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W.P.(MD) Nos.17265 & 17267 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P.(MD) Nos.17265 & 17267 of 2025
and**

W.M.P.(MD) Nos.13152, 13153, 13156 & 13158 of 2025

W.P.(MD) No.17265 of 2025:

K.Guruvammal

... Petitioner

-VS-

1.The District Collector
Collectorate Campus
Madurai

2.The Urban Planning Authority
Madurai Corporation Office
Arignar Anna Maligai
Madurai-625 002

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the impugned eviction notice issued by the second respondent herein in his proceedings in



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Na.Ka.No.Ma/Vu1/009071/2024, dated 28.04.2025 and quash the same as illegal and further directing the second respondents herein not to remove the encroachment without following due process of law.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mr.M.Sarangan
Additional Government Pleader for R1
Mr.K.K.Kannan
Standing Counsel for R2

W.P.(MD) No.17267 of 2025:

K.P.Alagarsamy

... Petitioner

-vs-

1.The District Collector
Collectorate Campus
Madurai

2.The Urban Planning Authority
Madurai Corporation Office
Arignar Anna Maligai
Madurai-625 002

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the impugned eviction notice issued by the second respondent herein in his proceedings in Na.Ka.No.Ma/Vu1/009071/2024, dated 28.04.2025 and quash the same as



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illegal and further directing the second respondents herein not to remove the encroachment without following due process of law.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mr.M.Sarangan
Additional Government Pleader for R1
Mr.K.K.Kannan
Standing Counsel for R2

COMMON ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

Mr.M.Sarangan, learned Additional Government Pleader, takes notice for the first respondent and Mr.K.K.Kannan, learned Standing Counsel, takes notice for the second respondent.

2. With the consent of both sides, these writ petitions are taken up for final hearing at the admission stage itself.

3. The final notices for removal of encroachments dated 28.04.2025, issued by the second respondent, under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998, are under assail in the writ on hand.



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4. Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998,

reads as under:

“128.Power to remove encroachment from public place.-(1) The Commissioner may,-

(a)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 or vested with the municipality within the municipal limit;

[for the expression 'street or public place or the land' the expression 'street, public place, water body, tank, other water resources or any land' substituted vide Act, 25/2024]

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



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[(i) for the expression 'street or public place or the land', the expression 'street, public place, water body, tank, other water resources or any land'

(ii) for the expression 'seven days', the expression 'fifteen days', substituted vide Act 25/2024]

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

(2)Whoever makes any encroachment in any land or space (not being private property) in any public street or any land belonging to or vested with the municipality within the municipal limit, shall on conviction be punished with imprisonment which shall not be less than one year but which may extend to three years and with fine which may extend to fifty thousand rupees.

Provided that the Court may for any adequate or special reasons to be mentioned in the judgment impose a sentence of imprisonment for a term of less than one year.

[for the expression 'any public street or any land',



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the expression 'any public street, water body, tank, other water resources or any land' substituted vide Act 25/2024]"

5. By following the procedures as contemplated under the act and rules, a survey was already conducted to identify the road encroachments. The survey was conducted in pursuance of the directions issued by this Court *vide* order dated 28.01.2025 in W.P.(MD) No.2219 of 2025. Based on the survey report, the road encroachments are identified by the authorities of Madurai Corporation. Secondly, a notice, under Section 128(1) of the Tamil Nadu Urban Local Bodies Act, 1998, was issued on 02.04.2025. After affording an opportunity to the petitioners to submit their explanations / defence statement, the impugned final notices for removal of encroachments have been issued by the second respondent.

6. Since the procedures, as contemplated under the act and rules, have been followed for removal of road encroachments, this Court do not find any infirmity in the impugned final notices issued by the second respondent. Thus, the encroachers are expected to vacate from the encroached portions of



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the road. In the event of not vacating the encroached portions, the authorities competent are duty bound to remove the encroachments in accordance with law and ensure that the public road has been maintained for the public usage.

7. At this juncture, learned counsel for the petitioners submitted that patta in respect of the subject land stands in the name of 70 persons. However, High Court, in exercise of the power of judicial review, cannot adjudicate the property rights of a person and any person claiming civil rights relating to properties has to approach the competent civil court for establishing the same. Therefore, such disputed facts of civil in nature, more specifically when the competent authority has issued the final notice for removal of encroachments from the road, cannot be adjudicated in the writ jurisdiction.

8. Since the petitioners have not made out any ground for entertaining these writ petitions, this Court is not inclined to entertain the same. In view of the fact that the procedures contemplated under the act and rules have been followed, there is no impediment for the authorities concerned to proceed with the removal of encroachments.



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9. With the above observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

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

24.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:
The District Collector,
Collectorate Campus,
Madurai.



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S.M.SUBRAMANIAM, J.
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