



W.P.No.35761 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.35761 of 2023

1	S.K.BALASUNDARAM		
2	MAHESHWARI	..	Petitioners
		Vs	
1	THE COLLECTOR SALEM DISTRICT SALEM.		
2	THE REVENUE DIVISIONAL OFFICER METTUR, SALEM DISTRICT.		
3	THE COMMISSIONER THARAMANGALAM MUNICIPALITY THARAMANGALAM SALEM DISTRICT.	..	Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records relating to the notice issued by the 3rd Respondent in Na.Ka.No.1736/2023/F1, dated 22.11.2023 under Section 128 Tamil Nadu Urban Local Bodies Act (Amended) 1998, quash the same.

For the Petitioners : Mr.V.Elangovan



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For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.V.Elangovan, learned counsel for the petitioners; and Mr.P.Muthukumar, learned State Government Pleader for the respondents.

2. The petitioners are challenging the notice for removal of encroachment issued under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998.

3. It is contended by learned counsel for the petitioners that as per Section 128(1)(b) of the Act of 1998, a show cause notice is contemplated before an order of eviction is passed. The petitioners are not issued with the show cause notice.

4. The impugned notice does not depict that show cause was issued to the petitioners.



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5. In the light of that, we pass the following order:

- (i) the impugned notice dated 22.11.2023 shall be construed as a show cause notice;
- (ii) the petitioners shall file a reply within ten days from today;
- (iii) the authority shall consider the reply and thereafter pass a final order under Section 128 of the Act on its own merits and in accordance with law.

The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, W.M.P.No.35741 of 2023 is closed. W.M.P.No.35740 of 2023 filed to permit the petitioners to file a single writ petition stands allowed and disposed of.

(S.V.G., C.J.)

(D.B.C., J.)

22.12.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi
To:



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SALEM DISTRICT
SALEM.
- 2 THE REVENUE DIVISIONAL OFFICER
METTUR, SALEM DISTRICT.
- 3 THE COMMISSIONER
THARAMANGALAM MUNICIPALITY
THARAMANGALAM
SALEM DISTRICT.



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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

(sasi)

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