



WP(MD). No.2088 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH
AND
THE HONOURABLE Dr.JUSTICE A.D.MARIA CLETE

**WP(MD). No.2088 of 2025
and WMP(MD) No.1474 of 2025**

Poovarasam

... Petitioner

Vs

**1. The Director,
Directorate of Municipal Administration,
Chennai..**

**2. The Commissioner,
Madurai Corporation,
Madurai..**

**3. The Assistant Commissioner(Revenue),
Central Revenue Section,
Madurai Corporation,
Madurai..**

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the 3rd respondent from proceeding with his order in A3/15626/2024 dated 27.12.2024 till the disposal of the statutory Appeal preferred by petitioner before the 1st respondent vide unnumbered Appeal No.Nil/2025/ dated 13.01.2025 U/S 115 Tamil Nadu Urban Bodies Act,



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For Petitioner : Mr.M.Jegadeesh Pandian
For Respondents : Mr.S.Shaji Bino for R1
Special Government Pleader
Mr.S.Vinayak for R2&R3

ORDER

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

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. The petitioner has filed this writ petition for a mandamus to forbear the 3rd respondent from proceeding with his order in A3/15626/2024 dated 27.12.2024 till the disposal of the statutory Appeal preferred by petitioner before the 1st respondent vide unnumbered Appeal No.Nil/2025/ dated 13.01.2025 U/S 115 Tamil Nadu Urban Bodies Act, 1998 (hereinafter referred to as 'the Act').

3. The petitioner, who was running a road side petty shop near K.K.Nagar Arch, Madurai, was issued with a notice dated 27.12.2024 calling upon him to vacate the shop on the ground that running of the shop on the road side within the Corporation Limits is impermissible and



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that the Corporation had neither renewed the license nor collected any monthly license fee. As against the said notice dated 27.12.2024, the petitioner had preferred an appeal on 13.01.2025 before the first respondent herein.

4. The apprehension of the petitioner is that since he has preferred an appeal before the first respondent herein and there is no provision for the appellate authority to grant an order of injunction pending appeal, he has preferred the present writ petition.

5. Section 115 of the Tamil Nadu Urban Local Bodies Act provides for statutory appeal, which reads as follows:

“115. (1) Any person aggrieved by the order of the Commissioner in refusing to grant or renew a licence or cancelling or suspending a licence may appeal to the Director within thirty days from the date of receipt of the order appealed against.

(2) The appeal shall be in such form and in such manner and accompany with such fee, as may be prescribed. ..

(3) The Director shall have the power to cause inspection and may either grant or withhold the licence or such other order as he thinks fit.”



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6. The corresponding Rule 305 prescribes the procedure to be adopted by the appellate authority while considering the appeal. The relevant portions reads as follows:

“305. Appeal.— (1) Any person aggrieved by the order of the Commissioner in refusing to grant or renew a licence or cancelling or suspending a licence may appeal to the Director within thirty days from the date of receipt of the order appealed against.

(2) Every appeal shall be made in Form 19 in duplicate along with a fee of Rupees one thousand only, by way of a demand draft drawn in favour of the Director.

(3) Every appeal preferred under sub-rule (1) shall set out the grounds of the appeal in precise terms enclosing a copy of the order to which the appeal is preferred and shall be presented in the office of the Director or sent to him by registered post. Such appeal shall be disposed of by the Director within a period of sixty days from the date of filing or within an extended period of not exceeding further thirty days, as may be permitted by the Director.”

7. It is the case of the petitioner herein that the authorities have illegally passed an order of eviction and thus, he has preferred the appeal. The very purpose for provision of a statutory appeal is to extend an



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opportunity to the aggrieved party to challenge any order/proceedings, which may, in his view, be in violation of a statutory provision, regulation or procedure. When a statute extends such a relief of challenging any order/proceedings of the original authority and the aggrieved party has chosen to challenge the same before the appellate authority, it would not be conducive to permit the original authority or other authority to execute such an order, which is under challenge in the appeal. It is in view of this scenario that many of the statutes empower the appellate authority to consider grant of stay of the original order by the appellate authority.

8. However, we cannot lose sight of the fact that violator, who has suffered an adverse order, should not be permitted to misuse such powers of the appellate authority for grant of interim protection, which would amount to an abuse of the due process of law. It is in this view that the appellate authority may be granted the liberty to consider such an application seeking for interim protection, pending the appeal, on its own merits and pass appropriate orders in accordance with law.

9. In the instant case, though an appeal remedy has been provided



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for under Section 115 of the Act, against the proceedings of the third respondent herein, neither Section 115, nor the corresponding Rule 305 of the Tamil Nadu Urban Local Bodies Rules (hereinafter referred to as 'the Rules'), empowers the appellate authority to entertain an application seeking for interim protection, pending the appeal. In view of the object and purpose for which the statutory appeal remedy is provided for under the Act, the powers vested with the appellate authority under Section 115 to entertain the application seeking for interim protection, should be read into the statutory provision, in the absence of which, the very purpose for which the appeal remedy is provided, would be a futile exercise.

10. In the instant case, the apprehension of the petitioner is that the third respondent/original authority may proceed further with the eviction order dated 27.12.2024, while the statutory appeal under Section 115 of the Act is pending before the appellate authority.

11. In the light of the above findings, we deem it fit to grant liberty to the petitioner to file an interim application in his appeal dated 13.01.2025, seeking for interim protection within a period of one week from the date of receipt of a copy of this order. Till such time, the third



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respondent shall not initiate coercive action pursuant to the order dated 27.12.2024.

12. With the aforesaid liberty, the writ petition stands disposed of.

No costs. Consequently connected Miscellaneous Petition is closed.

[M.S.R.,J]

[A.D.M.C.,J]

30.01.2025

NCC:Yes/No

Index:Yes/No

RR



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M.S. RAMESH, J.
AND
A.D.MARIA CLETE, J.

RR

To

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Chennai.

2. The Commissioner,
Madurai Corporation,
Madurai.

3. The Assistant Commissioner(Revenue),
Central Revenue Section,
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ORDER
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