



W.P.(MD)No.19853 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.19853 of 2023

and

W.M.P(MD)No.16385 of 2023

1.S.Ponraj
2.S.Baskaran
3.S.Rajasekaran

... Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Assistant Director of Panchayats,
Theni Region,
Theni.

3.The Tahsildar,
Bodinayakkanur Taluk,
Theni District.

4.The Executive Officer,
Boothipuram Town Panchayat,
Theni District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relate to the impugned notice in Na.Ka.No.99/2022, dated 13.02.2023 and 11.04.2022 issued by the fourth respondent and quash the same.

For Petitioner	:Mr.R.Suriyanarayanan
For R2 & R4	:Mr.P.Thilak Kumar Government Pleader
For R1 & R3	: Mr.J.Ashok Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Mr.P.Thilak Kumar, learned Government Pleader, takes notice for the respondents 2 & 4. Mr.J.Ashok, learned Additional Government Pleader, takes notice for the respondents 1 & 3.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



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3. This writ petition is filed challenging the impugned notice, dated 13.02.2023 and 11.04.2022 issued to the petitioner by the fourth respondent for removal of encroachment.

4. From the notice impugned in the writ petition, this Court finds that no show cause notice was issued before directing the petitioner to remove the encroachment. It is also brought to the notice of this Court that by virtue of the fact that the Tamil Nadu Urban Local Bodies Act, 1998 has been brought into force, any action for removal of encroachment should be only in accordance with the provisions of Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act.

5. We are unable to sustain the notice impugned in the writ petition. Accordingly, this writ petition is allowed and the impugned notice, dated 13.02.2023 and 11.04.2022 are set aside. However, liberty is given to the respondents to proceed afresh in accordance with the provision of 128(1) (b) of Tamilnadu Urban Local Bodies Act, 1998. The respondents are directed to cause a survey and inspection through the Tahsildar concerned to fix the boundary of the street as well as the



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property of the petitioner. After conducting a survey and inspection, if the petitioner is found to be in encroachment of any portion of the road, it is open to the respondents to issue a show-cause notice under Section 128 of the Act to the petitioner and pass final orders on merits and in accordance with law, after considering the objections, if any, received from the petitioner. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.R., J.] [D.B.C., J.]
16.08.2023

Index : Yes / No
NCC : Yes/No

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