



W.P.No.48206 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2025

C O R A M

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.48206 of 2025

and

W.M.P.Nos.53864 and 53865 of 2025

Rathinasamy

... Petitioner

-VS-

1.The Commissioner,
Tiruppur City Municipal Corporation
Tiruppur.

2.The Assistant Commissioner,
Tiruppur City Municipal Corporation,
Zone – 4, Tiruppur.

3.The Taluk Surveyor,
Tiruppur South Taluk,
Tiruppur.

4.Saraswathi

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of order dated 31.10.2025 in proceedings Na.Ka.No.F2/2377/2025/M4 on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.T.Arun Kumar,
Addl. Govt. Pleader for R1 to R3

ORDER

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

The order passed by the Commissioner, Tiruppur City Municipal Corporation under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998 [hereinafter referred to as “the Act”] is under challenge in the present Writ proceedings.

2. During field inspection, the Authorities identified encroachments and un-authorized constructions in the encroached land. Thus, enforcement actions are initiated, which resulted in issuance of notice under Section 128 of the Act.

3. The learned counsel for the petitioner would submit that a reading of the notice would show that no opportunity has been given to the petitioner. The respondents directed the petitioner to vacate the premises within seven days and the said expression in the impugned notice would



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not comply with the Rules of natural justice. Thus, the Writ Petition is to be considered.

4. Section 128(1)(a) confers power to the Commissioner to “*remove without any notice any movable temporary structure, enclosure, stall, booth any article whatsoever hawked exposed or displayed for sale or any other thing whatsoever by way of encroaching street or public place or the land belonging to the departments of the Central or State Governments within the municipal limit.*” Thus for removal of movable encroachments, no notice under Section 128(1)(a) is contemplated.

5. However, Section 128(1)(b) reads as under:-

“(b)remove any immovable structure whether permanent or of temporary nature encroaching the street or public place or the land belonging to the departments of the Central or State Government within the municipal limit, after issuing a show cause notice for such removal, returnable within a period of seven days from the date of receipt thereof:

Provided that the Commissioner shall consider any representation received within the time limit, before passing final orders.”



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6. For removal of immovable structure, show cause notice is to be issued returnable within seven days from the date of receipt thereof. Under the proviso clause, the Commissioner shall consider any representation received within the time limit before passing final orders.

7. It is amply made clear under the proviso that the Commissioner is empowered to issue show cause notice granting seven days time to vacate the encroached premises, failing which the Authorities are empowered to evict the encroachers. However, if the encroachers submit any representation or explanation along with the documents, if any, within the said period of seven days as stipulated in the notice, on receipt of any such representation/ defence statement, the Commissioner has to consider the same and thereafter take final decision for eviction of encroachers.

8. Therefore, the expression made in the show cause notice has to be understood in the context of proviso Clause to Section 128(1)(b) of the Act. The expression that the encroachers shall evict the premises within seven days cannot be interpreted as if it is a final decision taken by the competent Authority and for all purpose, granting of seven days is to either vacate the premises or to submit explanation along with the documents, if any, to the competent Authority for their consideration.



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9. This being the scope of Section 128 of the Act, no Writ Petition would lie against the notice issued under Section 128 granting seven days time to vacate the premises. It is to vacate the premises or to submit explanation and in the event of submitting an explanation, it is to be considered by the Authority concerned.

10. Therefore, the petitioner is at liberty to submit his explanation along with the documents, if any, within seven days from today. In the event of receiving any such defence statement, the respondents shall consider the same, take final decision, identify the encroachments, if any, and thereafter evict the encroachers.

11. With the above observation, this Writ Petition is disposed of. No costs. WMP.No.53864 of 2025 filed to dispense with the production of the original impugned order dated 31.10.2025 is ordered and the other miscellaneous petition is closed.

(S.M.S,J.) (C.K,J.)
18.12.2025

Index: Yes / No
Internet: Yes / No
dsa



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To:

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AND
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