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W.P.No.12774 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

CORAM

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

W.P.No.12774 of 2025
and
W.M.P. Nos.14338 and 14341 of 2025 in W.P. No.12774 of 2025

T.Palani

... Petitioner

Vs.

1.The Commissioner,
Cuddalore City Municipal Corporation,
Bharathi Road, Cuddalore.

2.R.Gopal,
President,
Deepan Nagar and
Councillor Sundaram Nagar,
Semmandalam,
Cuddalore – 607 001.

3.Rajendran

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorarified Mandamus to call for the
records and quash the impugned notices of the first respondent in
Na.Ka.No.4373/2024/F1 dated 01.02.2025 and
Na.Ka.No.4373/2024/F1 dated 26.02.2025 and consequently direct the

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first respondent to restore the compound wall of the petitioner over
T.S.Nos.2590 and 2605.

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For Petitioner : Mr.B.Sankara Narayanan
for Mr.D.Baskar

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1

ORDER

[Order of the Court was 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 certiorarified mandamus.

2. Certiorari limb assails a 'notice dated 01.02.2025 bearing reference Na.Ka.No.4373/2024/F1' (hereinafter 'impugned notice' for the sake of convenience and clarity) and an 'order (though captioned அறிவிப்பு) dated 26.02.2025 bearing reference Na.Ka.No.4373/2024/F1' (hereinafter 'impugned order' for the sake of convenience and clarity) both made by R1 (Commissioner, Cuddalore City Municipal Corporation).



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3. As regards the mandamus limb, a consequent direction has been sought qua first respondent to restore the compound wall of the writ petitioner.

4. Subject matter of captioned main WP is alleged encroachment in a 30 feet road and lay out plan granted vide म.व./न.अ.क.எண்.732/91 (date not given) qua Councillor Sundaram Nagar within Cuddalore Corporation.

5. Mr.B.Sankara Narayanan, learned counsel representing Mr.D.Baskar, learned counsel on record for writ petitioner submits that post impugned notice, writ petitioner sent a detailed response dated 05.02.2025, after response, impugned order was made. In and vide impugned order, writ petitioner has been called upon to produce the documents on 28.02.2025 at 10.00 a.m. (documents if any to demonstrate that the wall which is the offending construction is not in 30 feet road and that it is in private land) but the impugned order says that on failure, without further notice, the wall will be removed. Learned counsel submits that on 28.02.2025, the writ petitioner went over to the office of Commissioner and produced documents but



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without considering those documents and making an order, the compound wall has been demolished largely on 07.03.2025.

6. Issue notice to official respondent.

7. Mr.T.K.Saravanan, learned Additional Government Pleader who accepts notice for R1 submits that impugned notice is 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) and the impugned order is under proviso to Section 128(1)(b) of TNULB Act.

8. As regards the impugned notice, there is no difficulty as it is only a show cause notice and we sustain the same but as regards the impugned order, on representation from the noticee, R1 has a statutory duty to pass 'final orders' under proviso to Section 128(1)(b) of TNULB Act. However, in the case on hand, R1 has called for further documents and has also made it clear that on failure there will be demolition. In sum and substance, the representation of the writ petitioner dated 05.02.2025 in response to the impugned notice dated



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01.02.2025 has neither been considered nor has orders been made.

Therefore, the sequitur is, we have no option other than setting aside the impugned order.

9. In the light of the narrative, discussion and dispositive reasoning thus far, the following order is made:

9.1 As regards certiorari limb, prayer is not acceded to and impugned notice is sustained as it is only a show cause notice;

9.2 As regards the impugned order, the same is set aside as it does not consider the 05.02.2025 representation made by the writ petitioner, which is a statutory requirement under proviso to Section 128(1)(b) of TNULB Act;

9.3 R1 shall now consider 05.02.2025 representation as well as documents produced by writ petitioner on 28.02.2025 and pass 'final orders' afresh under proviso to Section 128(1)(b) of TNULB Act as



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expeditiously as the business of R1 permits;

9.4 We dispense with notice to private respondents/R2 and R3 as this order does not touch upon the rights of the private respondents, on the contrary, we preserve all the rights and contentions of R2 and R3 qua further proceedings;

9.5 As regards mandamus limb of the prayer restoring the compound wall will be subject to and depending on the 'final orders' to be made by R1 in the aforesaid manner under proviso to Section 128(1)(b) of TNULB Act;

9.6 Learned counsel for writ petitioner submits that a major portion of the compound wall was demolished but there are still some parts remaining. Therefore, status quo as of today shall be maintained and further coercive action (if any and if that be so) shall be subject to and depending on the 'final orders' to be made by R1 under proviso to Section 128(1)(b) of



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TNULB Act;

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9.7 As regards rights of writ petitioner regarding demolition without adhering to the scheme of statute vide Section 128(1)(b) of TNULB Act, the same stand preserved;

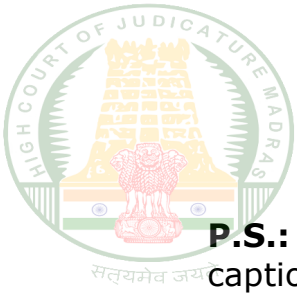
9.8 Axiomatically, the rights and contentions of R2 and R3 whom we are informed are complainants will also stand preserved.

10. Captioned WP is disposed of in the aforesaid manner. As we have held that coercive action (if any and if that be so) shall be subject to orders to be made by R1, captioned Writ Miscellaneous Petitions (WMPs) have become otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
09.04.2025

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Neutral Citation : Yes / No
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P.S.: Though captioned WP is disposed of, list under the cause list caption 'FOR ACTION TAKEN REPORT (ATR)' on 04.06.2025.

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**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

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To

The Commissioner,
Cuddalore City Municipal Corporation,
Bharathi Road, Cuddalore.

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