



W.P.(MD)No.30128 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.30128 of 2024

and

W.M.P.(MD)Nos.25351 & 25352 of 2024

1.Rathinasamy

2.Manikandan

: Petitioners

Vs.

1.The District Collector,
Theni District, Theni.

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

3.The Tahsildar,
Bodinayakanur Taluk,
Theni District.

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

: Respondents

[Cause title amended as per memo dated 12.12.2024]



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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 order passed by the fourth respondent in Na.Ka.No.189/2024 dated 26.11.2024 in respect of New Survey No.335/11, Old Survey No.551/14, Ward No.12, Ramakaran Street, (Kamatchi Nadar Street) Boothipuram Town Panchayat, Theni District and consequently direct the respondents to remove the wrong entry as “street” in the revenue records and issue patta in the name of the petitioners.

For Petitioner : Mr.M.Gandhirajan

For Respondents 1 to 3 : Mr.J.Ashok

Additional Government Pleader

O R D E R

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

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

2.On the ground that no show cause notice was issued prior to the impugned order dated 26.11.2024 passed under Section 128 of “the Tamil Nadu Urban Local Bodies Act, 1998”,



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[hereinafter referred to as “the Act” for brevity], the present Writ Petition has been filed.

3.A perusal of the impugned order dated 26.11.2024 would reveal that it is an order of removal of encroachment and not a show cause notice.

4.The learned Additional Government Pleader appearing for the respondents, on instructions, would confirm that prior to the impugned order dated 26.11.2024, they had not issued any other show cause notice.

5.Section 128 of the Act mandates for issuance of a show cause notice returnable within a period of seven [7] days before any action is taken under Section 128 of the Act. Since it is admitted that no show cause notice was issued prior to the impugned order dated 26.11.2024, the order itself cannot be legally sustained.

6.Accordingly, the impugned order dated 26.11.2024 on the file of the fourth respondent is quashed. However, liberty is hereby granted to the official respondents to follow the procedure



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contemplated under Section 128 of the 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.

7. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[M.S.R.,J.] & [A.D.M.C.,J.]
12.12.2024

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

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Theni District, Theni.

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Theni District.

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Theni District.



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

MR

ORDER MADE IN
W.P.(MD)No.30128 of 2024

12.12.2024