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W.P.No.19504 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.19504 of 2025
and
W.M.P. No.21797 of 2025 in W.P. No.19504 of 2025

Tamilarasan

... Petitioner

Vs.

- 1.The District Collector
Thiruvannamalai District.
- 2.The Thasildhar,
Polur Taluk, Thiruvannamalai District.
- 3.The Commissioner,
Polur Municipality,
Polur Town & Taluk,
Thiruvannamalai District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to quash the impugned notice vide
Na.Ka.No.236/2025/A1 dated 07.05.2025 issued by the 3rd
respondent.

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For Petitioner : Mr.V.Vijayakumar
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 with a prayer seeking issue of a writ of certiorari assailing a 'notice/order dated 07.05.2025 bearing reference Na.Ka.No.236/2025/A1 made by R3 [Commissioner, Polur Municipality, Polur Town & Taluk, Thiruvannamalai District]' which shall hereinafter be referred to as 'impugned order' for the sake of convenience and clarity.

2. Mr.V.Vijayakumar, learned counsel for writ petitioner submits that the impugned order does not consider the writ petitioner's response to the show cause notice 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).



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3. Mr.T.K.Saravanan, learned State counsel for respondents submits that a show cause notice dated 22.04.2025 has been issued to the writ petitioner by R3 under Section 128(1)(b) of TNULB Act. Learned State counsel also points out that the writ petitioner has responded to the show cause notice by way of a detailed response dated 28.04.2025 and this response will now be considered and an order will be made by R3 in accordance with proviso to Section 128(1)(b) of TNULB Act.

4. Before we proceed further, we deem it appropriate to extract and reproduce Section 128 of TNULB Act in its entirety and the same 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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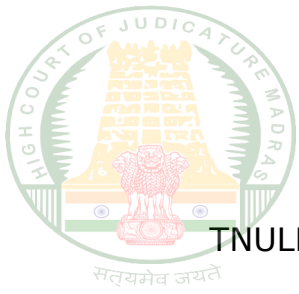
(b) *remove any immovable structure whether permanent or of temporary nature encroaching **street, public place, water body, tank, other water resources or any land** belonging to municipality or vested with the municipality within the municipal limit, after issuing a show cause notice for such removal, 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.'

5. In the light of the statutory scheme put in place vide Section 128 of TNULB Act, show cause notice under Section 128(1)(b) of



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TNULB Act dated 22.04.2025 has been issued, writ petitioner/noticee has responded to the same on 28.04.2025, this means that R3 should consider the response of the writ petitioner and pass what is described as 'final orders' vide proviso to Section 128(1)(b) of TNULB Act. The impugned order certainly does not qualify as 'final orders' within the meaning of proviso to Section 128(1)(b) of TNULB Act. Therefore, we have no hesitation in interfering and dislodging the impugned order on this short point.

6. In the light of the narrative, discussion and dispositive reasoning thus far, impugned order dated 07.05.2025 bearing reference Na.Ka.No.236/2025/A1 is set aside. R3 shall now consider the writ petitioner's aforereferred response dated 28.04.2025 (response to 22.04.2025 show cause notice) and pass 'final orders' within the meaning of proviso to Section 128(1)(b) of TNULB Act as expeditiously as the business of R3 permits but in any event within six weeks from today i.e., on or before 29.07.2025. Orders so made shall be duly served on the writ petitioner under due acknowledgement within seven working days from the date of the order. If such final orders of R3 is in favour of the writ petitioner that would be curtains



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on the matter but if it is adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of 'final orders' on the writ petitioner so as to enable the writ petitioner to seek judicial review, if so advised and so desired.

7. Captioned WP is disposed of in the aforesaid manner i.e., acceding to the certiorari prayer *albeit* with aforementioned observations and further directives. Consequently, captioned Writ Miscellaneous Petition (WMP) thereat is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
17.06.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi

To

- 1.The District Collector
Thiruvannamalai District.
- 2.The Thasildhar,
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- 3.The Commissioner,
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and
HEMANT CHANDANGOUDAR, J.,**

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