



WEB COPY

W.P.No.3742 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2025

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.3742 of 2025

Mr.A.C.R.Rajganesan .. Petitioner

v.

1. The District Collector
Salem, Salem District

2. The Commissioner
Attur Municipality
Attur, Salem District

3. The Assistant Engineer
TNEB South Attur Town
Salem Circle, Salem District

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records bearing Na.Ka.No.3536/2023/E1 dated 30.12.2024 issued by the second respondent herein and quash the same and consequently forbear the second respondent from evicting the petitioner except by due process of law.

For Petitioner :: Mr.K.S.Viswanathan, Sr.Counsel
for Mrs.T.Hemaatha



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For Respondents :: Mr.T.K.Saravanan
Government Advocate for R1
Mr.S.Rajesh
Government Advocate for R2

ORDER

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

The show cause notice issued under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998 in proceeding dated 30.12.2024 is sought to be assailed in the present writ proceedings.

2. The respondent Municipal Authority identified the encroachments, which are under the usage of the petitioner. Since the said property was classified as Government poramboke and the said land is to be utilized for public purpose, action was initiated to remove the encroachments under Section 128 of the Act.

3. The learned Senior Counsel Mr.Viswanathan would submit that pursuant to the show cause notice, a reply was sent by the petitioner through his counsel on 08.01.2025. Even before considering the said reply and



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before passing final orders as contemplated under Section 128 of the Act, action was initiated and the authorities are attempting to remove the encroachments forcibly.

4. The learned Government Advocate appearing on behalf of the second respondent, on instructions, would submit that the encroachments have already been removed by the competent authorities on 29.01.2025 itself.

5. The said fact has been disputed by the learned Senior Counsel appearing on behalf of the petitioner.

6. Be that as it may. The authorities, on initiation of proceedings under Section 128 of the Act to remove the encroachments from different places, are bound to issue show cause notice providing an opportunity to the encroachers to submit their defence. In the present case, a show cause notice was issued and the petitioner submitted reply through his counsel. Section 128(1) proviso stipulates that the Commissioner shall consider any



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representation received within the time limit, before passing final orders.

Therefore the show cause notice must be ended with a final order and thereafter the encroachments are to be removed.

7. The learned Senior Counsel for the petitioner would submit that no final order has been passed in the present case.

8. In view of the facts and circumstances, the second respondent is directed to consider the representation already submitted by the writ petitioner on 08.01.2025 and pass final orders within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit additional reply and documents, if any, within a period of four days from today. Till such time, status quo, as on today, shall be maintained. The writ petition stands disposed of. Consequently, W.M.P.N.4138 of 2025 is closed. No costs.

Index : yes
Neutral citation : yes
Issue copy today
SS

(S.M.S.,J.) (M.J.R.,J.)
31.01.2025



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To

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S.M.SUBRAMANIAM,J.

AND

M.JOTHIRAMAN,J.

SS

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