



W.P. No.8796 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No.8796 of 2025 and W.M.P.No.9856 of 2025

M.A. Moorthy

Petitioner

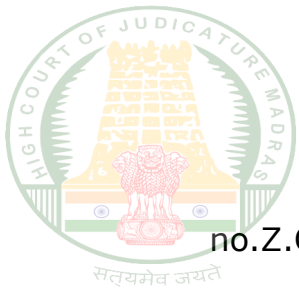
vs.

1. The Commissioner
Corporation of Chennai
Ripon Building Campus
Chennai 600 003
2. The Zonal Officer
Zone – 13, Greater Chennai Corporation
No.115, Dr. Muthulakshmi Salai
Adyar
Chennai 600 020
3. The Assistant Engineer
Ward 172, Division 40 A Zone 13
Greater Chennai Corporation
No.5, Five Furlong Road
Maduvinkarai
Guindy
Chennai 600 032

Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking a writ of certiorarified mandamus calling for the records
relating to the first respondent's order dated 07.02.2025 in reference

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no.Z.O.XIII.C.No.C7/0017/2025 and to quash the same as illegal, and direct the respondents to unlock and de-seal the premises being land measuring an extent of 880 sq. ft. and the structure thereof at Old No.13, New No.16, Chakrapani Road, Guindy, Chennai 600 032 comprised in T.S.Nos.8 and 9, Block No.2 at Velachery Village, Velachery Taluk, Chennai District.

For petitioner Mr. S. Anil Sandeep

For respondents Mr. A.S. Ragul Adhithya
for Ms. P.T. Ramadevi
Standing Counsel

ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed *inter alia* assailing an 'order dated 07.02.2025 bearing reference Z.O.XIII.C.No.C7/0017/2025 made by R1 (Commissioner, Greater Chennai Corporation)' {hereinafter 'impugned order' for the sake of convenience and clarity}.

2. Mr. S. Anil Sandeep, learned counsel on record for writ petitioner, is before us.



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3. Adverting to the case file, learned counsel on record for writ petitioner, submits that two notices dated 15.03.2024 and 28.05.2024 were issued by R2 (Zonal Officer, Zone-13, Greater Chennai Corporation) (hereinafter 'said notices' for the sake of convenience and clarity); that said notices were challenged by writ petitioner by way of a writ petition being W.P.No.33445 of 2024 and the same came to be disposed of by a Division Bench of this Court to which one of us (M. SUNDAR, J.) was a party in and by an order dated 26.11.2024 *inter alia* holding that said notices shall be construed as notices under Section 128(1)(b) of 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' (hereinafter 'TNULB Act' for the sake of convenience and clarity), writ petitioner can send his response on or before 03.12.2024 and on such representation being sent, R1 should pass 'final orders ' within the meaning of proviso to Section 128(1)(b) of the TNULB Act; that pursuant to such judicial order, writ petitioner sent a representation dated 02.12.2024 *inter alia* mentioning about O.S.No.547 of 2002 on the file of the XII Assistant Judge's Court, City Civil Court, Chennai, judgment and decree thereat dated 08.07.2004 but the impugned order has been made without even adverting to the said Civil Court decree.



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4. Issue notice to respondents.

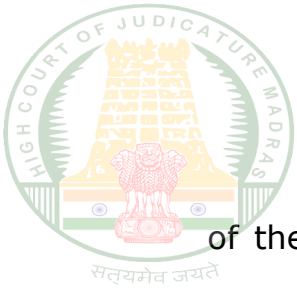
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5. Mr. A.S. Ragul Adhithya, learned counsel representing Ms.P.T. Ramadevi, learned Standing Counsel for 'Greater Chennai Corporation' (hereinafter 'GCC' for the sake of brevity) accepts notice for all the three respondents and submits, on instructions (instructed by Mr.V.Kumaresan, Law Officer, Legal Cell, GCC), that impugned order has been made under proviso to Section 128(1)(b) of the TNULB Act and pursuant to aforesaid judicial order of this Court dated 26.11.2024 in W.P.No.33445 of 2024 and writ miscellaneous petition thereat.

6. The legal drill on hand is fairly simple and the scope of the captioned WP is narrow. Therefore, with the consent of learned counsel on both sides, captioned main WP was taken up in the Admission Board, *i.e.*, Motion List.

7. A careful perusal of the impugned order brings to light that R1 has not even adverted to the Civil Court proceedings, much less Civil Court judgment and decree thereat. Proviso to Section 128(1)(b)

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of the TNULB Act is clear that R1 'shall consider', any representation before passing 'final orders'. The language in which the provision of law under which the impugned order is said to have been made, has not been adhered to either in letter or in spirit. We, therefore, deem it appropriate to dislodge the impugned order and remit the matter to R1 for passing fresh orders by considering 02.12.2024 representation of the writ petitioner in its entirety.

8. Before we write the operative portion of this order, it is necessary to write that the impugned order refers to a notice under Section 220 read with 222 of 'Chennai City Municipal Corporation Act, 1919' (hereinafter 'the CCMC Act' for the sake of brevity) and refers to this notice as notice dated 02.06.2022 issued to encroachers. We deem it appropriate to write that the TNULB Act kicked in on 13.04.2023 and *vide* Section 200(1)(a), the CCMC Act has been repealed but *vide* Section 200 (3)(e), the notice stands saved.

9. The following order is made:

i. The impugned order is dislodged *i.e.*, set aside;



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- ii. The impugned order is set aside solely on the ground that it has not considered the representation of the writ petitioner dated 02.12.2024 in its entirety, more particularly, reference in the representation to the suit in Civil Court (O.S.No.547 of 2002 on the file of XII Assistant Judge's Court, City Civil Court, Chennai), the judgment and decree thereat dated 08.07.2004. This also means that this Court has not expressed any view of opinion on the merits of the matter;
- iii. R1 shall now take up the 02.12.2024 representation of the writ petitioner and pass orders on the same afresh, after considering the 02.12.2024 representation in its entirety, on its own merits and in accordance with law, untrammelled by this order;
- iv. The aforementioned exercise shall be completed by R1 as expeditiously as the official business of R1 permits but in any event within eight weeks from today *i.e.*, on or before 13.05.2025; and
- v. The order passed afresh in the aforesaid manner shall be duly served on the writ petitioner under acknowledgment within five working days from the date of the order.



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WEB COPY 10. Captioned main WP stands disposed of in the aforesaid manner. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no order as to costs.

**(M.S., J.) (K.G.T., J.)
18.03.2025**

cad
Index : Yes/No
NC : Yes/No



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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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