



W.P.No.20591 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.06.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.20591 of 2025

&

W.M.P Nos.23204 and 23207 of 2025

K.S.Chandrashekar

... Petitioner

Vs.

The Commissioner
Hosur Municipal Corporation
Hosur - 635 109
Krishnagiri District

... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of certiorari mandamus calling for the records relating to the impugned notice under Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998 issued by the respondent in his office Ref.Na.Ka.No.6365/2019/F1 dated 07.05.2025, quash the same and forbear the respondent, his men and agent from in any manner demolishing and removing the petitioner's house bearing Plot No.181/3, R.K.Nagar, Hosur, Krishnagiri District and comprised in Old S.No.181/3 part, T.S.No.98, Hosur, Krishnagiri District.

For Petitioner : Mr.P.Mani

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For Respondent : Mr.T.Balaji
Standing counsel

ORDER

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

Subject matter of captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] is alleged encroachment in 'Plot No.181/3, R.K.Nagar comprised in Old S.No.181/3 part, T.S.No.98 Hosur, Krishnagiri District' [hereinafter 'said land' for the sake of convenience and clarity].

2. Captioned WP *inter alia* impugns 'a notice dated 07.05.2025 bearing reference Na.Ka.No.6365/2019/F1 issued by the respondent (Commissioner, Hosur Municipal Corporation)' [hereinafter 'impugned notice' for the sake of convenience and clarity] under Section 128 (1)(b) of 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' [hereinafter 'the TNULB Act' for the sake of brevity]. By the impugned notice, the petitioner has been *inter alia* directed to remove the alleged encroachment made by him in the said land.



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3. Mr. P.Mani, learned counsel on record for writ petitioner and

Mr. Mr.T.Balaji, learned Standing counsel for the sole respondent are before us.

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

'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.'

(underlining made by us for ease of reference)

5. Though the impugned notice reads that the impugned notice is one under Section 128 (1)(b) of TNULB Act, as matter on hand pertains to immovable structure, writ petitioner should be given 15 days time to respond to impugned notice and thereafter, the respondent should pass final orders considering such response. However, the impugned notice grants only three days time to respond as against 15 days as mandated in the Statute.

6. It is also seen that the writ petitioner has responded to the impugned notice *vide* his response dated 05.06.2025, a scanned reproduction of which is as follows:



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5th June 2025

From

K.S.Chandrashekar
S/o. Sathiyannarayana Chetty
Plot No.181/3, R.K.Nagar
Hosur - 635 109
Krishangiri District

To

The Commissioner
Hosur Municipality
Hosur - 635 109
Krishangiri District

Sir,

Sub: Reply to the Notice dated 07.05.2025 under Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998 served on 03.06.2025.

Ref: Your office Notice dated 07.05.2025 served on 03.06.2025.

I am the owner of the land and building at Plot No.181/3, R.K.Nagar, Hosur - 635 109, Krishangiri District, as I have purchased the land measuring 1480.6 sq.ft. comprised in S.No.181/3 with specific boundaries and measurements from the lawful owner Mr.R.Chandrasekar, son of Late Ramakrishnappa, No.1, Kullapa Lane, Tank Street, Hosur, as per the registered sale deed dated 26.04.2001 registered as Document No.1473/2001 in the office of the Sub Registrar, Hosur, for valuable consideration and constructed the house after getting approval from your Municipality.

I submit that the Tahsildar, Hosur also issued patta with respect to the said land purchased by me as per his office proceedings Ref. Mu.Mu./112/2004/2005 dated 30.12.2004/2005. I submit that in the TSLR (Town Survey Land Register) and sketch my name has been recorded as the owner of the said land.



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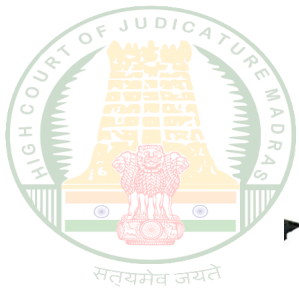
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I submit that my said house has been assessed to property tax and your Municipality has been collecting the property tax for the past 25 years. Your Municipality has also given drainage and water connection to the said house and collecting sewage charges and water tax.

I submit when I have been in possession and enjoyment of the said land by constructing house and residing therein along with my family for the past 25 years, to my shock and surprise, I have received the notice issued by you under reference as if the land in which my house is situated forms part of the park belongs to your Municipality.

I submit that the land in which I have constructed the house is not used as a park at any point of time. I have purchased the said land from the lawful owner by the registered sale deed dated 26.04.2001. I submit that in the records maintained by your Municipality and the Revenue Department, my name has been recorded as the owner of the said land and not recorded as a park. I submit that the previous land owners did not execute any gift deed in favour of your Municipality for utilization of the said land as a park and as such the said land is not vested with your Municipality and your Municipality has no right or title over the said land.

I submit since the said land has not been gifted to and not vested with your Municipality for utilization of the said land as a park as per law, your Municipality has no right or title over the said land and the notice issued by you has no legal sanction.



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I submit since your notice has no legal sanction, the land in which I have constructed my house is not lawfully vested with your Municipality by way of any registered deed of gift, there is no necessity nor warrant to comply with your notice under reference.

I am herewith enclosing the following documents for your perusal and consideration, in support of my case that I am the absolute owner of the said land.

1. Partition Deed dated 10.12.1980 executed between my vendor R.Chandrasekar and his family members.
2. Patta Passbook issued to my vendor R.Chandrasekar (Ref.Na.Ka.3444/96 B2 dated 12.03.1996).
3. Patta issued to my vendor R.Chandrasekar (Patta No.514).
4. Registered Sale deed dated 20.04.2001 in my favour executed by R.Chandrasekar
5. Proceedings of the Tahsildar, Hosur, in his Office Ref. Mu.Mu./112/2004/2005 dated 30.12.2004/2005.
6. Extract from the Town Survey Land Register (TSLR) in my name.
7. Copy of the sketch issued by the Town Sub Inspector of Survey, Hosur Municipality.
8. Copy of the Hosur Town Survey Land Register issued by the Town Sub Inspector of Survey, Hosur Municipality.
9. Property Tax Payment Receipts.
10. Property Tax General Revision 2018 Notice issued to me by your Municipality.
11. Water Tax Payment Receipts issued by your Municipality.
12. Encumbrance Certificate for the period from 01.01.1975 to 07.02.2025.



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In the above circumstances, I request you to consider the above documents produced by me to prove my case that the said land belongs to me absolutely and not vested with your Municipality and pass necessary orders not to take any action pursuant to the notice issued by you under reference as mandated under provisio to Section 128(1)(b) of Tamil Nadu Urban Local Bodies Act, 1998. I submit if any further action is taken without considering my present representation and passing necessary orders as required by law, you will be held responsible for all losses and damages and you have to indemnify the losses and damages personally.

Yours faithfully,

(K.S.Chandrashekar)

7. In such view of the matter, the impugned notice is directed to be treated as a show cause notice (SCN) served on the writ petitioner today and the petitioner's representation dated 05.06.2025 shall be considered and final order shall be passed by the respondent on its own merits and in accordance with law within a period of two weeks from today *i.e.*, on or



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before 24.06.2025. The final order so passed shall be served on the writ petitioner within a period of five working days from the date of the final order. If the final order passed by respondent is adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date of service of the final order 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. If the writ petitioner does not do so within a fortnight from the date of service of the said order, the final order so passed by the respondent will be resuscitated and put into motion. If the final order passed by the respondent ends up in favour of the writ petitioner, that would be curtains on the matter.

8. Captioned WP stands disposed of in the aforesaid manner. Consequently, the connected writ miscellaneous petitions are closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
10.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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To

The Commissioner
Hosur Municipal Corporation
Hosur - 635 109
Krishnagiri District.

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