



W.P. No.10197 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM:

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

W.P.No.10197 of 2025 and W.M.P.No.11445 of 2025

Sasikala

Petitioner

vs.

1. The District Collector
A Block, 2nd Floor
Collectorate
Vellore, Tamil Nadu 632 009
2. The District Revenue Officer
Collectorate
Vellore, Tamil Nadu 632 009
3. The Revenue Divisional Officer
Vellore Division
Near Periyar Park, Behind Vellore Fort
Vasanthapuram, Vellore 632 001
4. The Executive Officer
Pallikonda Selection Grade Town Panchayat
No.3, High School Road
Pallikonda, Vellore 635 809
5. The Tahsildar
Anaicut Taluk
SH-122, Kallavi Tirupattur Road
Vellore 632 101

6. Vijayrangan

Respondents

Page Nos.1/9



W.P. No.10197 of 2025

Writ Petition filed under Article 226 of the Constitution of India

seeking a writ of certiorari calling for records in Na.Ka.No. 125/2025 dated 10.03.2025 on the file of the 4th respondent, to quash the same as illegal and in violation of principles of natural justice.

For petitioner Mr. R. Sanjay

For RR 1 – 3 & 5 Mr. T.K. Saravanan
Addl. Govt. Pleader

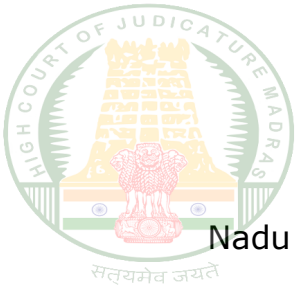
For R4 Mr. A.M. Ayyadurai
Government Advocate

ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' {hereinafter 'WP' for the sake of brevity} has been filed with a prayer for issue of a writ of certiorari assailing a 'notice dated 10.03.2025 bearing reference Na.Ka.No.125/2025 issued by R4' (Executive Officer, Pallikonda Selection Grade Town Panchayat) {hereinafter 'impugned notice' for the sake of convenience and clarity}.

2. Mr. R. Sanjay, learned counsel on record for the writ petitioner submits that the caption of the impugned notice says that it has been issued under Section 128(1)(a), 1(b) and 2 of 'The Tamil



W.P. No.10197 of 2025

Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' {hereinafter 'the TNULB Act' for the sake of brevity} but the writ petitioner has not been show caused.

3. Issue notice to official respondents (RR 1 to 5).

4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepted notice for RR 1,2,3 and 5 and Mr. A.M. Ayyadurai, learned Government Advocate, accepted notice for R4. Mr.T.K.Saravanan, learned State counsel, very fairly submitted that the impugned notice will now stand withdrawn as the writ petitioner has not been show caused and the impugned notice directly calls upon the writ petitioner to remove the alleged encroachment.

5. This submission of learned State counsel made, on instructions, is recorded. This makes the legal drill at hand fairly simple. This also means that we can dispense with notice to R6 (private respondent – Vijayrangan). We do so. This Court makes it clear that this order, does not, in any manner, touch upon the rights and contentions of R6. All rights and contentions of R6 are preserved



W.P. No.10197 of 2025

and left open. Therefore, there is no impediment in taking up the captioned main WP in the Admission Board, *i.e.*, Motion List, with the consent of learned counsel on record for writ petitioner and learned State counsel for RR 1, 2,3 and 5 and learned State counsel for R4. We do so.

6. Learned State counsel makes a request to preserve the rights and contentions of R4 and other official respondents *inter alia* to issue notice afresh under Section 128 of the TNULB Act and / or any other appropriate statute. Considering the fair submission made by the learned State counsel, this request is acceded to.

7. Before we write the operative portion of this order, for the benefit of all concerned, we deem it appropriate to extract and reproduce Section 128 of the TNULB Act as it stands today in its entirety (post amendment *vide* Amendment Act 25 of 2024 with effect from 06.01.2025):

'128. Power to remove encroachment from public place. - (1) The Commissioner may, -

(a) remove without any notice any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked,



WEB COPY



W.P. No.10197 of 2025

exposed or displayed for sale or any other thing whatsoever by way of encroaching street, public place, water body, tank, other water resources or any land belonging to or vested with the municipality with the municipal limit;

(b) remove any immovable structure whether permanent or of temporary nature encroaching street, public place, water body, tank, other water resources or any land belonging to municipality or vested with the municipality within the municipal limit, after issuing a show cause notice for such removal, returnable within a period of fifteen days from the date of receipt thereof:

Provided that the Commissioner shall consider any representation received within the time limit, before passing final orders.

(2) Whoever makes any encroachment in any land or space (not being private property) in any public street, water body, tank, other water resources or any land belonging to or vested with the municipality within the municipal limit, shall, on conviction, be punished with imprisonment which shall not be less than one year but which may extend to three years and with fine which may extend to [fifty thousand rupees]:

Provided that the Court may, for any adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year.'

8. The following order is made:

- i. The impugned notice being notice dated 10.03.2025 bearing reference Na.Ka.No.125/2025 issued by R4 stands withdrawn. Therefore, the prayer for issue of



WEB COPY



W.P. No.10197 of 2025

writ of certiorari has become otiose.

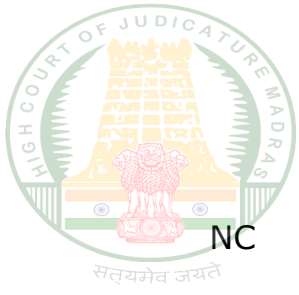
- ii. In this order, no opinion or view has been expressed by us one way or the other about the alleged encroachment. All questions are left open.
- iii. It is open to R4 and/or any other authority concerned to issue notice afresh under Section 128 of the TNULB Act or under any other appropriate / applicable statute;
- iv. Rights and contentions of writ petitioner are preserved for responding suitably if show caused either by way of a notice under Section 128 of the TNULB Act or under any other statute.
- v. In the light of the impugned notice being withdrawn, coercive action (for the present) does not arise.

9. Captioned main WP stands disposed of in the aforesaid manner *inter alia* recording the stated position of learned State counsel. 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.)
25.03.2025

cad
Index : Yes/No

Page Nos.6/9



NC

:

Yes/No



W.P. No.10197 of 2025

WEB COPY



W.P. No.10197 of 2025

WEB COPY To:

1. The District Collector
A Block, 2nd Floor
Collectorate
Vellore, Tamil Nadu 632 009
2. The District Revenue Officer
Collectorate
Vellore, Tamil Nadu 632 009
3. The Revenue Divisional Officer
Vellore Division
Near Periyar Park, Behind Vellore Fort
Vasanthapuram, Vellore 632 001
4. The Executive Officer
Pallikonda Selection Grade Town Panchayat
No.3, High School Road
Pallikonda, Vellore 635 809
5. The Tahsildar
Anaicut Taluk
SH-122, Kallavi Tirupattur Road
Vellore 632 101



WEB COPY



W.P. No.10197 of 2025

M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

cad

W.P. No.10197 of 2025

25.03.2025

Page Nos.9/9