



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**WP No. 38304 of 2025
and
WMP No.42825 of 2025**

1. M/s.Vgn Enterprises Private Ltd
Rep By Its Authorised Signatory,
B.R.Nandakumar, Office At No.333,
Poonamallee High Road, Aminjakarai,
Chennai-600 029

Petitioner(s)

Vs

1. The Tahsildar
Chengalpat Taluk, Chengalpat District

2.Municipality Commissioner
Maraimalai Nagar Municipality,
Maramalainagar, Chengalpattu
District-603 209

3.The Surveyor
Chengalpat Taluk, Chengalpat District

4.S.Sahasranaman

5.S.Viswanathan

Respondent(s)



PRAYER:-Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, to call for the impugned notice in Na.Ka.No.193/2016/F1 dated 9.7.2025 issued by the 2nd respondent and quash the same.

For Petitioner(s): Mr. G.Peranban

For Respondent(s): Mr.T.Arun Kumar, AGP
(for R1 and R3);
Mr.T.Seenivasan , Spl.GP
(for R2)

ORDER
(Order of the Court was made by S.M.Subramaniam J.)

The writ on hand has been instituted challenging the notice dated 09.07.2025 issued under Section 128 of the Tamil Nadu Local Bodies Act 1998.

2.The respondent authorities identified encroachment on a municipal road. The petitioner, claiming to be the occupant, had previously instituted a suit in O.S.No.104 of 2014, before the District Munsiff Court at Chengalpet which was dismissed on 04.03.2025. Consequently, a notice was issued



under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998.

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3. Section 128(1)(b) enumerates that *“The Commissioner may remove any immovable structure whether permanent or of temporary nature encroaching the 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.”*

4. In the present case, the learned counsel for the petitioner would submit that a representation had already been submitted by the petitioner. However, the fact remains that the Civil Suit instituted by the petitioner came to be dismissed. In any event, the representation submitted by the petitioner needs to be looked into for taking a final decision. Since the authorities have already identified the encroachment and issued notice, they are bound to remove the same by complying with the procedures as contemplated under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998.

5. No writ against a notice is entertainable under Article 226 of the Constitution of India. A writ against a notice is entertainable only if such notice has been issued by an incompetent authority having no jurisdiction or tainted with an allegation of mala fide, but not otherwise. In the present case, the



authorities, during the course of inspection, identified an encroachment and the Civil Suit filed by the petitioner came to be dismissed and thereafter, a notice has been issued which cannot be termed as 'in fault'. Thus, writ petition is not entertainable. The authorities shall proceed with the removal of the encroachment by following the procedures without causing any undue delay.

6. Accordingly, the writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)

Sha

01-12-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



To

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**S.M.SUBRAMANIAM J.
AND
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Sha

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