



WEB COPY

W.P. No.30791



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

AND

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P. No.30791 of 2025 and W.M.P. No.34496 of 2025

K. Kaliammal

Petitioner

VS.

The Commissioner
Namakkal Corporation
Namakkal

Respondent

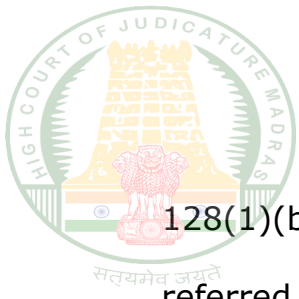
Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the entire records pertaining to the impugned eviction order passed by the respondent in Na.Ka.No.638/2025/F1 dated 07.08.2025 and quash the same as it is without jurisdiction, arbitrary and unconstitutional.

For petitioner	Mr. R. Vivek
For respondent	Mr. M. Rajamathivanan
	Standing Counsel

ORDER

(made by HEMANT CHANDANGOUDAR, J.)

The captioned writ petition has been filed assailing the order dated 07.08.2025 passed by the sole respondent under the proviso to Section



128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998 [hereinafter referred to as "the TNULB Act" for the sake of brevity]. By the said order, the writ petitioner has been directed to remove the alleged encroachment in the land comprised in T.S.No.262/1, Block No.4, Ward C, Poyyerikarai Road in Namakkal Corporation [hereinafter referred to as "the said land" for the sake of convenience, clarity, and brevity].

2. As the captioned writ petition marks the fifth round of litigation at the instance of the petitioner, who is an octogenarian, it becomes imperative to briefly set out the relevant facts leading to the filing of this petition.

2.1 The respondent issued a notice dated 13.03.2025 purportedly under Section 128 of the TNULB Act, asserting that the said land is a public road (salai) and alleging that the writ petitioner has encroached upon it. Treating this notice as a show-cause notice, the writ petitioner submitted a reply on 19.03.2025 and approached this Court by filing W.P.No.12192 of 2025 challenging the said notice. This Court, by order dated 04.04.2025, disposed of the writ petition, directing the respondent to consider the petitioner's reply dated 19.03.2025 and pass appropriate orders.

2.2 Pursuant thereto, the respondent issued another notice dated 24.04.2025, calling upon the petitioner to produce documents substantiating her claim that the land allegedly encroached upon by her in fact belongs to



her. The writ petitioner, by reply dated 30.04.2025, furnished her response along with 11 annexures, including a copy of the TSLR extract relating to the said land.

2.3 While matters stood thus, the respondent issued yet another notice dated 26.05.2025 purportedly under Section 128 of the TNULB Act. The writ petitioner, through her advocate, responded by reply dated 28.05.2025, contending that the said notice was contrary to the earlier order of this Court dated 04.04.2025 in W.P.No.12192 of 2025.

2.4 Simultaneously, the respondent issued another notice, also dated 26.05.2025, which was received by the writ petitioner only on 10.06.2025 (though erroneously endorsed as 10.06.2024). The said notice was challenged by the petitioner in W.P.No.21368 of 2025. By order dated 30.06.2025, this very Bench disposed of the writ petition, directing the respondent to treat the notice dated 13.03.2025 as a show-cause notice under Section 128 of the TNULB Act, to consider the petitioner's replies dated 19.03.2025 and 30.04.2025 as responses thereto, and to pass a final order under the proviso to Section 128(1)(b) of the TNULB Act.

2.5 It is in these circumstances that the impugned order dated 07.08.2025 came to be passed by the respondent, culminating in the present round of litigation.



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3. Mr. R. Vivek, learned counsel appearing for the petitioner, submitted that the impugned order has been passed without considering the petitioner's detailed replies dated 19.03.2025 and 30.04.2025 along with the annexures produced therein. Further, reliance was placed on the order dated 30.06.1983 passed by the Tahsildar while granting patta to the petitioner, wherein there is a categorical observation that the encroachment made by the petitioner in the said land should be ignored. According to the learned counsel, non-consideration of the petitioner's replies as well as the Tahsildar's order of 30.06.1983 vitiates the impugned order and establishes that the said land is, in fact, patta land. Consequently, the impugned order is not in conformity with the proviso to Section 128(1)(b) of the TNULB Act.

4. Notice was ordered and Mr. M. Rajamathivanan, learned Standing Counsel, entered appearance for the respondent. He submitted that the impugned order has been passed only after taking note of the petitioner's earlier responses. He contended that the contents of the replies dated 19.03.2025 and 30.04.2025 were substantially similar to the earlier responses submitted by the petitioner and therefore, it cannot be said that the respondent had failed to consider them. He further submitted that the TSLR extract categorically indicates that the said land is classified as a public



road (salai). In view of this, the petitioner having admittedly put up construction thereon, the respondent was well within his authority to direct removal of the encroachment, and hence, the impugned order calls for no interference.

5. Having heard the learned counsel on either side, this Court proceeds to dispose of the writ petition finally at the admission stage itself with the consent of both parties.

6. It is the specific case of the writ petitioner, reiterated through her replies dated 19.03.2025 and 30.04.2025, that the said land is patta land standing in her name. Significantly, the Tahsildar, while exercising powers under the erstwhile Revenue Board Standing Order No.26(8)(i), by order dated 30.06.1983, categorically directed that the encroachment made by the petitioner be ignored. This order of the Tahsildar, in effect, recognised the petitioner's permissive possession of the land.

7. Even a cursory perusal of the impugned order makes it evident that the petitioner's replies dated 19.03.2025 and 30.04.2025 have not been adverted to, despite a specific direction of this Court in W.P.No.21368 of 2025 dated 30.06.2025 mandating such consideration.

8. The submission of the learned Standing Counsel that the Tahsildar's order dated 30.06.1983 was considered while passing the impugned order is



an afterthought and cannot be countenanced. A plain reading of the impugned order shows that, although it refers to the Tahsildar's order dated 30.06.1983, it neither extracts nor analyses its contents, nor does it record any reasons for accepting or rejecting its bearing on the classification of the land or on the petitioner's claim. A mere passing reference does not amount to due consideration; the order must speak for itself. In the absence of a reasoned discussion demonstrating application of mind to the said order, the respondent cannot now supplement or improve the impugned order through submissions at the Bar or by affidavit.

9. It is trite law that an administrative or quasi-judicial order must speak for itself. Deficiencies or omissions in an order cannot be cured or supplemented by way of affidavits, counter-statements, or oral submissions before the Court. The law is well settled that an order must stand or fall on the reasons contained therein, and not on subsequent justifications sought to be introduced. In this context, it is apropos to allude to the sagely observation of the Constitution Bench judgment of the Supreme Court in **Mohinder Singh Gill vs. Chief Election Commissioner [1978 AIR 851]**

which reads as under:

'8. ... When a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court



on account of a challenge, gets validated by additional grounds later brought out. ...'

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9. In view of the foregoing discussion, we have no hesitation in holding that the impugned order passed by the respondent is not in conformity with the proviso to Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998 ("the TNULB Act"). Consequently, the same is liable to be interfered with and set aside. Accordingly, the following Order is passed;

(i) The impugned order dated 07.08.2025 bearing reference Na.Ka.No.638/2025/F1 passed by the respondent stands set aside. However, the respondent is at liberty to pass a fresh order strictly in consonance with the proviso to Section 128(1)(b) of the TNULB Act, after duly considering the writ petitioner's responses dated 19.03.2025 and 30.04.2025 together with the annexures enclosed therewith.



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(ii) The aforesaid exercise shall be undertaken and completed within a period of six weeks from today, i.e., on or before 29.09.2025. The order so passed shall be duly communicated to the writ petitioner within seven working days from the date of its passing.

(iii) It is made clear that any coercive action, if at all warranted, shall be subject to and only pursuant to the fresh order that may be passed by the respondent under the proviso to Section 128(1)(b) of the TNULB Act in terms of the above directions.

10. In the light of the directions contained in paragraph 9(iii) above with regard to coercive action, the connected writ miscellaneous petition has become infructuous and is, accordingly, closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
18.08.2025

cad
Index : Yes/No
NC : Yes/No



W.P. No.30791



WEB COPY

To

The Commissioner
Namakkal Corporation
Namakkal



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W.P. No.30791



M. SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

W.P.No.30791 of 2025

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