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W.P.No.20789 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.20789 of 2025

and

W.M.P. No.23462 of 2025 in W.P.No.20789 of 2025

R.Selvakumar

... Petitioner

Vs.

1.The Assistant Director of Town Panchayat,
Collectorate, Erode District, Erode.

2.The Executive Officer,
Sivagiri Selection Grade Town Panchayat,
Sivagiri, Erode District.

3.S.Sankar

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the entire records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.360/2024 dated 18.03.2025 and quash the same.



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For Petitioner : Mr.C.Prakasam
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1
Mr.M.Muthusamy,
Government Advocate for R2

ORDER

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

In the captioned main 'Writ Petition' [hereinafter 'WP' for the sake of brevity], 'a notice dated 18.03.2025 bearing reference Na.Ka.No.360/2024 issued by R2 (Executive Officer, Sivagiri Selection Grade Town Panchayat, Sivagiri, Erode District)' {hereinafter 'impugned notice' for the sake of convenience and clarity} has been called in question.

2. Mr.C.Prakasam, learned counsel on record for writ petitioner adverting to the impugned notice submits that the impugned notice without even giving an opportunity to the writ petitioner called upon the writ petitioner to remove what according to R2 is alleged encroachment.



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3. Issue notice to official respondents.

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4. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for official R1 and Mr.M.Muthusamy, learned Government Advocate accepts notice for R2.

5. Learned State counsel very fairly submits that impugned notice will stand withdrawn. This submission is recorded as an undertaking given to the Court.

6. The aforementioned fair stand of the learned State counsel has vastly descoped the captioned main WP and disposal of the same has become simple. In this view of the matter, we make it clear that all the rights and contentions of R3/private respondent were preserved. We also make it clear that this order will not impact or touch upon the rights and contentions of R3/private respondent in any manner. Therefore, we dispense with notice to R3 and with the consent of learned counsel for writ petitioner and learned State counsel, captioned main WP is taken up in the Admission Board.



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7. Learned State counsel submits that after withdrawal of the impugned notice, the local body would initiate action under 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' (hereinafter 'TNULB Act' for the sake of convenience and clarity) by resorting to show causing the writ petitioner, R3 and/or any other person concerned under Section 128 of TNULB Act. This submission is also recorded.

8. In the light of the narrative thus far, which also captures what unfurled in the hearing, we make the following order:

8.1 Impugned notice being notice dated 18.03.2025 bearing reference Na.Ka.No.360/2024 issued by R2 (Executive Officer, Sivagiri Selection Grade Town Panchayat, Sivagiri, Erode District) stands effaced;

8.2 Impugned notice stands effaced without expressing any view or opinion on the merits of the matter solely for the purpose of enabling the local body to initiate proceedings under TNULB Act by show causing the writ petitioner, R3 and/or other similarly placed persons;

8.3 The local body shall now issue a notice under



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Section 128 of TNULB Act within a fortnight from today i.e., on or before 26.06.2025 to the writ petitioner, R3 and/or any other similarly placed persons show causing the noticees;

8.4 All the rights and contentions of the noticees are preserved for suitably responding to the show cause notice under Section 128 of TNULB Act;

8.5 Post response, Commissioner of the local body shall consider the responses and make an order in accordance with proviso to Section 128(1)(b) of TNULB Act and such order shall be served on the writ petitioner, R3 and/or any other person(s) show caused under due acknowledgement within five working days from the date of order;

8.6 Though obvious it is made clear that coercive action (if any and if that be so) shall be subject to and depending on the order to be made by the Commissioner of local body in the aforesaid manner;

8.7 If the order made by Commissioner of local body 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



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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 the Commissioner of local body 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.

9. Captioned WP is 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 and depending on the orders to be made by the Commissioner of local body, 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.)
12.06.2025

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Neutral Citation : Yes / No
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