



W.P.No.18753 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

AND

THE HONOURABLE Mr. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.18753 of 2024

AND

W.M.P.Nos.20562 & 20563 of 2024

Rasheeda

.. Petitioner

vs.

The Commissioner
Coimbatore Corporation
Coimbatore

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of certiorari to call for the records relating to the impugned order of the respondent in Na.Ka.No.256/2018/H1/S dated 13.06.2024, quash the same and consequently, forbear the respondent or their subordinates or men or authorised person from dispossessing, evicting and demolishing the petitioner's house in old Survey No.449, Survey No.449/1 Part in Site No.18 in Patta No.3341 situated at Door No.2/21, Zam Zam Nagar, Podanur, Coimbatore District - 641 023.

For petitioner Mr.E.Sathiyaraj

For respondent Mr.N.Velmurugan
Standing Counsel

ORDER



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(made by M.SUNDAR, J.)

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In the captioned 'writ petition' [hereinafter 'WP' for the sake of brevity], Mr. E. Sathiyaraj, learned counsel on record for writ petitioner is before us and Mr. N. Velmurugan, learned Standing Counsel, accepts notice for the sole respondent.

2. The legal drill at hand is fairly simple as a notice dated 13.06.2024 issued by the respondent invoking Section 128(1)(b) of the amended 'The Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 35 of 2022)' [hereinafter 'the TNULB Act' for the sake of brevity] [hereinafter 'impugned notice' for the sake of brevity] has been called in question on the only short point that the impugned notice straightaway calls upon the writ petitioner to remove the alleged encroachment within a fortnight without issuing a show cause notice (SCN) to the writ petitioner.

3. Before we proceed further, we deem it appropriate to extract and reproduce Section 128 of the TNULB Act in its entirety (as it stands today) and the same reads as follows:

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



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(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.

(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.'

(underlining made by us for ease of reference)

4. Since incontrovertibly there is noncompliance of Section 128(1)(b) of the TNULB Act, we deem it appropriate to write that ends of justice would be met if the impugned notice is directed to be treated as an SCN under Section 128(1)(b) of the TNULB Act. We do so.

5. In the light of the narrative, discussion and dispositive



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reasoning thus far, the following order is made:

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(i) Impugned notice is not set aside but the same shall now be treated as an SCN under Section 128(1)(b) of the TNULB Act;

(ii) The SCN under Section 128(1)(b) of the TNULB Act shall be construed to have been served on the writ petitioner today (19.06.2025);

(iii) The above means that the writ petitioner/noticee can send a response/ representation to SCN (if so advised and if so desired) within fifteen days from today *i.e.*, on or before 03.07.2025;

(iv) On the writ petitioner sending such a response/representation within the aforementioned timeline, the respondent shall pass 'final orders' *vide* proviso to Section 128(1)(b) of the TNULB Act;

(v) The final orders to be passed shall be communicated to the writ petitioner within a period of one



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week from the date of the final orders ;

(vi) If the final orders to be passed by the respondent ends up in favour of the writ petitioner, that would be curtains on the matter;

(vii) If it happens to the contrary, in other words, if the final orders to be passed by the respondent are going to be adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of the final orders on the writ 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 said order;

(viii) If the writ petitioner does not take recourse to either of the aforesaid two options within a fortnight from the date of service of the final orders on her, the final orders so passed by the respondent will be resuscitated and put into motion;



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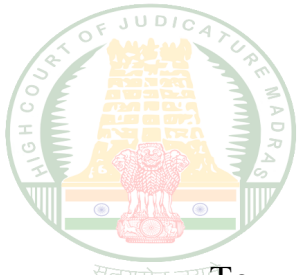
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(ix) Though obvious, we make it clear that coercive action, if any, shall be subject to and depending on final orders to be made by the respondent under proviso to Section 128(1)(b) of the TNULB Act.

6. Captioned main WP stands disposed of in the aforesaid manner with the aforesaid observations and directives. As we have made it clear that coercive action, if any, shall be subject to and depending on 'final orders' to be passed by the respondent under proviso to Section 128(1)(b) of the TNULB Act, captioned two writ miscellaneous petitions become otiose and the same are closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
19.06.2025

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



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To
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The Commissioner
Coimbatore Corporation
Coimbatore



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M.SUNDAR, J.
AND
HEMANT CHANDANGOUDAR, J.
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