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W.P.No.21368 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.21368 of 2025
and
W.M.P. No.24116 of 2025 in W.P.No.21368 of 2025

K.Kaliammal

... Petitioner

Vs.

The Commissioner,
Namakkal Corporation,
Namakkal.

.. Respondent

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the entire records pertaining to the impugned eviction order passed by the respondent in Na.Ka.No.638/2025/F1 dated 26.05.2025 and impugned order of rejection passed by the respondent in Na.Ka.No.638/2025/F1 dated 26.05.2025 and quash the same as it is without jurisdiction, arbitrary and unconstitutional and against the directions issued by this Court in order dated 04.04.2025 in W.P.No.12192 of 2025.



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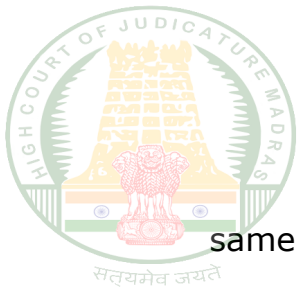
For Petitioner : Mr.R.Vivek
For Respondent : Mr.M.Raja Mathivanan,
Standing Counsel

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 'Town Survey No.262/1 Block No.4, Ward C , Poyyerikarai Road in Namakkal Corporation' (hereinafter 'said land' for the sake of convenience and clarity).

2. The respondent issued a notice dated 13.03.2025 bearing reference Na.Ka.No.15/2025/F1 purportedly under Section 128 of 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' (hereinafter 'TNULB Act' for the sake of convenience and clarity) stating that said land is Road (salai) and writ petitioner has encroached upon the same. Though this 13.03.2025 notice caption says Section 128 of TNULB Act, it really does not call upon the writ petitioner to show cause, on the contrary, it calls upon the writ petitioner to directly remove the alleged encroachment. Notwithstanding this 13.03.2025 notice not being happily worded, writ petitioner/noticee construed the



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same as Show Cause Notice (SCN), sent reply dated 19.03.2025 and came to this Court vide W.P.No.12192 of 2025 assailing the 13.03.2025 notice. This writ petition was disposed of by this Court by an order dated 04.04.2025 directing the respondent to consider writ petitioner's response dated 19.03.2025 and pass orders. Thereafter, the respondent sent another communication to the writ petitioner dated 24.04.2025 calling upon the writ petitioner to produce documents and the writ petitioner responded vide communication dated 30.04.2025 (together with as many as 11 annexures including TSLR extract copy).

3. When things stood as above, writ petitioner was visited with another notice purportedly under Section 128 of TNULB Act being 'notice dated 26.05.2025 bearing reference Na.Ka.No.638/2025/F1' (hereinafter 'impugned notice' for the sake of convenience and clarity). Writ petitioner sent a communication dated 28.05.2025 pointing out that it is contrary to the orders of this Court dated 04.04.2025 made in W.P.No.12192 of 2025. To be noted, the respondent has sent another 'communication to the writ petitioner also dated 26.05.2025 bearing reference Na.Ka.No.638/2025/F1' (hereinafter 'impugned order' for the sake of convenience and clarity). This impugned order was received by

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the writ petitioner only on 10.06.2025 is learned writ petitioner counsel's say.

4. The impugned order is terse and it merely says that the writ petitioner's response does not contain enclosures/revenue records, we find as many as 11 annexures including TSLR extract.

5. Impugned notice has to necessarily be dislodged as the question of issuing another notice under Section 128 of TNULB Act which has a provision for show cause does not arise.

6. As regards the impugned order, it is contrary to proviso to Section 128(1)(b) of TNULB Act as the proviso makes it clear that the respondent should 'consider any representation' and make 'final orders'. This means that the respondent should consider 19.03.2025 as well as 30.04.2025 replies of the writ petitioner (together with annexures thereat) and make 'final orders' under proviso to Section 128(1)(b) of TNULB Act.

7. Faced with the above situation, Mr.M.Raja Mathivanan, learned standing counsel for respondent Corporation very fairly



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submitted that the impugned notice as well as impugned order are being rolled back. To put it differently, the impugned notice and impugned order stand withdrawn.

8. In the light of the narrative, discussion and dispositive reasoning set out supra, we make the following order:

8.1 The 13.03.2025 notice sent by respondent shall be construed as show cause notice under Section 128 of TNULB Act. The stated position of learned Standing Counsel that impugned notice and impugned order both dated 26.05.2025 stand withdrawn is recorded;

8.2 Responses of writ petitioner dated 19.03.2025 and 30.04.2025 shall be construed as writ petitioner's responses to the impugned notice;

8.3 The sole respondent shall consider responses and pass final orders vide proviso to Section 128(1)(b) of TNULB Act;

8.4 The order passed in the above manner shall be



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*served on the writ petitioner under due acknowledgement
within seven working days from the date of the order;*

*8.5 Coercive action (if any and if that be so) shall be
subject to and depending on the orders to be made by
respondent in the aforesaid manner. If the order is in
favour of the writ petitioner that would be curtains on the
matter.*

*8.6 If the order is not in favour of the writ petitioner,
the same shall be kept in abeyance for a fortnight from the
date of service of order on the writ petitioner so as to
enable the writ petitioner to avail judicial review, if so
advised and so desired.*

9. Before we part with the captioned WP, it is deemed appropriate to record the position that writ petitioner is concerned only with said land i.e., Survey No.262/1 and not Survey No.261/1. This has become necessary as impugned order in the reference talks about Survey No.262/1 but in the terse order, there is a reference to Survey No.261/1.

10. Captioned WP is disposed of in the aforesaid manner. In the



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light of our directive qua coercive action, captioned Writ Miscellaneous Petition (WMP) thereat becomes otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
30.06.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi

To

The Commissioner,
Namakkal Corporation,
Namakkal.

**M.SUNDAR, J.,
and**

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HEMANT CHANDANGOUDAR, J.,

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