



W.P.(MD).No.26793 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P.(MD).No.26793 of 2024
and
W.M.P.(MD).No.22720 of 2024

1.S.Ponraj

2.S.Rajasekaran

... Petitioners

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Assistant Director of Panchayat,
Theni Region,
Theni District.

4.The Tahsildar,
Bodinayacanur Taluk,
Theni District.

5.The Executive Officer,
Bodinayackanur Town Panchayat,
Theni District.



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

7.S.T.Arumugam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records of impugned order in Na.Ka.No.189/2024 dated 17.10.2024 in respect of Old S.No.551/14 and New S.No.335/11 Ramakaran Street (Kamatchi Nadar Street, Boothipuram Town Panchayat, Bodinayackanur Taluk, Theni District) passed by the sixth respondent as illegal and quash the same and consequently directing the respondents to remove the wrong entry as “street” and issue patta in the name of the petitioners.

For Petitioners : Mr.K.Muraleedharan

For R-1 to R-6 : Mr.S.Shaji Bino

Special Government Pleader

ORDER

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

By consent of both sides, the Writ Petition is taken up for final disposal at the stage of admission itself.



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2. Since no adverse orders are going to be passed against the seventh respondent, notice to the seventh respondent is dispensed with.

3. On the ground that no show cause notice was issued prior to the impugned order dated 17.10.2024 passed under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998, the present Writ Petition has been filed.

4. A perusal of the impugned order dated 17.10.2024 would reveal that it is an order of removal of encroachment and not a show cause notice.

5. The learned Special Government Pleader appearing for the respondents 1 to 6, on instructions, would confirm that prior to the impugned order dated 17.10.2024, they had not issued any other show cause notice.

6. Section 128 of the Tamil Nadu Urban Local Bodies Act mandates for issuance of a show cause notice returnable within a period of seven days before any action is taken under Section 128. Since it is admitted that no show cause notice was issued prior to the impugned order dated 17.10.2024, the order itself cannot be legally sustained.



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7. Accordingly, the impugned order dated 17.10.2024 on the file of the sixth respondent is quashed. However, liberty is hereby granted to the official respondents to follow the procedure contemplated under Section 128 of the Tamil Urban Local Bodies Act for removal of encroachment from the public place, if any, within a period of one (1) month from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(M.S.R.,J.) (A.D.M.C.,J.)
11.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The District Collector,
Theni District,
Theni.

2.The Revenue Divisional Officer,
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Theni District.

3.The Assistant Director of Panchayat,
Theni Region, Theni District.



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- 4.The Tahsildar,
Bodinayacanur Taluk,
Theni District.
- 5.The Executive Officer,
Bodinayackanur Town Panchayat,
Theni District.
- 6.The Executive Officer,
Boothipuram Town Panchayat,
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