



WEB COPY



W.P.No.17474 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.17474 of 2025 and W.M.P.No.19820 of 2025

S. Ponnuvel

Petitioner

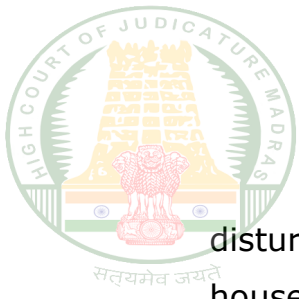
vs.

1. The Commissioner
Greater Chennai Corporation
Ripon Building
Poonamallee High Road
Chennai 600 003
Email: commissioner@chennaicorporation.gov.in
2. The Regional Deputy Commissioner (Central)
Door No.36-B, II Cross Street
Pulla Avenue
Shenoy Nagar
Chennai 600 030
Email: rdccentral@chennaicorporation.gov.in
3. The Assistant Engineer
Zone – 6, Greater Chennai Corporation
No.45, SRP Koil Street
Periyar Nagar – Jawahar Nagar
Chennai 600 082
4. Rubitha

Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a writ of mandamus forbearing the respondents from

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disturbing the petitioner from his peaceful and lawful possession of hut house situated at part of Plot No.194, Western Side, 15th Street, Thiru.Vi.Ka.Nagar, Perambur, Chennai 600 011 comprised in S.No.8 of Peravallur Village, Perambur Taluk, Chennai District, without due process of law.

For petitioner Mr. B. Krishnan

For RR 1 to 3 Ms. V. Soundarya
for Mr. D.B.R. Prabhu
Standing Counsel

ORDER

[made by M.SUNDAR, J.]

Subject matter of captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) is 'a hut (dwelling house) situate at Plot No.194, Western Side, 15th Street, Thiru.Vi.Ka.Nagar, Perambur, Chennai 600 011 comprised in S.No.8 of Peravallur Village, Perambur Taluk, Chennai District' (hereinafter 'said hut' for the sake of convenience and clarity).

2. Mr. B. Krishnan, learned counsel for writ petitioner, submits that writ petitioner has been put under pain of dispossession/demolition by Greater Chennai Corporation (GCC) at the instance of private respondent (R4). We express no opinion on the alleged role of R4.

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3. Ms. V. Soundarya, learned counsel representing Mr. D.B.R.Prabhu, learned Standing Counsel for GCC, submits that the said hut is an encroachment *qua* GCC land and therefore, writ petitioner has been put under pain of dispossession/demolition.

4. In the light of the aforesaid scenario, it comes to light that if GCC wants to proceed against the writ petitioner, it has to show cause the writ petitioner by resorting to Section 128 of 'the Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999) (for brevity "the TNULB Act") which 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;

(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.



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(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.'

5. As regards R4 (private respondent), as learned counsel for writ petitioner submits that R4 is owner of adjacent property and is alleging encroachment, when GCC issues show cause notice under Section 128 of the TNULB Act, both writ petitioner as well as R4 shall be noticees and both shall be given an opportunity to respond to the same. In this regard, we make it clear that rights and contentions of R4 are preserved. In other words, this order does not touch upon the rights and contentions of R4 and on the contrary, it preserves the rights and contentions of R4. Therefore, we dispense with notice to R4 and take up the captioned main WP with the consent of learned counsel for writ petitioner and learned Standing Counsel for GCC (RR 1 to 3).



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6. The following order is made:

- i. GCC shall issue notice under Section 128 of the TNULB Act to writ petitioner as well as R4 as expeditiously as the business of GCC permits but in any event within a period of four weeks from today *i.e.*, on or before 04.07.2025;
- ii. Both writ petitioner as well as R4 will have 15 days time to respond to the notice which is in-built *qua* Section 128 of the TNULB Act;
- iii. Responses/representations of writ petitioner as well as R4 should be considered and R1 (Commissioner, GCC) shall pass an order *vide* proviso to Section 128(1)(b) of the TNULB Act;
- iv. Coercive action *qua* said hut, if any and if that be so, will only be subject to and depending on orders to be made by R1 *vide* proviso to Section 128(1)(b) which shall be served both on writ petitioner and R4 under due acknowledgment within five working days from the date of making of the order by R1; and
- v. Though obvious, as alluded to *supra*, we make it clear that rights of R4 shall stand preserved.



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Captioned WP stands disposed of in the aforesaid manner. As we have made it clear that coercive action, if any and if that be so, shall be subject to orders to be made by R1 *vide* proviso to Section 128(1)(b) of the TNULB Act, captioned W.M.P. stands disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
06.06.2025

Index : Yes/No
Neutral Citation: Yes/No
cad



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