



W.P.No.16258 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.04.2025

CORAM

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

W.P.No.16258 of 2025
&
W.M.P No.18386 of 2025

R.Syed Sajid Ahmed
S/o.Syed Raffic Ahmed

... Petitioner

VS.

1. State of Tamil Nadu
Rep. By its Secretary to Government
Housing & Urban Development Department
Fort St.George, Secretariat
Chennai – 600 009
2. The Chennai Metropolitan Development Authority (CMDA)
Rep. By its Member-Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai – 600 008
3. The Regional Deputy Commissioner (South)
Greater Chennai Corporation
No.115, Dr.Muthulakshmi Salai
Adyar, Chennai – 600 020
4. The Commissioner

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Greater Chennai Corporation
Rippon Building
Chennai – 600 003

... Respondents

(R4 suo motu impleaded vide this order)

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the Impugned Eviction Notice passed by the third respondent dated 17.04.2025 in Notice no.Zone XII/Enc/Dn.164/02/2024 and quash the same.

For Petitioner : Mr.C.Samivel
along with Ms.K.Anusuya and Mr.P.Vijay

For Respondents : Mr.V.Ravi
Special Govt.Pleader for R1, R3 & R4

Ms.V.Shrivarshini
for Mr.Akhil Akbar Ali for R2

ORDER

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

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been filed with a prayer for issuance of writ of certiorari qua a 'notice/order dated 17.04.2025 bearing reference Notice No.Zone XII/Enc/Dn.164/02/2024 made by R3' [hereinafter 'impugned order' for the sake of convenience and clarity].



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2. Mr.C.Samivel, along with Ms.K.Anusuya and Mr.P.Vijay, learned counsel on record for writ petitioner is before us.

3. Learned counsel for writ petitioner submits that R3 issued a 'notice dated 05.05.2023 bearing reference Zone-XII/U-37/Spl/2023' [hereinafter 'earlier impugned notice' for the sake of convenience and clarity] calling upon the writ petitioner to remove alleged encroachment. Writ petitioner assailed earlier impugned notice in and vide W.P.No.24536 of 2023 which along with WMP thereat came to be disposed of in and by order dated 11.09.2023 by another Hon'ble Division Bench wherein and whereby the other Hon'ble Division Bench had directed the earlier notice to be treated as 'show-cause notice' ['SCN' for the sake of brevity] within the meaning of 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}. The other Hon'ble Division Bench has given further directive that writ petitioner shall file reply along with documents and R3 should consider the documents.

4. In this scenario, though writ petitioner sent replies to earlier impugned notice (showing cause), the impugned order has now been made



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by R3 without considering the representations is learned counsel's say.

WEB COPY 5. Issue notice to respondents.

6. Mr.V.Ravi, learned Special Government Pleader accepts notice for R1 and R3 and Ms.V.Shrivarshini, learned counsel representing Mr.Akhil Akbar Ali, Standing counsel for CMDA accepts notice for R2.

7. Mr.V.Ravi, learned Special Government Pleader appearing for R1 and R3 submitted that post afore-referred earlier order dated 11.09.2023 made by another Hon'ble Division Bench, writ petitioner sent two representations, one dated 19.09.2023 and another dated 03.01.2025 (both in response to earlier impugned notice) after which the impugned order has been made.

8. In the light of the submissions made on either side we find that the legal perimeter within which the captioned WP should perambulate is vastly descoped and therefore, with the consent of learned counsel on both sides, main WP is taken up in the Admission Board.

9. Section 128 (1)(b) of TNULB Act as amended reads as follows:

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

(a)



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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:

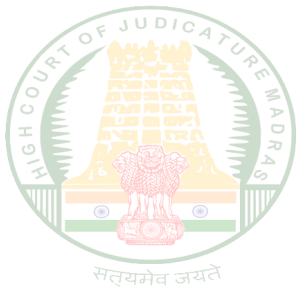
Provided that the Commissioner shall consider any representation received within the time limit, before passing final orders.'

This means that Commissioner of Greater Chennai Corporation ought to have passed 'final orders' within the meaning of proviso to Section 128 (1)(b) by considering aforesaid two representations of the writ petitioner which are in the form of response to 05.05.2023 notice (earlier impugned notice) which is being construed as SCN.

10. For the above purpose, we now implead Commissioner, Greater Chennai Corporation, Rippon Building, Chennai 600 003 as R4 and Mr.V.Ravi, learned Special Government Pleader accepts notice for R4 also.

11. In the light of the clear language in which Section 128(1)(b) of TNULB Act is couched, more particularly the proviso thereat, the following order is made:

i) Impugned order dated 17.04.2025 bearing reference



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Notice No. Zone XII/Enc/Dn.164/02/2024 is set aside on the sole point that the two representations dated 19.09.2023 and 03.01.2025 given by the writ petitioner in response to 05.05.2023 SCN have not been considered;

ii) As a sequitur, the above also means, we have not expressed any view or opinion on the merits of the matter;

iii) The matter is now remitted to R4 for considering the two representations dated 19.09.2023 and 03.01.2025 sent by writ petitioner in response to 05.05.2023 SCN and pass orders afresh i.e., final orders within the meaning of proviso to Section 128 (1)(b) of TNULB Act;

iv) The aforementioned order so passed by R4 shall be communicated to the writ petitioner under due acknowledgment within five working days from the date of making of the order;

v) As the impugned order is set aside, though obvious we deem it appropriate to write and make it clear that coercive action, if any will be subject to/depending on *denovo* orders to be made afresh by R4 in the aforesaid manner.



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Captioned main WP disposed of in the aforesaid manner. As we have

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held that coercive action, if any will be subject to/depending on *denovo* orders to be made, captioned WMP has become otiose and is disposed of as closed. There shall be no order as to costs.

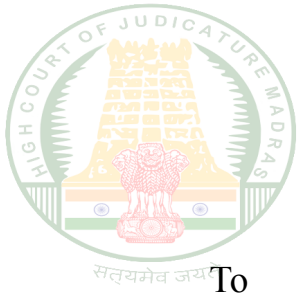
(M.S.,J.)

(K.G.T.,J.)

30.04.2025

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Index : Yes/No
Speaking order
Neutral Citation: Yes/No
gpa



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To
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State of Tamil Nadu
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**M.SUNDAR, J.,
and**

K.GOVINDARAJAN THILAKAVADI, J.,

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