



WEB COPY



WP No. 35678 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-10-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE S. SOUNTHAR

W.P No. 35678 of 2025

J.Bharati

W/o. G. Vengadesan, No. 39 Rajendrasingh Singh
Sunnambupettai , Gudiyatham

..Petitioner

Vs

1.The Commissioner

Gudiyattam Municipality, Gudiyattam Town,
Vellore District-632 602.

2.N.Banumathi

No. 41 Rajendrasingh Singh Sunnambupettai ,
Gudiyatham

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India for a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 13.06.2025 and to take appropriate action against the 2nd respondent for having encroached upon the public road and to remove the illegal construction put up by the 2nd respondent.

For Petitioner :

M.Velan

For Mr.T.Sai Krishnan



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For Respondents : Mr.P.Ananda Kumar,
Government Advocate For R1
R2 - Notice dispensed with

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Order

(Order of the Court was made by R.Suresh Kumar J.)

The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 13.06.2025 and to take appropriate action against the 2nd respondent for having encroached upon the public road and to remove the illegal construction put up by the 2nd respondent.

2. There has been encroachment in front of D.No.41 in the public road belongs to the respondent municipality by the second respondent. In fact, against such an encroachment, already proceedings have been initiated by the respondent municipality against the said second respondent on 02.12.2024, which was under challenge in a writ petition filed by the second respondent in W.P.No.4740 of 2025. The said writ petition came to be disposed of by a Division Bench of this Court by order dated 13.02.2025, whereby, the following directions have been given.

9. *Accordingly, the following order is made:*



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i. Impugned notice issued by respondent shall now be treated as a SCN under Section 128(1)(b) of TNULB Act;

ii. Noticee/writ petitioner (if so advised and if so desired) shall send a representation within seven days from today, i.e., on or before 19.02.2025;

iii. If the writ petitioner/noticee does not send a representation within aforementioned timeline and if no other representation is received, it is open to the respondent to proceed (post 19.02.2025) qua removal of steps which is subject matter of impugned notice.

iv. If the writ petitioner/noticee sends a representation within aforementioned timeline, the same shall be considered and final orders shall be made by respondent as per proviso to Section 128(1)(b) of TNULB Act.

v. Though obvious, we make it clear that any coercive action will be subject to / depending on final orders to be made by respondent vide proviso to Section 128(1)(b) of TNULB Act. We also make it clear (though obvious) that we have not expressed any view or opinion on the merits of the matter and therefore, respondent, while passing final orders, shall do so untrammelled by the observations made in this order.

10. Captioned WP stands disposed of with the aforementioned observations and directives in the aforesaid manner. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no order as to costs.



3. Despite the said directions given by the earlier Division Bench by order dated 13.02.2025, it is the complaint of the petitioner that nothing has moved forward as directed by this Court in the very writ petition filed by the second respondent herself. Therefore, the petitioner being the neighbour and is affected by virtue of this encroachment made by the second respondent in the public road, has approached this Court by filing the present writ petition with the aforesaid prayer.

4. We have heard Mr.M.Velan, learned counsel for the petitioner and Mr.P.Ananda Kumar, learned Government Advocate for the first respondent Municipality. In view of the order that is going to be passed in this writ petition, notice to the second respondent is hereby dispensed with.

5. Insofar as the encroachment made by the second respondent is concerned, it has been found that it is an encroachment on the public road belongs to the municipality and that is the reason why the provisions of Section 128 of the Tamil Nadu Urban Local Bodies Act has been invoked by the Municipality and an order has been passed on 02.12.2024. However, before issuance of such an order, no show cause notice since has been issued by the Municipality under Section 128(1)(b) of the said Act, the Division Bench while disposing the said writ petition filed by the second respondent as stated supra, by order dated 13.02.2025 passed a set of directions, where the said order dated



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02.12.2024 was directed to be treated as show cause notice by the second respondent and he was directed to give reply and considering the reply, action was directed to be undertaken under the provisions of the said Act by the Municipality.

6. Despite these developments, why for the past eight months no fruitful action has been taken by the first respondent Municipality is not known.

7. Learned Government Advocate appearing for the first respondent Municipality would submit that immediate action if not already been taken would be taken to remove such encroachment made by the second respondent before which it would be verified whether the second respondent has given any reply by treating the earlier proceedings dated 02.12.2024 as show cause notice as directed by the Division Bench by order dated 13.02.2025 and if any reply has been already given, that would be taken into consideration before final action to be taken and if no reply had been given, immediately action would be taken to remove such alleged encroachment by the second respondent.

8. The said submission of the learned Government Advocate is taken on record. In that view of the matter, this writ petition is disposed of with the following order. There shall be a direction to the first respondent Municipality to act upon on the basis of the stand taken by the first respondent before this Court



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and also in consonance with the set of directions by the earlier Division Bench by its order dated 13.02.2025 made in W.P.No.4740 of 2025 and such action shall be taken within a period of four weeks from the date of receipt of a copy of this order. With the above directions, this writ petition is disposed of. No costs.

(R.S.K.,J.) (S.S.,J.)
22-10-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
KST



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To

The Commissioner
Gudiyattam Municipality, Gudiyattam Town, Vellore
District-632 602.



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