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W.P.No.12827 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.12827 of 2024

S.Munusamy

S/o.Late Shanmugam

... Petitioner

VS.

1. The District Collector
District Collectorate Building
Ranipet Taluk & District
Pin Code - 632 401.
2. The Revenue Divisional Officer
Camp Office
Arakkonam Taluk
Ranipet District
Pin Code - 631 003.
3. The Tahsildhar
Arakkonam Taluk Office
Arakkonam
Ranipet District
Pin Code - 631 003.
4. The Commissioner
Arakkonam Municipality
Arakkonam Town



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5. Ranipet District
Pin Code - 631 001.
The Village Administrative Officer
Arakkonam Town
Ranipet District
Pin Code - 631 003.
6. Nanthakumar
S/o.Ramakanthan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing 3rd respondent to consider the petitioner's representation letter dated 02.04.2024 to evict and demolish the unlawful construction raised by the 6th respondent in which denotes as Old Survey No.302/2B in T.S.No.40, 41, Ward No.D, Block No.21 in the 2nd Cross Street, A.N.Kandagai, Palanipet Post, Arrakkonam Taluk, Ranipet District.

For Petitioner : Mr.Parigopal
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R5
Mr.G.Jeremiah, for R6



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ORDER

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[Order of the Court was made by **M.SUNDAR J.**]

Mr.Parigopal, learned counsel on record for writ petitioner, Mr.T.K.Saravanan, learned Additional Government Pleader for official respondents (R1 to R5) and Mr.G.Jeremiah, learned counsel for private respondent (R6) are before us, with the consent of all three learned counsel, main WP is taken up and heard out.

2. Subject matter of the captioned WP is 'Old Survey No.302/2B in T.S.No.40, 41, Ward No.D, Block No.21, 2nd Cross Street, A.N.Kandagai, Palanipet Post, Arrakkonam Taluk, Ranipet District' {hereinafter 'said property' for the sake of brevity, convenience and clarity}.

3. Complaint of the writ petitioner is said property stands on public road but this is vehemently disputed by private respondent (R6). The prayer of writ petitioner is removal of alleged encroachment in public road. Further allegation is R6 is the encroacher. In other words, prayer of writ petitioner is for removal of encroachment.



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4. Learned State Counsel submits that pending captioned WP, R4 has issued a 'Show Cause Notice' {'SCN'} dated 03.03.2025 to R6 and that this SCN is under Section 128(1)(b) of 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' {hereinafter 'TNULB Act' for the sake of brevity}. Learned counsel for R6 confirms the receipt of this SCN and further submits that R6 has responded to the SCN vide a detailed response dated 08.03.2025. Learned State Counsel confirms the receipt of 08.03.2025 response to the SCN. This means that R4 should now consider the response of R6 and pass 'final orders' vide proviso to Section 128(1)(b) of TNULB Act. Be that as it may, proviso to Section 128(1)(b) of TNULB Act talks about R4 [Commissioner] considering 'any representation received within the time limit before passing final orders'. Section 128(1)(b) of TNULB Act reads as follows:

'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, 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;



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(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.'

(underlining made by us for ease of reference)

5. Therefore, we deem it appropriate to write that writ petitioner's representation dated 02.04.2024 on which the captioned WP is predicated shall also be considered by R4 while making final orders under proviso to Section 128(1)(b) of TNULB Act. For the sake of convenience and clarity, we scan and reproduce 02.04.2024 representation as placed before this Court and the same is as follows:



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REPRESENTATION LETTER

2.04.2024

S.MUNUSAMY , M/63 Years,
S/o Late Shanmugam,
SENIOR CITIZEN,
Residing at,
No 31/77, A.N. Kandagai,
2nd Street, Palanipet Post,
Arakkonam Taluk,
Ranipet District.
Pin code 631001.
Cell No 9842332334,

To,

1. THE DISTRICT COLLECTOR,
District Collectorate Building,
Ranipet Taluk & District.
Pin code- 632401.
2. THE REVENUE DIVISIONAL OFFICER,
Camp Office,
Arakkonam Taluk,
Ranipet District.
Pin code-631003.
3. THE TASHILDHAR,
Arakkonam Taluk office,
Arakkonam,
Ranipet District.
Pin code-631003.

No:
Direction: Nil

S. G. Anand Jaisankar



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4. THE COMMISSIONER,
Arakkonam Municipality,
Arakkonam Town,
Ranipet District.
Pin Code -631001.

5. THE VILLAGE ADMINISTRATIVE OFFICER,
Arakkonam Town,
Ranipet District.
Pin code-631003.

SUB: - TO IMPLEMENT AND ENFORCEMENT OF G.O.(MS) No 54
DATED 4.12.2014 REVENUE (LD6 (2) DEPARTMENT
DIRECTION IN W.P. NO 26722/2013 &M.P. NO 12
IMPLEMENTATION OF HON,BLE HIGH COURT IN THE
SURVEY NO 302/2B IN THE T.S. No 40,41 WARD NO D BLOCK
ENCROACHMENT & UNLAWFUL CONSTRUCTION OF HOUSE IN
THE ROAD, IN THE 2ND CROSS STREET, A.N. KANDAGAI
PALANIPET POST, ARAKKONAM TALUK RANIPET DISTRICT
THE ENCROACHER NAMELY NANTHAKUMAR RESIDING AT
THE 2ND CROSS STREET, A.N. KANDAGAI, PALANIPET POST
ARAKKONAM TALUK RANIPET DISTRICT PIN CODE-631001.

Respected sir,

With References mentioned in the above letter, I would
to place the following submissions before your authority in order to
the issue in accordingly.

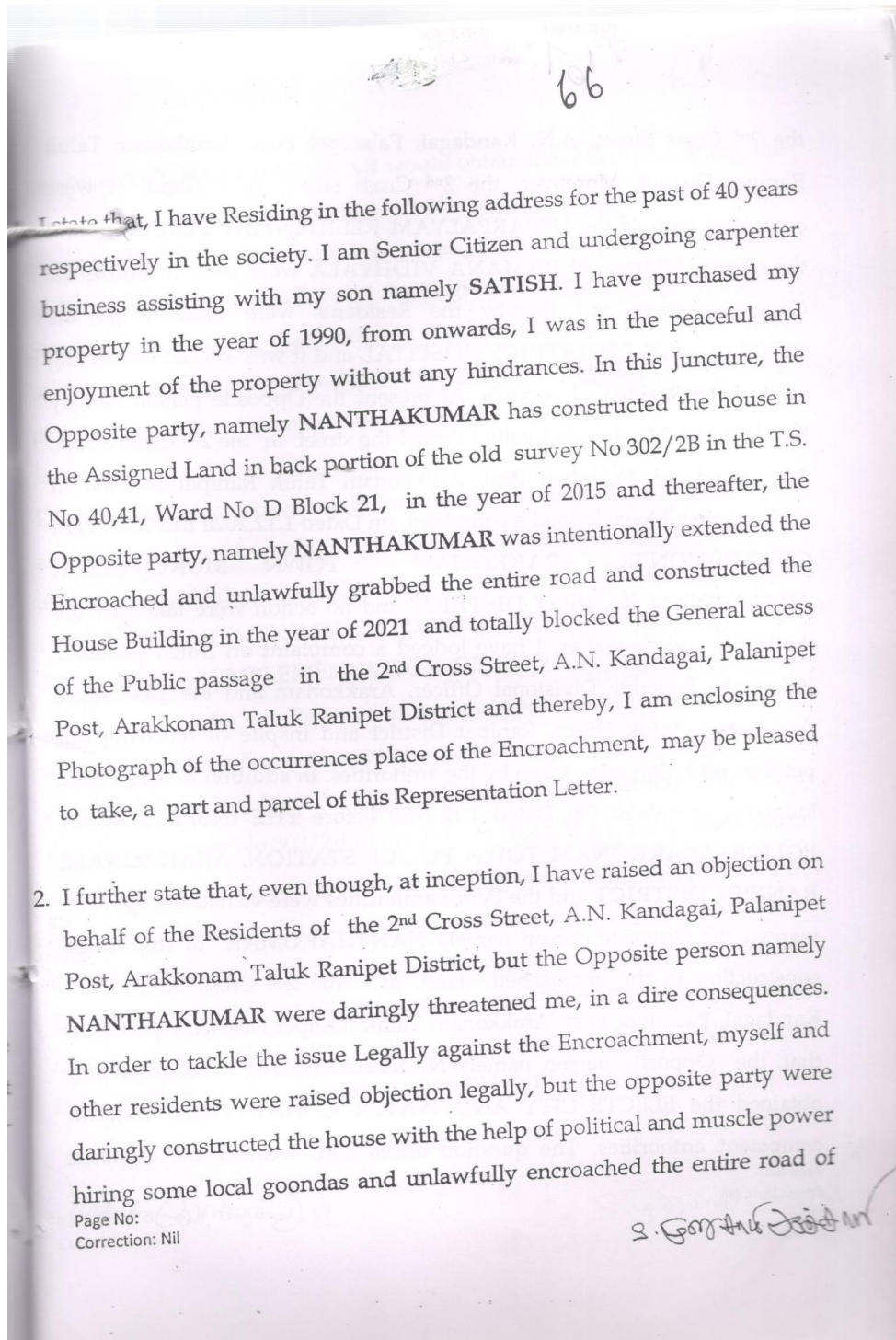
Page No:
Correction: Nil



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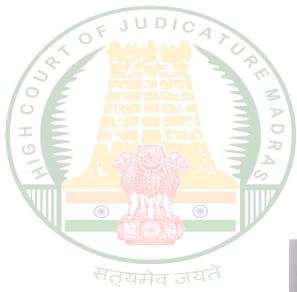


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S. (H) 27/1/2020



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person namely NANTHAKUMAR would obtain the orders of availing the Water and Electricity in accordingly, none of the authorities has not raise any question nor issuing any snow cause notice to the Opposite person namely NANTHAKUMAR about the illegal construction in the 2nd Cross Street, A.N. Kandagai, Palanipet Post, Arakkonam Taluk Ranipet District. so far, several representation letter were given pertaining to the issue, no action were by the competent authorities and kept my petition were lying in the dust.

I further state that, I have my Representation letter to various authorities, after receiving such petition, No action were taken by the Revenue authorities. According the G.O,(MS) No 540 DATED 4.12.2014 REVENUE (LD6 (2) DEPARTMENT SPECIFIC DIRECTION IN W.P. NO 26722/2013 &M.P. NO 1/13 IMPLEMENTATION OF HON,BLE HIGH COURT. It was mandatory for the Revenue authorities, should adhere the rule and norms, to evict the Encroachment of total road in the 2nd Cross Street, A.N. Kandagai, Palanipet Post, Arakkonam Taluk Ranipet District, in which denotes as survey No 302/2B in the T.S. No 40,41, Ward No D Block 21, in which such action were not carried out, it leads to contempt proceedings and Judicial fallibility. It was just and necessary the competent authorities should interfere legally and adhere the direction in the G.O,(MS) No 540 DATED 4.12.2014 REVENUE (LD6 (2) DEPARTMENT SPECIFIC DIRECTION IN W.P. NO 26722/2013 &M.P. NO 1/13 IMPLEMENTATION OF HON,BLE HIGH COURT.

Page No:
Correction: Nil

S. Gopalan



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Hence I pray sincerely before the Revenue authorities to Evict
Demolish the unlawful construction raised by the person one name
NANTHAKUMAR in the road of General passage in Survey No 800
the T.S. No 40/41, Ward No D Block 21, to evict the Encroachment of
road and constructed the House Building in the 2nd Cross Street,
Kandagai, Palanipet Post, Arakkonam Taluk Ranipet District and
Render Justice.

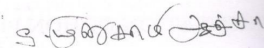
Dated at Arakkonam on 2nd April 2024


(S.MUNUSAMY)

Opposite party details

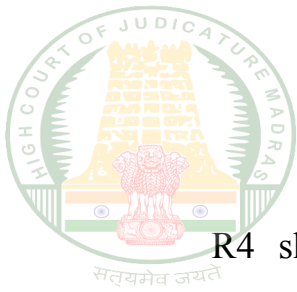
NANTHAKUMAR,
S/o Ramakanthan,
Residing at,
A.N. Kandagai,
2nd Street, Palanipet Post,
Arakkonam Taluk,
Ranipet District.
Pin code 631001.

Dated at Arakkonam on 2nd April 2024


(S.MUNUSAMY)

Page No:
Correction: Nil

6. Learned State Counsel submits that R4 will pass final orders within 12 weeks from today i.e., on or before 11.09.2025. This submission is recorded as an undertaking given to the Court. Final orders to be made by
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R4 shall be served on the writ petitioner as well as R6 under due acknowledgement within seven working days from the date on which the order is made. If the final order to be passed by R4 is going to be adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of the final order on the writ petitioner so as to provide a window to the writ petitioner to assail the said order if permissible in law or to seek judicial review of the said order. If the writ petitioner does not do so within a fortnight from the date of service of the said order, the final order so passed by R4 will be resuscitated and put into motion. If the final order to be passed by R4 ends up in favour of the writ petitioner, that would be curtains on the matter.

7. Captioned Writ Petition is disposed of in the aforesaid manner.

There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

19.06.2025

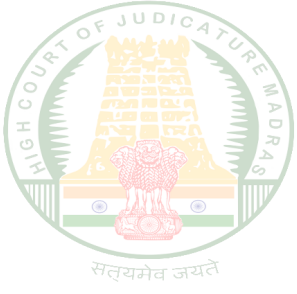
Index : Yes / No

Neutral Citation : Yes

Speaking / Non-speaking

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District Collectorate Building
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Ranipet District
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Arakkonam
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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