



W.P.(MD)No.29040 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.29040 of 2024

and

W.M.P.(MD)No.24608 of 2024

G.Balasubramanian

: Petitioner

Vs.

1.The District Collector,
Tirunelveli.

2.The Commissioner of Municipal Corporation,
Tirunelveli.

3.The District Revenue Officer,
Tirunelveli.

4.The Tahsildar,
Palayankottai Taluk Office,
Palayankottai,
Tirunelveli.



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5.The Assistant Commissioner Municipal Corporation,
Melapalayam Regional Office,
Tirunelveli Municipal Corporation,
Tirunelveli.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records pertaining to the fifth respondent encroachment notice, dated 22.11.2024 issued in Na.Ka.No.4599/2024/C3 and quash it as illegal and consequently direct the first respondent to enter the property as private path in relevant revenue land records in respect of common path available in the Survey Nos.75/2 & 75/3 of Keela Veeraragavapuram Revenue Village of Palayamkottai Taluk, now renumbered as Block – 5, Town Survey No.35 of the second respondent Municipal Corporation.

For Petitioner : Mr.P.Jeyasankar

For Respondents 1,3 & 4 : Mr.J.Ashok

Additional Government Pleader

For Respondents 2 & 5 : Mr.S.P.Maharajan

Special Government Pleader



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ORDER

[Order of the Court was made by M.S.RAMESH, J.]

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

2.This writ petition has been filed praying to quash the impugned fifth respondent's encroachment notice, dated 22.11.2024 issued in Na.Ka.No.4599/2024/C3 and consequently to direct the first respondent to enter the property as private path in the relevant revenue land records in respect of common path available in the Survey Nos.75/2 & 75/3 of Keela Veeraragavapuram Revenue Village of Palayamkottai Taluk, now renumbered as Block – 5, Town Survey No.35 of the second respondent Municipal Corporation.

3.Under Section 128(b) of “the Tamil Nadu Urban Local Bodies Act, 1998” [hereinafter referred to as “the Act” for brevity], the Commissioner is required to issue a show cause notice, calling for the objections within a period of seven [7] days, before passing any final orders. The proviso to the said Section also mandates the Commissioner to consider such a representation made pursuant to



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the show cause notice. In the instant case, the final orders for eviction has been passed on 22.11.2024, by the Commissioner and there is no reference to any show cause notice issued prior to his final orders, which is in violation of the procedure prescribed under Section 128 of the Act.

4.In view of the same, the impugned notice cannot be legally sustained. Accordingly, the impugned order dated 22.11.2024, is set aside, with liberty to the respondent to issue a show cause notice as contemplated under Section 128 and take further course of proceedings in accordance with the procedure contemplated therein.

5.With the above direction, this Writ Petition stands partly allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[M.S.R.,J.] & [A.D.M.C.,J.]
04.12.2024

Neutral Citation : Yes/No
Index : Yes/No
Internet : Yes/No
MR



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To

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Tirunelveli.
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Tirunelveli.
- 3.The District Revenue Officer,
Tirunelveli.
- 4.The Tahsildar,
Palayankottai Taluk Office,
Palayankottai,
Tirunelveli.
- 5.The Assistant Commissioner Municipal Corporation,
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Tirunelveli.



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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

MR

ORDER MADE IN
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