



*W.P. No. 20779 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM

**THE HON'BLE MR. JUSTICE M. SUNDAR**

**AND**

**THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI**

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W.M.P. No. 22732 of 2024

1. M. J. Sundarraaj
2. M/s. Sri Lakshmi Narasimha Stores,  
Rep. by its Proprietor,  
P. Parthiban,  
S/o M. Perumal  
Door No.43, Chavadi Street,  
Kondapalayam Village, Sholingur,  
Ranipet District – 631 102. ..Petitioners

Vs.



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Sholingur Municipality,  
Rep.by its Commissioner,  
Office of Sholingur Municipality,  
Sholingur, Ranipet District.

..Respondent

Prayer:      Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the respondent from in anyway interfering with the petitioner's premises at Door No. 109/1, Annadhana Chattiram Street, Kondapalayam Village, Sholingur Town, Ranipet District – 631 102, occupied by the 2<sup>nd</sup> petitioner and carrying on business under the name and style of M/s. Sri Lakshmi Narasimha Stores, in any manner particularly by way of dispossession from the same, in pursuant to the respondent's office notice vide Na.Ka.No. 2876/2024/F1 dated 13.07.2024 pending final determination of the 1<sup>st</sup> petitioner's representation to the respondent pursuant to the notice dated 16.07.2024 and without any personal hearing as contemplated under Section 12 of Tamil Nadu Urban Local Bodies Act, 1998.



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For Petitioners :: Mr.D.S. Rajasekaran

For Respondent :: Mr.T.K. Saravanan,  
Govt. Advocate

## ORDER

*(Made by M. SUNDAR,J.)*

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been filed with what can be described as a very fair prayer as I writ petitioner's father one Thiru. Janakirama Naidu was visited with 'a notice dated 13.07.2024 bearing reference Na.Ka.No.2876/2024/F1' (hereinafter 'said notice' for the sake of convenience) from the sole respondent. Thereafter, noticee's son Thiru M.J. Sundarraaj ('I writ petitioner') had responded to said notice vide a detailed communication dated 16.07.2024 but I writ petitioner is under pain of being removed for alleged encroachment in a public place. We are describing the prayer as very fair as all that the I writ petitioner prays for is determination of representation of I writ petitioner (son of Janakirama Naidu), being representation dated



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16.07.2024 before any further action.

2. Issue notice.

3. Mr.T.K. Saravanan, learned Government Advocate accepts notice for sole respondent and submits on instructions that representation of I writ petitioner dated 16.07.2024 is under active consideration of sole respondent.

4. In the light of stated position of learned State Counsel, the scope of captioned WP has dwindled vastly and therefore, with the consent of learned counsel on both sides, main WP is taken up in the Admission Board.

5. Notice from sole respondent i.e., said notice dated 13.07.2024 clearly refers to Section 128 of 'Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' [hereinafter 'TNULB Act' for the sake of brevity and convenience]. Section 128(1) of TNULB Act in its entirety reads as follows:



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**128. Power to remove encroachment from public place.—(1)**

*The Commissioner may,— (a) remove without any notice any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching street or public place or the 1[land belonging to or vested with the municipality] with the municipal limit ;*

*(b) remove any immovable structure whether permanent or of temporary nature encroaching the street or public place or the 1[land belonging to or vested with the municipality] within the municipal limit, after issuing a show cause notice for such removal, returnable within a period of seven days from the date of receipt thereof :*

*Provided that the Commissioner shall consider any representation received within the time limit, before passing final orders. ’*

6. In the light of the case file before us and the



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submissions, it comes to light that Section 128(1)(b) of TNULB Act and proviso thereat comes into play. This means that representation sent by I writ petitioner has to be considered by sole respondent before passing final orders.

7. As it is the stated position of learned State Counsel that representation dated 16.07.2024 is under active consideration and as learned State Counsel super adds that representation will be considered before final orders are made, we make it clear that further action (if any and if that be so) will be subject to final orders of sole respondent after considering the representation of I writ petitioner being representation dated 16.07.2024.

8. Captioned WP is disposed of recording the stated position of learned State counsel and we make it clear that we have not expressed any view or opinion on the merits of the matter which means that sole respondent shall consider representation of I writ petitioner on its own and merits and in accordance with law untrammelled by this order



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made by us. Consequently, captioned WMP thereat is also closed. There shall be no order as to costs.

nv

(M.S.J.) (K.G.T.J.)

25.07.2024

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To  
Sholingur Municipality,  
Rep.by its Commissioner,  
Office of Sholingur Municipality,  
Sholingur, Ranipet District.



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**M. SUNDAR,J.**

**AND**

**K. GOVINDARAJAN THILAKAVADI,J.**

nv

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