



WEB COPY



W.P.Nos.34262, 34264, 34268, 34279 and 34283 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

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&

W.M.P.Nos.37109, 37114, 37116, 37139 and 37144 of 2024

in W.P.Nos.34262, 34264, 34268, 34279 and 34283 of 2024

W.P.No.34262 of 2024

1.Kanthamma

W/o.Nagaraju

2. G.Nagaraju

S/o.Late.Govindappa

... Petitioners

VS

The Commissioner

Hosur Municipality

Hosur

.. Respondent

Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of certiorarified mandamus calling for the



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records of the respondent relating to the impugned proceeding having reference Na.Ka.No.6865/F1/202 dated 28.08.2024, quash the same and consequently direct the respondent not to take any coercive action pursuant to the said proceeding.

For Petitioners : Mr.R.Bharath Kumar
(in all WPs)

For Respondent : Ms.Radhika
for Mr.T.Balaji
Standing counsel
for Hosur Corporation

COMMON ORDER

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

Captioned five 'Writ Petitions' ['WPs' for the sake of brevity] assail 'notice dated 28.08.2024 bearing reference ந.க.எண்:6865/எப்1/202' issued under Section 128(1)(b) of 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' [hereinafter 'impugned notice and 'said Act' for the sake of brevity].



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2. Learned counsel submits that the writ petitioners have not been show-caused or in other words they have not been given opportunity to respond. Learned counsel submits that there was an earlier round of writ petition being W.P.No.33975 of 2016 where there is a direction to give opportunity to the writ petitioners.

3. Issue notice to respondent.

4. Ms.Radhika, learned counsel representing Mr.T.Balaji, learned Standing counsel, accepts notice for the respondent.

5. Ms.Radhika, learned counsel, on instructions, submits that the writ petitioner has sent a representation dated 23.10.2024 in response to the impugned notices and orders have also since been passed. Learned counsel further submits that orders have been signed by the respondent on 09.11.2024 and counsel for writ petitioner has been favoured with copies of the orders so passed.



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6. Section 128(1)(b) of said Act reads as follows:

'128. Power to remove encroachment from public place. -

(1) The Commissioner may, -

(a)

(b) remove any immovable structure whether permanent or of temporary nature encroaching the street or public place or the [land belonging to municipality 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.'

7. We find that the procedure has been complied. Therefore, the challenge to the impugned notices has lost steam.

8. The sequitur is, captioned writ petitions will stand dismissed albeit preserving rights of the petitioners qua the orders signed on 09.11.2024, which have now been made by the Commissioner, leaving



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open all contentions if the writ petitioners choose to challenge the order.

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Consequently, captioned WMPs are also perish and the same are also dismissed. There shall be no order as to costs.

[M.S., J]

[K.R.S., J]

25.11.2024

Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order
gpa

To

The Commissioner
Hosur Municipality
Hosur



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