



W.P(MD)No.18179 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P(MD)No.18179 of 2023
and
W.M.P(MD)No.15161 of 2023**

M.Gopalakrishnan

... Petitioner

-VS-

1. The Tahsildar,
Thottiyam Taluk,
Trichy District.

2. The Thottiyam Selection Grade Panchayat,
Through its Executive Officer,
Thiruchirapalli District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings passed by the 2nd respondent herein in Na.Ka.No.559/2021 dated 12.07.2023 and quash the same.

For Petitioner	: Mr.V.R.Shanmuganathan
For R1 & R2	: Mr.M.Lingadurai
	Special Government Pleader



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ORDER

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The petitioner has filed this writ petition challenging the impugned proceedings of the 2nd respondent dated 12.07.2023.

2. Reading of the impugned order shows that there is a direction to the petitioner to remove the encroachment on his own. However, the petitioner was also called upon to submit his objections within seven days. From the contents of the notice, this Court is unable to find the impugned order as a show cause notice.

3. The learned counsel for the petitioner submitted that the impugned order does not state under what provision of the Tamil Nadu Urban Local Bodies Act, 1998, it is issued. He would further contend that the impugned order is issued without conducting survey in the presence of the petitioner and therefore, it is liable to be set aside on the ground of violation of principles of natural justice.



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4. In the said circumstances, this Writ Petition is disposed of with the following directions:-

i) The impugned order is set aside on the ground of violation of principles of natural justice.

ii) The 1st respondent/Tahsildar is directed to conduct a survey in the place in question after issuing notice to the petitioner and local body concerned.

iii) The Tahsildar shall draw a survey report indicating the boundaries and the extent of encroachment, if any.

iv) If the survey report indicates any encroachment by the petitioner, the respondents shall initiate action in accordance with Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998 and after issuing a show cause notice and holding enquiry and hearing objections, if any, by the petitioner.

v) The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

No costs. Connected miscellaneous petition is closed.

[S.S.S.R, J.]

[D.B.C., J.]

17.08.2023

Index : Yes / No

Neutral Citation : Yes / No



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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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