



WEB COPY

W.P. No.42 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.42 of 2023 and W.M.P. No.34 of 2023

P. Vinothkumar

Petitioner

vs.

1. The District Collector
Collectorate Buildings
Villupuram

2. The Commissioner
Tindivanam Municipality
Tindivanam

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the second respondent in his impugned order in notice dated 12.12.2022 and quash the same as the same being illegal and without jurisdiction.

For petitioner Mr. P. Dinesh Kumar

For R1 Mr. T.K. Saravanan
Addl. Govt. Pleader

For R2 Mr. P. Srinivas
Standing Counsel

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W.P. No.42 of 2023



ORDER

(made by M. SUNDAR, J.)

This order will now dispose of the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity].

2. In the listing of captioned matter on 10.07.2025, a Division Bench of this Court, to which, one of us (M. SUNDAR, J.) was a member, made the following proceedings:

'W.P.No.42 of 2023
and W.M.P.Nos.33 & 34 of 2023

M.SUNDAR, J.,

and

HEMANT CHANDANGOUDAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

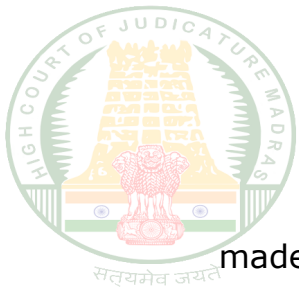
An earlier order of this Court dated 17.02.2016 passed by Hon'ble single Judge in W.P.Nos.24124 to 24128 of 2009 was pressed into service by learned counsel for writ petitioner. In this earlier order, we find that a notice dated 10.11.2009 has been called in question by petitioners thereat.

2. In the instant case, we are concerned with S.No.106 in Avarapakkam Village, Tindivanam Town, Senji Bus Stand, Vandimedu area.

3. Learned counsel for the writ petitioner sought time to produce a copy of afore-referred 10.11.2009 notice (issued by the Municipality) which has been assailed in W.P.Nos.24124 to 24128 of 2009. Request acceded to.

List a fortnight hence. List on 24.07.2025.

[M.S.J.] [H.C.J.,]
10.07.2025'



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3. Pursuant to the aforesaid proceedings, 10.11.2009 order made by second respondent (Commissioner) has been placed before us and we find that it is proceedings under Section 182(1) of erstwhile District Municipalities Act, 1920, which has been repealed by 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' [hereinafter 'the TNULB Act' for the sake of brevity, convenience and clarity] *vide* Section 200(1)(b) of TNULB Act but proceedings initiated prior to kicking in of TNULB Act have been saved by Section 200(3)(e) of TNULB Act.

4. Mr. T.K. Saravanan, learned State counsel, submits that first respondent (District Collector) has thereafter considered the writ petitioner's representation pursuant to orders in W.P. Nos.24124 to 24128 of 2009 and order has been made. This order is order dated 21.04.2018 bearing Na.Ka.Aa5/35247/2017.

5. After careful consideration of all aspects of the matter, this Court is of the considered view that the entire matter turns on a short point and that short point is, second respondent will have powers to issue a show cause notice (SCN) (not even notice akin to impugned notice which directly calls upon noticees to remove encroachments) only with regard to 'public street, water body, tank or other water resources or land belonging to Municipality or vested with the Municipality'. In the case on hand, there is no material to



demonstrate that subject matter of impugned notice which is Survey No.106 in Avarappakkam Village, Tindivanam Taluk, Villupuram District is either a land that belongs to the Municipality or is vested with the Municipality. Therefore, we interfere with the impugned notice and dislodge the same *i.e.*, quash the same, on the short point of want of jurisdiction *qua* second respondent.

6. This Court deems it appropriate to make it clear that this order will not preclude the State from initiating Removal of Encroachment (RoE) proceedings under appropriate applicable statute, if so advised and if so desired. Though obvious, we make it clear that if State initiates RoE proceedings and when writ petitioner is show caused, all the rights and contentions of writ petitioner to respond to show cause notice, including points raised in the captioned main WP, will stand preserved.

7. Captioned main WP stands allowed, albeit with aforementioned preservation of rights and observations. Consequently, captioned writ miscellaneous petition thereat stands closed. There shall be no order as to costs.

(M.S., J.) (M.S.K., J.)
02.09.2025

cad



W.P. No.42 of 202



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To

1. The District Collector
Collectorate Buildings
Villupuram
2. The Commissioner
Tindivinam Municipality
Tindivanam



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W.P. No.42 of 202



M. SUNDAR, J.

and

MUMMINENI SUDHEER KUMAR, J.

cad

W.P. No.42 of 2023

02.09.2025