in O.S.No.305 of 2021 filed by the neighbouring landowners is not in dispute. It is also not in dispute that certain observations/findings were made by the Civil Court with regard to the alleged encroachment by the petitioner and that, aggrieved by the same, the petitioner has preferred A.S.No.25 of 2023 before the Sub Court, Kulithalai. It is further not in dispute that I.A.No.2 of 2023 filed in the said appeal is still pending consideration. In the meantime, the fourth respondent has proceeded to pass the impugned order invoking Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998. Section 128 of the said Act provides for the power to remove encroachment from public places. In respect of an immovable structure allegedly encroaching upon a street, public place, water body, tank, other water resources or land belonging to or vested with the municipality, the statutory procedure requires issuance of a show-cause notice and consideration of the representation submitted by the person concerned before passing final orders. In the present case, admittedly, no such prior show-cause notice was issued to the petitioner before passing the impugned order. Therefore, the impugned proceedings cannot be sustained in the absence of compliance with the mandatory procedure contemplated under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998. Further, the issue relating to the alleged encroachment is already the subject matter of consideration before the competent Civil Court in A.S.No.25 of 2023. This Court is not inclined to express any opinion on the



merits of the rival claims regarding the alleged encroachment, as the same is pending consideration before the competent Civil Court.

10. In view of the above, the impugned proceedings of the fourth respondent in Na.Ka.No.269/2024, dated 10.07.2026 is set aside. However, the petitioner is directed to pursue I.A.No.2 of 2023 pending in A.S.No.25 of 2023 on the file of the Sub Court, Kulithalai, and seek early disposal of the same. The learned Sub Judge, Kulithalai, is directed to consider the request of the petitioner for early disposal of I.A.No.2 of 2023 and dispose of the same, preferably within a period of six weeks from the date of receipt of a copy of this order, in accordance with law. Till the disposal of the said interlocutory application, the fourth respondent shall not take any coercive steps against the petitioner in respect of the subject property pursuant to the impugned proceedings.

11. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

[M.D.I.,J] [N.D.K.,J]

13.08.2026

Index: Yes/No
Internet: Yes/No
TSG



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