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W.P.No.41892 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.41892 of 2025

Moorthy .. Petitioner

Vs.

1. The Commissioner
Greater Chennai Corporation
Chennai – 600 003.
2. The Assistant Executive Engineer
Unit – 39, Zone – 13
Greater Chennai Corporation
No.65, Velacherry Main Road
Velacherry, Chennai – 600 042.
3. The Zonal Officer
Zone – 13, Greater Chennai Corporation
No.115, Doctor Muthulakshmi Street
Adyar, Chennai – 600 020.
4. The Managing Director
Tamil Nadu Urban Habitat Development Board
No.5, Kamaraj Salai
Chennai – 600 009.

5. Udhayakumar .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of certiorari, calling for the entire records of the impugned notice issued by the first respondent in Z.O.XIII/Enc./Dn.177/001/2025 dated 12.02.2025 and quash the



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For the Petitioner : Mr.R.Chellamuthu

For the Respondents : Ms.P.T.Ramadevi
Standing Counsel
for R1 to R3

Ms.Indumathi Venkatesan
for R4

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

Prayer sought herein is for a writ of certiorari, to call for the entire records of the impugned notice issued by the first respondent in Z.O.XIII/Enc./Dn.177/001/2025 dated 12.02.2025 and quash the same.

2. In respect of the property at Plot No.339, Door No.116A, Throwpathy Amman Koil Street, Lakshmipuram, Velachery, Chennai - 600 042, Division - 177, Unit - 39, Zone - 13, the Chennai Corporation has been disputing to state that the petitioner and his wife namely, *Gomathy*, who is the owner of the tenement of the Tamil Nadu Urban Habitat Development Board, have occupied a public pathway or road belonging to the respondent Corporation.

3. In this context, one *Udhayakumar* had already filed a writ



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petition, where, some orders have been passed, pursuant to which, it is the stand of the respondent Corporation that, inspection had been made and survey had been conducted, where, they found that both the said *Udhayakumar* as well as the present petitioner *Moorthy* and his wife have encroached upon the public pathway/street, therefore, notices had to be given against them to remove such encroachments.

4. However, without giving a show-cause notice as contemplated under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998¹, straight away, orders of eviction has been passed on 12.02.2025, as against which, a reply, in detail, has been given by the present petitioner on 17.02.2025. Without considering the same, again, the same proceedings have been issued on 16.09.2025 for removal of such encroachment. Therefore, at this juncture, questioning the order dated 12.02.2025, the present writ petition has been filed.

5.1. Heard *Mr.R.Chellamuthu*, learned counsel for the petitioner, who would submit that, if at all any alleged encroachment has been made on the part of the petitioner and to

¹ Hereinafter referred to as "the Act of 1998".



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remove such alleged encroachment, if they want to invoke Section 128 of the Act of 1998, proper show-cause notice ought to have been given, which they have not given. Straightaway, since the order dated 12.02.2025 has been passed invoking Section 128 of the Act of 1998, that was the main ground the present writ petition has been filed to challenge the said order.

5.2. It is his further contention that, treating the said order dated 12.02.2025 as show-cause notice, already, a reply has been given in detail on the part of the petitioner as well as his wife *Gomathy*, who is the original allottee of the tenement dated 17.02.2025. Even that reply has not been considered by the respondent Corporation and in the month of September, 2025, again a notice to evict the petitioner has been issued and therefore, the present writ petition has been filed, he contended.

6. On the other hand, *Ms.P.T.Ramadevi*, learned Standing Counsel for the respondent Corporation, on instructions, would submit that, the removal of encroachment drive has been undertaken by the respondent Corporation only pursuant to the order that has already been passed in the writ petition filed by the said *Udhayakumar* and in this context, some time on 11.09.2024,



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when survey was conducted in the presence of the petitioner as well as the said *Udhayakumar*, it was found that both of them have encroached upon the public pathway. This is the reason why, such action has been initiated on 15.03.2025 and insofar as the order dated 12.02.2025 is concerned, even that had been replied subsequently on 17.02.2025 and after this, the grievance of the petitioner through the reply has not been considered so far, certainly, that would be considered by the respondent Corporation and thereafter, final orders would be passed invoking Section 128 of the Act of 1998 and in that case, there could be no further grievance on the part of the petitioner, the learned Standing counsel would submit.

7. Having regard to the said submissions made by learned counsel appearing for both sides and taking into account the aforesaid factual matrix, this Court is inclined to dispose of this writ petition with the following orders:-

- (i) That the order dated 12.02.2025, which is impugned in this writ petition, is barely an order without show-cause notice invoking Section 128 of the Act of 1998, and since already the petitioner having treated the said order as show-cause



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notice and a reply has been given on 17.02.2025 itself, there shall be a direction to the respondent Corporation to consider the reply given by the petitioner on 17.02.2025 and pass orders thereon on merits and in accordance with law and in that case, if any resurvey is required, as has been sought by the petitioner in his reply dated 17.02.2025, that could also be undertaken in the presence of the petitioner, his wife, namely *Gomathy*, who is the allottee and also in the presence of *Udhayakumar*, who triggered the order to remove such encroachment and thereupon, a decision could be arrived at by the respondent Corporation to remove such encroachments if it is found to be encroached on the public pathway.

(ii) The needful, as indicated above, shall be undertaken within a period of two months from the date of receipt of a copy of this order. Till such time, no further coercive steps shall be taken against the petitioner.



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8. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, W.M.P.No.46934 of 2025 is closed.

(R.S.K., J.) (H.C., J.)
24.11.2025

Speaking Order/Non-Speaking Order
Neutral Citation:Yes/No
Internet:Yes/No
Index:Yes/No

(drm)

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AND
HEMANT CHANDANGOUDAR, J.
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