



W.P.No.18688 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.18688 of 2025

and

W.M.P. No.20918 of 2025 in W.P. No.18688 of 2025

Madhu

... Petitioner

Vs.

1.The District Collector,
Coimbatore, Coimbatore District.

2.The Tahsildar,
Office of Annur Tahsildar,
Annur Taluk, Coimbatore.

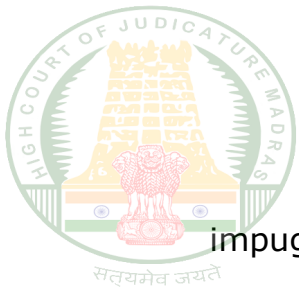
3.The Assistant Director,
Town Panchayat,
Coimbatore Region,
Coimbatore.

4.The Executive Officer,
Office of Sarkarsamakulam Town Panchayat,
Sarkarsamakulam Town Panchayat,
Coimbatore – 641 107.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorarified Mandamus to call for the

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impugned notice dated 07.04.2025 in Na.Ka.No.10/2024 on the file of the fourth respondent and quash the same and forbear the respondents from initiating any action pursuant to the notice dated 07.04.2025 in Na.Ka.No.10/2024.

For Petitioner : Mr.K.Prabakaran

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

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 for issue of a Writ of Certiorarified Mandamus.

2. As regards the certiorari limb of the prayer, a 'communication dated 07.04.2025 bearing reference Na.Ka.No.10/2024 issued by R4 (Executive Officer, Sarkarsamakulam Town Panchayat, Coimbatore – 641 107)' {hereinafter 'impugned notice' for the sake of convenience and clarity} has been assailed.

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3. Mr.K.Prabakaran, learned counsel on record for writ petitioner advertng to impugned notice submits that the caption says it has been made under Section 128(1) (a), (b) and (2) of 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' (hereinafter 'TNULB Act' for the sake of convenience and clarity) but the writ petitioner has already been show caused, the writ petitioner has responded but no orders have been made.

4. Issue notice to respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for respondents and very fairly submits on instructions that the impugned notice will now stand withdrawn. This submission is recorded. In the light of this fair submission of learned State counsel, the certiorari limb of the prayer stands answered. In this view of the matter, consequential mandamus limb pales into insignificance.

6. Be that as it may, Section 128 of TNULB Act as it stands today is as follows:



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'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 within 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



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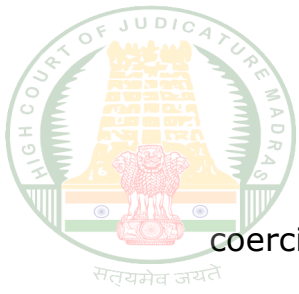
one year but which may extend to three years and with fine which may extend to [fifty thousand rupees]:

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.'

7. In the light of the mechanism put in place vide Section 128 of TNULB Act, it is only appropriate that R4 should now pass 'final orders' vide proviso to Section 128(1)(b) of TNULB Act considering the representation sent by the writ petitioner. To be noted, notice of R4 is dated 13.10.2023 and the representation of the writ petitioner in response to the same is dated 16.10.2023.

8. Learned State counsel submits that R4 will now pass orders as expeditiously as the business of R4 permits but in any event within three weeks from today i.e., on or before 24.06.2025. The order so made by R4 shall be served on the writ petitioner under due acknowledgement within five working days from the date of the order.

9. In the light of the impugned notice being withdrawn and in the light of the order we have made, though obvious, we make it clear that



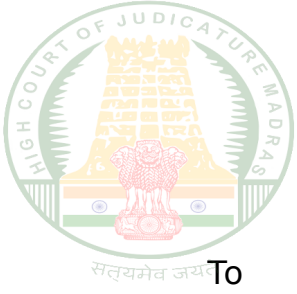
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coercive action (if any and if that be so) will be subject to and depending on the 'final orders' to be made by R4 under proviso to Section 128(1)(b) of TNULB Act. If the order made by R4 in the aforesaid manner is adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of the 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 order. If the writ petitioner does not do so within a fortnight from the date of service of the order, the order passed by R4 will be resuscitated and put into motion. If the order is in favour of the writ petitioner, that will be the curtains on the matter.

10. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition (WMP) thereat becomes otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
03.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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