



W.P.No.19918 of 2025

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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.19918 of 2025
and
W.M.P. Nos.22461 and 22463 of 2025 in W.P. No.19918 of 2025

R.Kulasekar

... Petitioner

Vs.

1.The Commissioner,
Coimbatore Corporation,
Town Hall,
Coimbatore – 641 001.

2.The Assistant Town Planner,
Central Zone,
Coimbatore Corporation,
Hosur Road,
Coimbatore – 641 012.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned notice dated 29.05.2025 under reference Na.Ka.No.21555/2010/H1/C issued by the second respondent and quash the same as illegal.



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For Petitioner : Mr.A.E.Ravichandran

For Respondents : Mr.N.Umapathi,
Standing Counsel

ORDER

[Order of the Court was made by **HEMANT CHANDANGOUDAR, J.,**]

The petitioner has filed the present writ petition challenging the notice dated 29.05.2025 bearing reference Na.Ka.No.21555/2010/H1/C (hereinafter referred to as "the impugned notice" for the sake of convenience and clarity) issued by the second respondent, namely the Assistant Town Planner, Central Zone, Coimbatore Corporation, Hosur Road, Coimbatore. The said impugned notice was issued under Section 128 of The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999) (hereinafter referred to as "the TNULB Act"), thereby calling upon the petitioner to remove the alleged encroachment within seven days from the date of receipt of the said notice.

1. Issue notice to the respondents.
2. Mr. N. Umapathi, learned Standing Counsel, accepts notice on behalf of the respondents.



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3. With the consent of the learned counsel appearing for both parties, the writ petition is taken up for final disposal at the admission stage itself.
4. Section 128(1)(b) of the TNULB Act empowers the Commissioner to remove any immovable structure, whether permanent or temporary, that encroaches upon any street, public place, water body, tank, other water resources, or any land belonging to or vested in the municipality within the municipal limits, after issuing a show cause notice returnable within fifteen days from the date of its receipt.
5. In the present case, the impugned notice has been issued by the second respondent, who is the Assistant Town Planner. It is pertinent to note that under the TNULB Act, such power is specifically vested with the Commissioner. The term 'Commissioner' is defined under Section 2(7) of the TNULB Act,



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which states that “Commissioner” means, in relation to a municipal corporation or municipal council, the Commissioner of the said municipal corporation or municipal council, as the case may be. The second respondent, being an Assistant Town Planner, does not fall within the ambit of the definition of “Commissioner” as provided under the Act. Therefore, the issuance of the impugned notice by the second respondent, who does not have the requisite statutory authority, is clearly without jurisdiction.

6. In view of the above, the impugned notice dated 29.05.2025 issued by the second respondent is quashed as being without jurisdiction and, therefore, legally unsustainable. However, this Court makes it clear that this order shall not preclude the competent authority, namely the Commissioner as defined under the Act, from initiating appropriate proceedings and passing orders in accordance with law under Section 128(1)(b) of the TNULB Act, if so warranted.



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7. Accordingly, the writ petition is allowed. Consequently, the connected miscellaneous petitions are 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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To

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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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