



W.P.(MD)No.24922 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.24922 of 2024
and
W.M.P.(MD)Nos.21201 & 21202 of 2024**

M.Sathiyamoorthy

... Petitioner

-VS-

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Tahsildar,
Kumbakonam,
Thanjavur District.

3.The Corporation Commissioner,
Kumbakonam Municipal Corporation,
Thanjavur District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the third respondent in Na.Ka.No.8677/2021/d1 dated 03.10.2024 and quash the same.

For Petitioner : Mr.Maheswaran
For Respondents 1 to 3 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Challenge is only to the show cause notice dated 03.10.2024 issued under Section 128(1) of “the Tamil Nadu Urban Local Bodies Act, 1998” [hereinafter referred to as “the Act”]. Section 128(1)(b) of the Act reads as follows:

“128.(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 the departments of the Central or State Governments within the municipal limit, after issuing a



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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.

2.The proviso to the said provision mandates that the Commissioner will consider any representation received pursuant to the show cause notice issued under Clause (b) of Sub-Section (1) of Section 128 of the Act. Admittedly, no such order has been passed.

3.Hence, this Writ Petition is dismissed as pre-mature. The respondents are directed to proceed strictly in accordance with Section 128 of the Act in matters of removal of encroachments. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

NCC : No
Index : No
MR

[R.S.M., J.] & [L.V.G., J.]
21.10.2024



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

MR

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