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W.P.No.23036 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE T. VINOD KUMAR

W.P. No.23036 of 2024 and W.M.P. No.25121 of 2024

Latha

Petitioner

vs.

1. The District Collector
Vellore District
2. The Commissioner
1st Zone, Vellore Municipal Corporation
Vellore
3. The Assistant Commissioner
1st Zone, Vellore Municipal Corporation
Vellore
4. The Administrative Officer
1st Zone, Corporation Office Vellore
Vellore
5. The Executive Engineer (Town Planning)
Vellore Corporation
Vellore

Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorarified mandamus calling for the
records pertaining to the order passed by the 3rd respondent in Na.Ka.



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No.317/F1/2020/M-1 dated 22.02.2024 and quash the same consequently, permit the petitioner to construct his house in plot No.29/2, Balaji Nagar, Katpadi Taluk, Vellore District.

For petitioner	Mr. D. Magesh
For R1	Mr. T.K. Saravanan Additional Government Pleader
For RR2 to 5	Ms. R. Regamitha for Mr. P.S. Prabu, Standing Counsel

ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a prayer for issue of a writ of certiorarified mandamus.

2. In and *vide* the certiorari limb of the prayer, a notice/order dated 22.02.2024 bearing reference Na.Ka.No.317/F1/2020/M-1 issued by R3 (Assistant Commissioner) has been assailed. This 22.02.2024 notice/order of R3 shall hereinafter and henceforth be referred to as 'impugned order' for the sake of convenience and clarity.

3. Mr. D. Magesh, learned counsel on record for writ petitioner, submits that the writ petitioner is putting up construction in



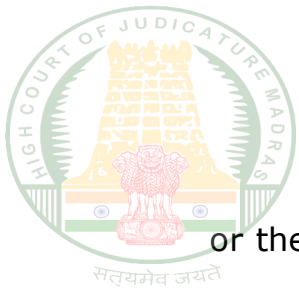
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the land in question, the details of which have been mentioned in the impugned order but she has been called upon to stop construction.

4. Mr. T.K. Saravanan, learned Additional Government Pleader for R1 submits, on instructions, that prior to the impugned order, the writ petitioner was given an opportunity *vide* notice dated 18.12.2023 bearing reference Na.Ka.No.317/F1/2020/M1 and the writ petitioner duly responded to the same *vide* 04.01.2024 representation.

5. The mechanism put in place under Section 128 of 'the Tamil Nadu Urban Local Bodies (Amendment) Act, 2022 (Tamil Nadu Act 35 of 2022)' [hereinafter 'the amended TNULB Act' for the sake of convenience and clarity] makes it clear that noticee on being visited with a notice under Section 128, can send a representation but the representation has to be considered by R2 (Commissioner) and R2 has to make an order which is described as 'final orders' *vide* proviso to Section 128(1)(b).

6. Be that as it may, before we proceed further, we deem it appropriate to record the factual position that the sum and substance



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or the crux of the issue according to the respondents/local authority is that, the writ petitioner is putting up construction in a place earmarked for a park.

7. As the writ petitioner has responded to the 18.12.2023 summons, we now treat the 18.12.2023 summons as 'show cause notice' (SCN) within the meaning of Section 128(1)(b) and the writ petitioner's response dated 04.01.2024 to the same as 'any representation'. This means that R2 shall now make 'final orders' as per proviso to Section 128(1)(b).

8. We find that 18.12.2023 SCN has been issued by R3. The issue as to whether there is delegation of powers to R3 by R2 is left open as there is no material before this Court to take a call on that point.

9. The sequitur is, the mechanism/legal machinery now put in place under Section 128 of the amended TNULB Act has not been followed. On this short point, we would now interfere with the impugned order but with caveats.

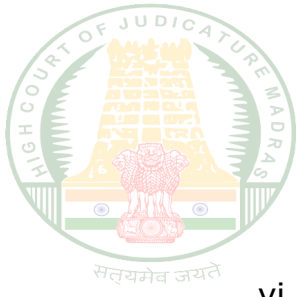


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10. In the light of the narrative, discussion and dispositive

reasoning thus far, the following order is made:

- i. The impugned order is set aside on the short point that it has not considered writ petitioner's response dated 04.01.2024 *i.e.*, response to SCN dated 18.12.2023;
- ii. Corollary to the previous point is, we have not expressed any view or opinion one way or other on alleged encroachment and all questions are left open;
- iii. R2 shall now consider the writ petitioner's aforesaid response dated 04.01.2024 in response to SCN dated 18.12.2023 and pass 'final orders' within the meaning of proviso to Section 128(1)(b) of the amended TNULB Act;
- iv. The order passed in the aforesaid manner shall be served on the writ petitioner under due acknowledgment within seven working days from the date on which order is made by R2;
- v. Further construction shall be kept in abeyance and further construction, if any and if that be so, will be subject to and depending on 'final orders' to be made by R2 in the aforesaid manner; and



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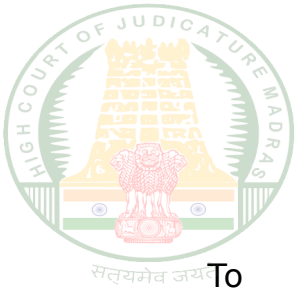
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vi. The writ petitioner shall not claim any equity *qua* construction which is said to have been put up thus far.

11. Captioned WP stands disposed of in the aforesaid manner with directives, observations and preservation of rights in the manner referred to *supra*. In the light of what we have written *qua* coercive action / further construction, captioned writ miscellaneous petition has become otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (T.V.K., J.)
31.07.2025

cad
Index : Yes/No
NC : Yes/No



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