



WEB COPY



W.P. No.9323 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.9323 of 2025 and W.M.P.No.10471 of 2025

P. Jothi

Petitioner

vs.

1. The Commissioner
Narasingapuram Municipality
Attur Taluk
Salem District

2. The Tahsildar
Attur Taluk
Attur
Salem District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the notice issued by the first respondent in Na.Ka.No.50/2025/F1 dated 03.03.2025 (served on 10.03.2025) and quash the same.

For petitioner Mr. S. Doraisamy

For respondents Mr. T.K. Saravanan
Additional Government Pleader

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ORDER

[made by K. GOVINDARAJAN THILAKAVADI, J.]

This writ petition impugns the notice dated 03.03.2025 issued by the first respondent, whereby and whereunder, the writ petitioner has, *inter alia*, been directed to remove the alleged encroachment (made in the form of a compound wall) in S.No.122/8 in Narasingapuram Municipality, Attur Taluk, Salem District, within a period of seven days from the date of the said notice.

2. According to the writ petitioner, the lands which form the subject matter of this writ petition, admeasure 1.53 acres and they are situate in S.F.No.122 in Narasingapuram Municipality; as per "A" Register, the said lands stood in the name of her mother, Lakshmi Ammal; after the demise of her mother (Lakshmi Ammal), she being her legal heir, obtained planning permission from Narasingapuram Town Panchayat for an extent of 4,700 sq. ft. *qua* land in S.F.No.122/2-A; she further obtained planning permission in Mu.Mu.No.1073/2006 for an extent of 3,718 sq. ft.; since her possession was attempted to be disturbed, she filed a writ petition



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being W.P.No.21260 of 2019 seeking protection for construction of a compound wall in S.F.No.122/2A, which was allowed by a Single Bench *vide* order dated 23.10.2019; however, the said order was not complied with by the revenue authorities and police which made her file a contempt petition being Cont. Petn. No.285 of 2020, in which, an interim order was passed on 16.03.2020 directing the revenue authorities to fix the boundaries of the compound wall; pursuant to the said interim order, she constructed a compound wall; during the final hearing of the contempt petition, the revenue authorities alleged that she had encroached the land in S.No.122/8 (மயாணம்); hence, this Court directed the official respondents to remove the alleged encroachment in S.No.122/2A measuring an extent of 0.1103.0 sq. m.; while so, on 03.03.2025, the first respondent issued a notice under Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act directing removal of the alleged encroachment within a period of seven days, lest, the authorities should take coercive steps to remove the alleged encroachment; challenging the said notice, this writ petition has been filed.

3. Issue notice to the respondents.

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4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for the respondents.

5. The sheet anchor submission of the learned counsel on record for the writ petitioner is that without show causing the writ petitioner, the impugned notice has been issued by the first respondent and hence, the same needs to be interfered with.

6. No doubt, Section 128, *ibid.*, provides for power to remove encroachment in public place. However, such action can be taken by the competent authority only by following the procedure contemplated and not by giving a go by to the same. In other words, the said provision does not give a carte blanche to the authorities to remove the alleged encroachment.

7. In the case on hand, it is evident and also admitted that the writ petitioner was not show caused before the impugned notice came to be issued and this is nothing short of violation of the procedure contemplated in this regard. Hence, the following order is made.

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- i. The impugned notice shall be construed as a show cause notice issued under Section 128(1)(b), *ibid.* and served on the writ petitioner today;
- ii. The writ petitioner shall respond to the impugned notice, (which is now ordered to be construed as a show cause notice served on the writ petitioner today) within a fortnight from today *i.e.*, on or before 01.04.2025;
- iii. The appropriate authority shall consider the representation to be given by the writ petitioner as per Section 128(1)(b), *ibid.* including the proviso thereat and thereafter, the first respondent shall pass 'final orders' on merits and in accordance with law and needless to state, without being influenced by this order; and
- iv. If the final orders to be passed by the first respondent are going to be in favour of the writ petitioner, that will be the end of the matter and on the contrary, if orders adverse to the interest of the writ petitioner are passed by the first respondent, such orders shall be kept in abeyance for a period of ten days enabling the writ petitioner to pursue further.



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8. With the above directions and observations, this writ petition stands disposed of. Consequently, connected W.M.P. stands closed. Costs made easy.

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

cad	
Index	: Yes/No
NC	: Yes/No



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Salem District
2. The Tahsildar
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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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