



W.P.No.33614 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.33614 of 2024
and
W.M.P. No.36400 of 2024 in W.P. No.33614 of 2024

R.Muthukrishnan

... Petitioner

VS

- 1.The Govt. of Tamil Nadu
rep. by its Secretary to Govt.,
Revenue Secretary,
Fort St. George, Secretariat,
Chennai - 600 009.
- 2.The District Collector,
No.62, Rajaji Salai,
Singaravelan Maaligai,
4th Floor, Chennai - 600 001.
- 3.The Thasildhar,
Sholinganallur,
Sholinganallur Taluk,
Kancheepuram District.
- 4.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.



W.P.No.33614 of 2024

5.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

6.The Assistant Commissioner,
Corporation (Zone 15),
Sholinganallur Taluk,
Kancheepuram District.

7.The Commissioner of Police,
EVK Sampath Salai,
Vepery, Chennai - 600 007.

8.The Deputy Commissioner,
Chennai City Police, South Madras,
Adyar, Chennai - 600 020.

9.The Assistant Commissioner,
Chennai City Police, Neelangarai Range,
Neelangarai, Chennai - 600 115.

10.The Inspector of Police,
J-8 Neelangarai Police Station,
Neelangarai, Chennai - 600 115.

11.The Assistant Engineer,
Chennai Water Board, K.K.Salai,
Zone - 15, Sholinganallur,
Chennai - 600 019.

12.The Assistant Engineer,
TNEB, Injambakkam,
Chennai - 600 115.

13.Pon Thangavelu

... Respondents



W.P.No.33614 of 2024

WEB COPY

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 5th respondent pertaining to the impugned notice in Zone-XV/Division 194/4058-14/2024 dated 14.08.2024 and quash the same as illegal and directing the 5th respondent to consider the reply sent by the petitioner in show cause notice dated 22.08.2024 and the petitioner should not be evicted from S.Nos.247, 249, 253/2, Injambakkam Village in Sholinganallur Taluk in Chennai District without due process of law.

For Petitioner : Ms.M.Malarvizhi
For Respondents : Mr.T.K.Saravanan,
Government Advocate
for R1 to R3 and R7 to R12
Ms.V.Soundarya
for Mr.D.B.R.Prabhu for R4 to R6

ORDER

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

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with a certiorarified mandamus prayer assailing a notice dated 14.08.2024 bearing reference Zone-XV/Division 194/4058-14/2024 issued by R5 (The Regional Deputy Commissioner (South), Greater Chennai Corporation, Chennai). This 14.08.2024 notice has

Page Nos.3/10



W.P.No.33614 of 2024

been issued under Section 128 of 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' (hereinafter 'Urban Local Bodies Act' for the sake of convenience and clarity) and this '14.08.2024 notice' shall be referred to as 'impugned notice' for the sake of convenience and clarity. This is the certiorari limb of the prayer. As regards mandamus limb, petitioner seeks to mandamus R5 to not to evict the writ petitioner from 'S.Nos.247, 249, 253/2, Injambakkam Village in Sholinganallur Taluk in Chennai District' (hereinafter 'said property' for the sake of convenience and clarity).

2. Learned counsel for writ petitioner points out that post impugned notice, a representation dated 22.08.2024 has been sent to R5 and the same has been duly received by R5 on 27.08.2024.

3. Issue notice to respondents. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R3 and R7 to R12 and Ms.V.Soundarya, learned counsel for Mr.D.B.R.Prabhu, learned standing counsel accepts notice for R4 to R6.



W.P.No.33614 of 2024

WEB COPY

4. Mr.T.K.Saravanan, learned State counsel submits that in the light of the representation pursuant to impugned notice R4 (The Commissioner, Greater Chennai Corporation, Chennai) has to now pass orders. This is a very fair submission considering the language in which Section 128 of Urban Local Bodies Act is couched. In the case on hand, proviso to Section 128(1)(b) is attracted. Section 128(1)(b) of Urban Local Bodies Act together with proviso 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 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.'



W.P.No.33614 of 2024

WEB COPY

5. Owing to the limited scope of the captioned WP, main WP was taken up with the consent of both sides making it clear that all the rights and contentions of R13 (Mr.Pon Thangavelu, S/o.Ponniah Servai) who is a private respondent will be preserved and protected, when orders are passed by R4.

6. As regards the certiorari limb of the prayer, we find no infirmity warranting interference more so as the impugned notice is in the nature of 'Show Cause Notice' (SCN), the impugned notice is sustained.

7. As regards the mandamus limb, it is only appropriate that orders are passed by R4 before there is any further action.

8. Let R4 consider the writ petitioner's representation dated 22.08.2024 (rights of R13 are preserved in this regard) and pass orders in accordance with proviso to Section 128(1)(b) of Urban Local Bodies Act as expeditiously as the business of R4 would permit but in any event within a fortnight from today i.e., by 25.11.2024.



W.P.No.33614 of 2024

WEB COPY

9. If the aforementioned order is in favour of writ petitioner that is the end of the matter. If the order is adverse, the consequence will follow.

10. Ergo, sequitur is, captioned WP is disposed of dismissing certiorari limb and as regards the mandamus limb recording the position that further action inter-alia in terms of eviction will be after passing orders by R4 in the aforesaid manner.

11. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition (WMP) is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)
11.11.2024

Index : Yes / No
Neutral Citation : Yes / No
mmi



W.P.No.33614 of 2024

To

WEB COPY

- 1.The Secretary to Govt.,
Revenue Secretary,
Fort St. George, Secretariat,
Chennai - 600 009.
- 2.The District Collector,
No.62, Rajaji Salai,
Singaravelan Maaligai,
4th Floor, Chennai - 600 001.
- 3.The Thasildhar,
Sholinganallur,
Sholinganallur Taluk,
Kancheepuram District.
- 4.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
- 5.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.
- 6.The Assistant Commissioner,
Corporation (Zone 15),
Sholinganallur Taluk,
Kancheepuram District.
- 7.The Commissioner of Police,
EVK Sampath Salai,
Vepery, Chennai - 600 007.
- 8.The Deputy Commissioner,
Chennai City Police, South Madras,
Adyar, Chennai - 600 020.



W.P.No.33614 of 2024

9.The Assistant Commissioner,
Chennai City Police, Neelangarai Range,
Neelangarai, Chennai - 600 115.

10.The Inspector of Police,
J-8 Neelangarai Police Station,
Neelangarai, Chennai - 600 115.

11.The Assistant Engineer,
Chennai Water Board, K.K.Salai,
Zone - 15, Sholinganallur,
Chennai - 600 019.

12.The Assistant Engineer,
TNEB, Injambakkam,
Chennai - 600 115.



WEB COPY



W.P.No.33614 of 2024

**M.SUNDAR, J.,
and
K.RAJASEKAR, J.,**

mmi

W.P.No.33614 of 2024

11.11.2024

Page Nos.10/10