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W.P.No.1081 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P. No.1081 of 2022 and W.M.P. Nos.1142 and 1144 of 2022

Syed Ali Fathima

Petitioner

vs.

1. The State of Tamil Nadu
represented by its Secretary to Government
Revenue Department
Fort St. George
Chennai 600 009
2. The Commissioner
Greater Chennai Corporation
No.1131, EVR Periyar Salai
Ripon Building
Park Town
Chennai 600 003
3. The Regional Deputy Commissioner (South)
Greater Chennai Corporation
Regional Office – South
No.115, Dr. Muthulakshmi Salai
Adyar
Chennai 600 020
4. The District Revenue Officer
Greater Chennai Corporation
No.1131, EVR Periyar Salai
Ripon Building
Park Town
Chennai 600 003

Respondents



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Writ Petition filed under Article 226 of the Constitution of India

seeking a writ of certiorari calling for the records pertaining to notice No.Zone XI/Enc/Dn 145/3456/2021 dated 22.12.2021 issued by respondents 3 and 4 under Section 220 read with Section 222 of CCMC Act, Act IV of 1919 and to quash the same.

For petitioner Mr. A. Raja Mohamed

For R1 Mr. T.K. Saravanan
Addl. Govt. Pleader

For RR 2 to 4 Mr. Anban Bharathy
for Ms. K. Aswini Devi
Standing Counsel

ORDER

[made by M.SUNDAR, J.]

In the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity], Mr. A. Raja Mohamed, learned counsel on record for writ petitioner, Mr. T.K. Saravanan, learned Additional Government Pleader for R1 and Mr. Anban Bharathy, learned counsel representing Ms.K.Aswini Devi, learned Standing Counsel for RR 2 to 4, are before this Court.

2. The legal drill at hand is fairly simple as a 'notice dated 22.12.2021 issued by RR 3 and 4 *inter alia* making a reference to



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Section 220 read with Section 222 of 'Chennai City Municipal Corporation Act, 1919' [hereinafter 'the CCMC Act' for the sake of brevity]' [hereinafter 'impugned notice' for the sake of brevity] has been called in question on the short point that the impugned notice directing removal of alleged encroachment by writ petitioner has been issued without show causing the writ petitioner.

3. Before we proceed further, we deem it appropriate to make the obtaining legal position clear.

4. The Tamil Nadu Urban Local Bodies Act, 1998, (Tamil Nadu Act 9 of 1999) kicked in on 01.08.2000. Later, this Act 9 of 1999 was suspended with effect from 23.08.2000 *vide* the Tamil Nadu Urban Local Bodies (Suspension of Operation) Act, 2000 (Act 33 of 2000). Subsequently, the suspended Act 9 of 1999 was revived with certain amendments by 'the Tamil Nadu Urban Local Bodies (Amendment) Act, 2022 (Act 35 of 2022)' [hereinafter 'amended TNULB Act' for the sake of brevity] with effect from 13.04.2023. In and by amended TNULB Act, CCMC Act was repealed *vide* Section 200(1)(a) but things done, made, instituted and executed under the erstwhile CCMC Act stand



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saved *vide* Section 200(3)(e). Therefore, the impugned notice survives in the light of Section 200(1)(a) read with Section 200(3)(e) of amended TNULB Act.

5. This Court having set out the obtaining statutory position, proceeds to consider the simple point that writ petitioner has not been show caused. We deem it appropriate to write that it will serve the purpose if the impugned notice is directed to be treated as a 'show cause notice' [hereinafter 'SCN' for the sake of convenience and clarity] under Section 128(1)(b) of amended TNULB Act. We do so.

6. In the light of the narrative, discussion and dispositive reasoning thus far and statement of obtaining statutory position, the following order is made:

(i) Impugned notice is not set aside but the same shall now be treated as an SCN under Section 128(1)(b) of amended TNULB Act;

(ii) The SCN under Section 128(1)(b) of amended TNULB Act shall be construed to have been served on the writ petitioner today (09.07.2025);



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(iii) The above means that the writ petitioner/noticee can send a response/representation to SCN within fifteen days from today *i.e.*, on or before 24.07.2025;

(iv) On writ petitioner sending such a response/representation within the aforementioned timeline, R2 (Commissioner, Greater Chennai Corporation) shall pass 'final orders' *vide* proviso to Section 128(1)(b) of amended TNULB Act and a copy of the same shall be served on the writ petitioner within a period of five working days from the date of final orders under due acknowledgment;

(v) If the final orders to be passed by R2 end up in favour of the writ petitioner, that would be curtains on the matter;

(vi) If it happens to the contrary, in other words, if the final orders to be passed by R2 are going to be adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of the final orders on the writ petitioner so as to provide a window to the writ petitioner to assail the final orders if permissible in law or to seek judicial review of the said order;



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(vii) If the writ petitioner does not take recourse to either of the aforesaid two options within a fortnight from the date of service of the final orders, the final orders so passed by R2 will be resuscitated and put into motion;

(viii) If the writ petitioner does not send a response/representation to SCN within aforementioned timeline, impugned notice will reverse to its form as issued and it will be open to R2 to proceed further in accordance with the same; and

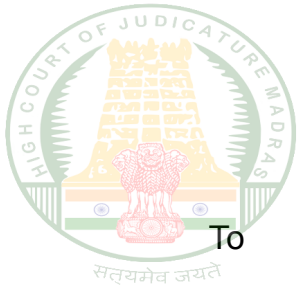
(ix) Though obvious, we make it clear that coercive action, if any, shall be subject to and depending on final orders to be made by R2 under proviso to Section 128(1)(b) of amended TNULB Act.

7. Captioned main WP stands disposed of in the aforesaid manner with the aforesaid observations and directives. As we have made it clear that coercive action, if any, shall be subject to and depending on 'final orders' of R2 under proviso to Section 128(1)(b), captioned WMPs become otiose and the same are closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
09.07.2025

cad

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M.SUNDAR, J.

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HEMANT CHANDANGOUDAR, J.

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