



W.P. No.31066 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.08.2025

CORAM:

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

W.P.No.31066 of 2025 and W.M.P.No.34821 of 2025

M.Annamalai

... Petitioner

vs.

1. The Commissioner
Villupuram Municipality
Villupuram District

2. A.Sivaji

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the impugned eviction notice issued by the respondent vide proceedings in Na.Ka.No.4950/2025/F1 dated 18.07.2025 received through registered post on 25.07.2025 and quash the same as illegal and consequently direct the respondent not to evict the petitioner's galvalume sheet shed except under due process of law.

For petitioner

: Mr. M.Mathan Raj

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For Respondents : Dr.T.Seenivasan
Special Government Pleader for R1

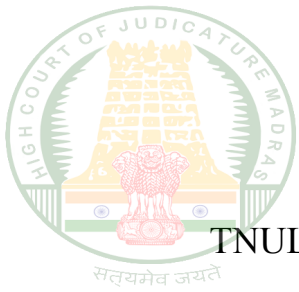
ORDER

[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 the road belonging to the Municipality in 'Ward No.13, Viswalinga Layout Street, Villupuram' [hereinafter 'said land' for the sake of convenience and clarity].

2. Captioned WP *inter alia* impugns 'a notice dated 18.07.2025 issued by first respondent (Commissioner, Villupuram Municipality)' [hereinafter 'impugned notice' for the sake of convenience and clarity] under Section 128 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.

3. Adverting to impugned notice, Mr. M.Mathan Raj, learned counsel for writ petitioner submits that writ petitioner has not been show-caused though the impugned notice says that it has been issued under Section 128 of



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TNULB Act.

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4. Issue notice to official respondent (first respondent).

5. Dr.T.Seenivasan, learned Special Government Pleader, accepts notice for first respondent.

6. Learned Special Government Pleader submits that there is alleged encroachment and that has necessitated the impugned notice.

7. Owing to the limited scope of the captioned main WP, main WP was taken up in the Admission Board with the consent of learned counsel on both sides.

8. Before we proceed further, we deem it appropriate to extract and reproduce Section 128 (in its entirety) of the TNULB Act 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



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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)

9. Though the impugned notice reads that the impugned notice is one under Section 128 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, first respondent should pass final orders considering such response. However, the impugned notice straightaway calls upon the writ petitioner to remove the alleged encroachment within seven days from the date of receipt of the impugned notice. A scanned reproduction of the impugned notice is as follows:



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(23)

விழுப்புரம் நகராட்சி

ந.க.எண். 4950/2025 /எப்1 நாள். 18/07/2025

தமிழ்நாடு நகர்ப்புற உள்ளாட்சி அமைப்புகள் சட்டம் 1998 (2022-ம் ஆண்டு திருத்தப்பட்ட தமிழ்நாடு சட்டம் 35-ல் திருத்தப்பட்டவாறு) பிரிவு 128(1)(b) & (2)-ன் கீழ் ஆக்கிரமிப்பு அகற்ற விற்பிக்கப்படும் அறிவிப்பு

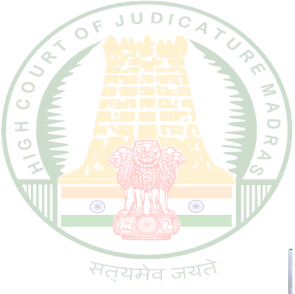
விழுப்புரம் நகராட்சி எல்லைக்குட்பட்ட 13-வது வார்டுக்குட்பட்ட விஸ்வலிங்க லேஅவுட் தெருவில் நகரளவு எண்.4 (நில அளவு எண்.485/2)-ல் திரு.அ.சிவாஜி என்பவருக்கு சொந்தமான வீட்டின் முன்புறம் உள்ள நகராட்சி சாலையில் வடபுறம் 5.4மீ, தென்புறம் 3.6மீ, 16.2மீ, மேல்புறம் 16மீ என்ற அளவில் ஆக்கிரமித்து கட்டப்பட்டுள்ள இரும்பு தகடு கூரை (GALVALUME SHEET SHED) கட்டிடத்தினை இவ்வறிவிப்பு கிடைக்கப்பெற்ற 7 தினங்களுக்குள் அகற்ற தெரிவிக்கப்படுகிறது. தவறும் பட்சத்தில் நகராட்சி மூலம் தங்களது ஆக்கிரமிப்பு அகற்றி, அதற்குண்டான செலவினத் தொகையினை இருமடங்காக தங்கனிடமிருந்து வசூலிக்கப்படும் என இதன்மூலம் அறிவிக்கப்படுகிறது.

ஆணையாளர்,
விழுப்புரம் நகராட்சி.

பெறுநர்
அண்ணாமலை, த/பெ முத்துசாமி
4, விஷ்வலிங்கா லே அவுட் ,

18/7/25

10. From a perusal of the case file, it is also seen that the writ petitioner has responded to the impugned notice *vide* his response dated 28.07.2025, a scanned reproduction of which is as follows:



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தேதி:- 28.07.2025

அனுப்புனர்:-

அண்ணாமலை,
த/பெ முனுசாமி,
14/3, விஸ்வலிங்கம் லே-அவுட்,
கோவிந்தராஜ் பெருமாள் கோயில் தெரு,
விழுப்புரம் பெரிய காலனி நகரம்,
விழுப்புரம் மாவட்டம்
கைபேசி எண் - 99441 60460

பெறுநர்:-

உயர்திரு நகராட்சி ஆணையர் அவர்கள்,
விழுப்புரம் மாவட்டம்.

குறிப்பு:- விழுப்புரம் நகராட்சி ஆணையாளர் அவர்களின் கடித
ந.க. எண். 4950/2025/ஏப் 1, தேதி. 18/07/2025

பொருள்:- தமிழ்நாடு நகர்ப்புற ஊராட்சி அமைப்புகள் சட்டம் 1998
(2022-ம் ஆண்டு திருத்தப்பட்ட தமிழ்நாடு சட்டம் 35-ல்
திருட்டுப்பட்டவாறு) பிரிவு 128 (1) (b) இன் கீழ் அனுப்பப்படும்
பதில் அறிவிப்பு

ஐயா,

வணக்கம், கடந்த 25-07-2025-ம் தேதி தாங்கள் அலுவலகத்தில்
இருந்து எனக்கு ஒரு கடிதம் அனுப்பப்பட்டிருந்தது அந்த கடிதத்தை
பரிசீலனை செய்து பார்த்தபொழுது திரு.ஏ.சிவாஜி என்பவர் தனக்கு
சொந்தமான வீட்டின் முன்புறம் உள்ள நகராட்சி சாலையில் நாங்கள்
ஆக்கிரமிப்பு செய்துள்ளதாகவும் அதனை நாங்கள் ஏழு நாட்களுக்குள்
அகற்ற வேண்டும் என்று கடிதம் அனுப்பப்பட்டிருந்தது.



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அந்த கடிதத்திற்கான எனது பதில் அறிவிப்பு என்னவென்றால், கமார் 100 ஆண்டு காலமாக, எனது தாத்தா ஆறுமுகம் மற்றும் எனது அத்தை ஆகியோர்கள் மேலே குறிப்பிட்டு இடத்தில் வாழ்ந்து வந்தனர். பிறகு எனது மருமகன் திரு.தனசேகரன் அவர்கள் கடந்த 17 ஆண்டுகளாக வாழ்ந்து வருகிறார். மேலும், மின் இணைப்பு, சொத்து வரி மற்றும் நகராட்சி வரி ஆகியவை எனது மருமகன் பெயரில் இருந்து வருகிறது. இதனிடையில் திடீரென்று எந்த ஒரு ஆவணத்தையும் பரிசீலிக்காமல் மற்றும் களப்பணி மேற்கொள்ளாமல், தாங்கள் அலுவலகத்தில் இருந்து எனக்கு ஆக்கிரமிப்பு அகற்ற கடிதம் அனுப்பப்பட்டிருந்தது.

எனவே ஐயா அவர்களுக்கு நான் பணிவுடன் கேட்டுக் கொள்வது என்னவென்றால், எங்கள் ஆவணத்தை பரிசீலனை செய்து முறையான விசாரணை நடத்தி, ஆக்கிரமிப்பு அகற்ற பிறப்பிக்கப்பட்ட அறிவிப்பை திரும்பிப் பெறுமாறு தாழ்மையுடன் கேட்டுக்கொள்கிறேன்.

இப்படிக்கு

M. Anandhi

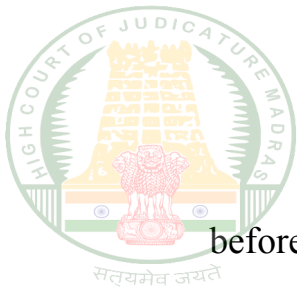
(அண்ணாமலை)

இணைப்பு:-

- 1) மின் இணைப்பு ரசீது
- 2) சொத்துவரி ரசீது
- 3) கிராம நிர்வாக அலுவலரின் சான்று

RT747139987IN INR:8284747139
RL CHENNAI G.P.O. <600001>
Counter No:4,28/02/2025,20:17
To:THE MUNICIPAL COMMISSIONER,
P.O:605602, VELLUPPUTHUR HO
From:ANNAMALAI,14/3
Wt:40gms Ack.Fee:3.00,REG-17.0
Amt:35.40,Tax:5.40,Amt.Paid:35.00(Cash)
<Track on www.indiapost.gov.in>

11. Earlier, second respondent (private respondent) before us (Mr.A.Sivaji, son of Late Thiru.V.Appadurai) came to this Court by way of W.P.No.18069 of 2025 with a 'Removal of Encroachment' ['RoE'] prayer (to be noted, in this earlier WP being W.P.No.18069 of 2025, the writ petitioner



W.P. No.31066 of 2025

before us is R3) and the same came to be disposed of by this Bench in and

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vide order dated 03.06.2025, which reads as follows:



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W.P.No.18069 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM

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

W.P.No.18069 of 2025

A. Sivaji

Petitioner

vs.

1. The Municipal Commissioner
Villupuram Municipality
Villupuram 605 602

2. The Thasildar
Villupuram Taluk
Villupuram 605 602

3. M.Annamalai

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to remove the encroachment, put up by the 3rd respondent measuring 15' x 15" in Visvalinga Pather Layout Road, Villupuram as per the representation and complaints dated 07.08.2023, 16.08.2023 and 18.06.2024 given by the petitioner to the 1st respondent.

For petitioner Mr. S. Baskaran

For R1 Dr. T. Seenivasan
Special Government Pleader

For R2 Mr. M.S. Arasakumar
Government Advocate

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W.P.No.18069 of 2025

ORDER

[made by M.SUNDAR, J.]

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Subject matter of captioned 'writ petition' ('WP' for the sake of brevity) is 'alleged encroachment measuring 15' x 15' put up by R3 (private respondent) in Visvalinga Pather Layout Road, Villupuram', (hereinafter 'said land' for the sake of convenience and clarity), which is on the eastern side of the petitioner's land in S.No.485/2 .

2. At the outset, it is worth pointing out that in the prayer portion, the measurement of the alleged encroachment has been stated as 15' and 15". However, a perusal of the affidavit sworn to by the writ petitioner and a series of representations addressed by him to the authorities concerned brings to light that the measurement should read as 15' x 15' and not 15' x 15", as stated in the prayer portion. Faced with this situation, Mr. S. Baskaran, learned counsel on record for writ petitioner, requested this Court to read the measurement of the alleged encroachment stated in the prayer as 15' x 15'. Considering the facts and circumstances of the case, as one off matter, this request is acceded to. Hence, this Court deems it fit to consider the measurement of the alleged encroachment as 15' x 15' and accordingly, proceeds further on that basis.

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W.P.No.18069 of 2025

3. Request for removal of aforesaid alleged encroachment by way of as many as three representations/complaints dated 07.08.2023, 16.08.2023 and 18.06.2024 has not yielded results and that has necessitated captioned WP, is the submission of Mr.S.Baskaran, learned counsel on record for writ petitioner.

4. Issue notice to official respondents (RR 1 and 2).

5. Dr. T. Seenivasan, learned Special Government Pleader, accepts notice for R1 and Mr. M.S. Arasakumar, learned Government Advocate, accepts notice for R2. Learned State counsel submit that survey of said land will be done within a period of four weeks from today, i.e., on or before 01.07.2025, and depending on the outcome of the survey, action for removal of encroachment (if found) will be commenced vide the Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999), as expeditiously as the business of official respondents would permit but in any event within a period of four weeks therefrom, i.e., on or before 29.07.2025. This submission is recorded.

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<https://www.mhc.tn.gov.in/judis>

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6. Though obvious, we make it clear that all the rights and contentions of R3 (private respondent) stand preserved and this order does not impinge upon his rights. Therefore, there is no impediment in dispensing with notice to R3 and taking up the captioned WP with the consent of the learned State counsel and learned counsel for writ petitioner. We do so.

7. In the light of the narrative thus far, captioned WP is disposed of in the aforesaid manner, recording the stated position of learned State counsel. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
03.06.2025

cad
Index : Yes/No
N.C. : Yes/No

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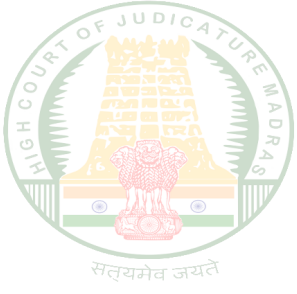
12. Learned counsel for writ petitioner submits that contrary to the earlier order and contrary to the mechanism put in place vide Section 128(1)(b) of TNULB Act, impugned notice has been issued by first respondent.

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WEB COPY 13. 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 28.07.2025 shall be considered as response to the SCN and final order shall be passed by first respondent on merits and in accordance with law within a period of two weeks from the date of uploading of the order in the official website of this Court. Further, 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 to be passed by first respondent is 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 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 first respondent will be resuscitated and put into motion. If the final order to be passed by first respondent ends up in favour of the writ petitioner, that would be curtains on the matter.



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WEB COPY 14. Captioned WP stands disposed of in the aforesaid manner.

Consequently, captioned writ miscellaneous petition stands disposed of as closed. There shall be no order as to costs.

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

20.08.2025

Index : Yes/No
NC : Yes/No
gpa

To

The Commissioner
Villupuram Municipality
Villupuram District



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W.P. No.31066 of 2025

M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

gpa

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20.08.2025

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