



W.P. No.7476 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM:

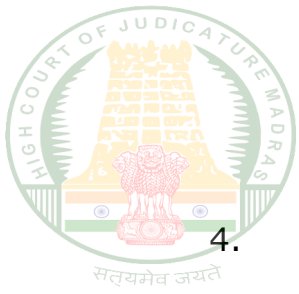
THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No.7476 of 2025 and W.M.P. No.8368 of 2025

1. L. Dhanam
 2. L. Natarajan
- Petitioners

VS.

1. The Commissioner
Corporation of Avadi
Avadi Corporation Office
N.M. Road
Avadi
Chennai 600 054
2. The Tahsildar
Modern City
Deena Dayalan Nagar
Pattabiram
Chennai 600 054
3. The Tamil Nadu Slum Clearance Board
represented by its Secretary
I Main Road
VOC Nagar
Anna Nagar East
Chennai 600 010



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4. Thirumullaivoyal Nethaji Nagar
Residential Welfare Association
Regn. No.220/2023
represented by its Secretary
Plot No.21, I Street
Nethaji Nagar
Thirumullaivoyal
Chennai 600 062

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the order passed by the first respondent *vide* his proceeding in Na.Ka.9919/2024/F1 dated 14.02.2025 and quash the same.

For petitioners Mr. H. Manojin

ORDER

[made by K. GOVINDARAJAN THILAKAVADI, J.]

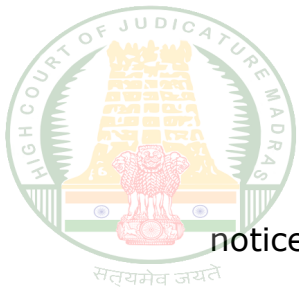
This writ petition impugns the proceedings dated 14.02.2025 of R1 (Commissioner, Corporation of Avadi) in and by which the writ petitioners have been informed that the encroachment in public pathway in S.No.651, Nethaji Nagar, Thirumullaivoyal Village, Avadi Corporation will be removed under Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999) (for brevity "the TNULB Act") with the help of the Corporation staff.

2. According to the writ petitioners, the Tamil Nadu Slum Clearance Board (R3) allotted Plot Nos.379 and 380, which are at the



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dead end of Pallavan I Cross Street in Cholan Nagar Scheme, to the petitioners under Cholan Nagar scheme; with the help of the general public, the petitioners constructed a temple at the dead end of the said road; since, at the instigation of R4 (Residents Welfare Association), R1 was attempting to disturb the possession of the writ petitioners of the said plots, the petitioners filed a suit in C.S. No.39 of 2003 on the file of the District Munsif-cum-Judicial Magistrate, Ambattur, for the relief of permanent injunction restraining R1 from disturbing the petitioners' peaceful possession and enjoyment of the subject plots, which was decreed *ex parte* on 06.04.2004; while so, R4 addressed a representation dated 05.12.2023 to R1 seeking removal of encroachment and also filed a writ petition being W.P.No.25472 of 2024 which was disposed of by another Hon'ble Division Bench *vide* order dated 02.09.2024 with a direction to R1 to consider the representation of R4 and take action for removal of encroachment, after affording an opportunity to the parties concerned; pursuant thereto, R1 issued a notice dated 08.01.2025 under Section 128(1)(b) of the TNULB Act to the petitioners to remove the alleged encroachment; in response, the petitioners addressed a representation dated 29.01.2025 to R1 and other authorities, which was rejected *vide*



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notice dated 03.02.2025 issued by R1 to the writ petitioners directing them to remove the encroachment, followed by proceedings dated 14.02.2025 bearing Na.Ka.No.9919/2024/F1, as stated in the opening paragraph and also granting time to the writ petitioners to prefer an appeal.

3. However, even according to the learned counsel for the writ petitioners, no appeal has been preferred till date.

4. Such being the factual matrix, this writ petition cannot be entertained. While holding so, this Court is conscious of the fact that notwithstanding alternative remedy, Article 226 of the Constitution of India can be invoked under four exceptional circumstances, *viz.*, (i) Enforcement of fundamental rights, (ii) Violation of Natural Justice Principles (NJP), (iii) Order being 'wholly' without jurisdiction and (iv) when the vires of a statute are assailed, as was held by the Supreme Court in **Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and others** reported in **(1998) 8 SCC 1**. But, to be noted, none of the aforesaid four circumstances obtains in this case.



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5. In view of the foregoing discussion, this writ petition fails to pass muster in the Admission Board and is accordingly dismissed, however, without costs. Connected W.M.P. stands closed.

(M.S., J.) (K.G.T., J.)
06.03.2025

cad
Index : Yes/No
NC : Yes/No



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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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To:

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