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. 38617 of 2025
and
WMP Nos.43176 & 43178 of 2025

M.Jebaraj

Petitioner(s)

Vs

1. The Commissioner
Panchayat Union, Hosur.

2.The Commissioner
Hosur City Municipal Corporation,
Hosur.

3.The Block Development Officer
Panchayat Union, Hosur.

4.The Assistant Director
District Land Survey Department,
Krishnagiri.

5.Tahsildar
Hosur, Krishnagiri.

Respondent(s)

PRAYER:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Ccalling for the records of the impugned notice of the 3rd respondent in Na.Ka. No.3275/

2025/A2 dated 03.10.2025 and the impugned notices of the 1st respondent in Na.Ka. NO. 4036/ 2021/A2 dated 04.08.2025 and 19.08.2025 and quash the same and further direct the 1st respondent to consider petitioner reply dated 11.08.2025 and pass fresh orders after affording opportunity of hearing.

For Petitioner(s):	M.R.Dhalapathy Vignesh Kumar
For Respondent(s):	Mr.T.Arunkumar AGP For R1 and R3 to T5. Mr.T.Balaji, Standing Counsel for R2.

ORDER

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

The writ on hand has been instituted to assail the notice dated 21.08.2025 issued under Section 131(2) of the Tamil Nadu Panchayats Act, 1994.

2.The learned counsel for the petitioner would submit that documents along with the explanations are submitted before the Commissioner, Panchayat Union, for consideration and without considering the said document, actions are initiated for removal of alleged encroachments. The petitioner was directed to remove the encroachments within 15 days and report the same to the Office of the Commissioner, Panchayat Union, as per the notice, failing which the Commissioner will be constrained to initiate action by submitting a report to the Revenue Tahsildar to invoke the provisions of the Tamil Nadu Land Encroachment Act, 1905.

3.Such notice issued under Section 131(2) of the Tamil Nadu Panchayats Act, 1994, would not provide any cause for institution of a writ proceeding. In the present case, the petitioner has already submitted a representation to the Commissioner, Panchayat Union, for consideration. The learned counsel for the petitioner would submit that non-consideration of the documents by the Commissioner, Panchayat Union, resulted in filing of the present writ petition.

4.The learned Government Pleader, appearing on behalf of the respondents, would oppose by stating that notice has been issued under Section 131(2) of the Tamil Nadu Panchayat Act, 1994. The scheme of the Act confers power on the Commissioner or the Executive Authority to secure the removal of encroachments within such time as may be specified under the Act and therefore, the writ petition filed, challenging the notice, is not maintainable.

5.This Court has considered the rival submissions made between the parties. It is necessary to consider the scope of Section 131(2) of the Tamil Nadu Panchayats Act, 1994, and the correctness of the procedures followed by the authorities in the present case.

6.Section 131(2) of the Tamil Nadu Panchayats Act, 1994, reads as under :

> *"It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the commissioner concerned and to the officer of the Revenue Department, and (it shall be the duty of the Executive Authority or the Commissioner concerned either suo motu or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act) and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal."*

7.The above provision mandates that it is the duty of the Village Administrative Officer of every village to report on encroachment of property vested in Village Panchayat or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the Officer of the Revenue Department. Therefore, every Village Administrative Officer is duty bound to inform about the encroachments within his territorial jurisdiction, both to the Executive Authority or the Commissioner concerned or Officer of the Revenue Department (ie., Tahsildar or the District Collector). On receipt of any such report from the Village Administrative Officer, the Commissioner or the Executive Authority, as the case may be, either suo motu or on obtaining any further report from the Village Administrative Officer, institute proceeding under the Tamil Nadu Panchayat Act, 1994. Institution of proceedings means eviction proceedings or to secure property by removal of encroachment by following the procedures contemplated under the Act. The provision further contemplates that on initiation of proceedings under the Act, the Commissioner or executive authority shall secure the removal of encroachment within the time-line specified by the Government by general or special order. If the removal of encroachment has not been secured within the time-line, then they shall submit a report to the Revenue Department for institution of further proceedings under the provisions of the Tamil Nadu Land Encroachment Act, 1905, for removal of encroachments.

8.Two tire proceedings are contemplated for initiation of eviction proceedings against the encroachers of the Panchayat Lands. The Commissioner or the Executive Authority vest with the powers for removal of encroachments within the time line specified by the Government in its order. In the event of not removing the encroachments, they are bound to submit a report to the Revenue Authority who in turn is empowered to initiate eviction proceedings by invoking provisions of the Tamil Nadu Land Encroachment Act, 1905.

9.Under Section 131(2) of the Act, the Executive Officer or the Commissioner shall initiate the proceedings either suo motu or based on the report of the village administrative officer and secure the removal of the encroachments within such time as may be specified by the Government by General or special order. If the noticee failed to vacate the property by himself/herself, then the Commissioner for the executive authority is duty bound to submit a report to the Revenue Department/Tahsildar for removal of encroachments. On receipt of any such report from the Commissioner or Executive Authority, a jurisdictional Tahsildar shall institute the proceedings under the Tamil Nadu Land Encroachment Act, 1905, by issuing a notice under Section 7 of the Act. On receipt of explanations from the alleged encroachers, final notice under Section 6 of the Act may be issued. Thereafter, the encroachments have to be removed. An aggrieved person is at liberty to prefer an appeal under Section 10 of the Land Encroachment Act before the District Collector.

10.This being the scheme under the Tamil Nadu Land Encroachment Act, the said procedures have to be followed. In the present case, in the event of not vacating the public premises by the petitioner, the Commissioner shall submit a report to the jurisdictional Tahsildar to invoke the provisions of Tamil Nadu Land Encroachment Act, 1905, for initiation of eviction proceedings.

11.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are 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

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