



WEB COPY



**W.P.(MD) Nos.19621, 19622, 19623, 19624 &
19625 of 2023**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2023

CORAM:

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

**W.P.(MD) Nos.19621, 19622, 19623, 19624 & 19625 of 2023
and
W.M.P.(MD) Nos.16200, 16202, 16203, 16204, 16206 & 16209 of 2023**

W.P.(MD) No.19621 of 2023:

Baskaran

... Petitioner

-vs-

1.The District Collector
O/o.District Collector Office
Madurai District

2.The Commissioner
Madurai Corporation
Madurai District

3.The Assistant Commissioner
Chief Town Planning Officer (CTPO)
Madurai District

... Respondents



WEB COPY

**W.P.(MD) Nos.19621, 19622, 19623, 19624 &
19625 of 2023**

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned notice in Na.Ka.No.Ma2E1/003167/23, dated 15.06.2023, issued by the third respondent and quash the same as illegal and consequently direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment in respect of petitioner's shop comprised in S.No.65/1, Vilangudi Bit-II, Madurai North, Madurai District, having a total extent of 30" X 20" feet, situated at Ward No.1, Kondaimari, Vilangudi Bit-II, Madurai North, Madurai.

For Petitioner : Mr.M.Vivek Kumar

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1
Ms.S.Devasena
Standing Counsel for R2 & R3

COMMON ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

Mr.M.Lingadurai, learned Special Government Pleader, takes notice for the first respondent and Ms.S.Devasena, learned Standing Counsel, takes notice for the respondents 2 & 3.



WEB COPY

W.P.(MD) Nos.19621, 19622, 19623, 19624 & 19625 of 2023

2. With the consent of both sides, all these writ petitions are taken up for final hearing at the admission stage itself.

3. Since the issues involved in all these writ petitions are one and the same, they are clubbed together, heard together and are being disposed of by this common order.

4. All these writ petitions are filed challenging the proceedings of the third respondent dated 15.06.2023, purported to have been issued under Sections 236, 256, 257, 258, 472, 473 & 503 of the Madurai City Municipal Corporation Act, directing removal of encroachments made by the petitioners.

5. The encroachments alleged to have been made by the petitioners appear to be by putting up small AC Sheds (Shops) in the property vested with the Local Body. From the impugned proceedings, it is seen that the respondents have not made it clear whether the encroachments are in a Street or Channel. Though the petitioners have stated that they are in possession of the property for long number of years, no proof whatsoever has



W.P.(MD) Nos.19621, 19622, 19623, 19624 & 19625 of 2023

WEB COPY

been produced before this Court to substantiate their claim. The respondents also have not indicated whether the impugned proceedings are issued pursuant to any survey conducted through the Tahsildar concerned.

6. It is also brought to the notice of this Court that all the Municipal Corporation Acts governing the Local Bodies have now been repealed by the Tamil Nadu Urban Local Bodies Act, 1998 (for brevity, “the Act”).

7. In the said circumstances, this Court is inclined to pass the following orders:

- (i) The writ petitions are allowed.
- (ii) The impugned proceedings dated 15.06.2023, issued by the third respondent, are quashed, on the ground of violation of principles of natural justice.
- (iii) The impugned proceedings / notices dated 15.06.2023, issued by the third respondent, shall be treated as show-cause notices issued under Section 128 of the Act.



WEB COPY



**W.P.(MD) Nos.19621, 19622, 19623, 19624 &
19625 of 2023**

- (iv) It is open to the petitioners to submit their objections / explanations to the show-cause notices, within a period of two weeks from the date of receipt of a copy of this order.
- (v) After receiving the objections / explanations from the petitioners as directed above, the Commissioner, Madurai Corporation / second respondent shall pass orders, in accordance with law, after holding an enquiry, within a period of two weeks thereafter.
- (vi) No costs. Consequently, connected miscellaneous petitions are closed.

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

[D.B.C., J.]

14.08.2023

(2/2)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk



WEB COPY

**W.P.(MD) Nos.19621, 19622, 19623, 19624 &
19625 of 2023**

To:
The District Collector,
O/o.District Collector Office,
Madurai District.



WEB COPY



**W.P.(MD) Nos.19621, 19622, 19623, 19624 &
19625 of 2023**

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

krk

**W.P.(MD) Nos.19621, 19622, 19623,
19624 & 19625 of 2023**
and
**W.M.P.(MD) Nos.16200, 16202,
16203, 16204, 16206 & 16209 of
2023**

14.08.2023
(2/2)