



WEB COPY



1

W.P.(MD)NO.26459 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.26459 of 2025 AND

W.M.P.(MD)No.20539 of 2025

Iyappan

... Petitioner

Vs.

1. The Commissioner,
Madurai Corporation,
Madurai.

2. The Assistant Commissioner,
Zone-III(Central),
Madurai Corporation,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice issued by the second respondent dated 12.09.2025 issued under Section 258 of the Madurai City Municipal Corporation Act, 1971 and quash the same as illegal.

For Petitioner : Mr.M.P.Senthil,
for Mr.D.Venkatesh.

For Respondents : Mr.K.Sivabalan,
Standing counsel.

* * *

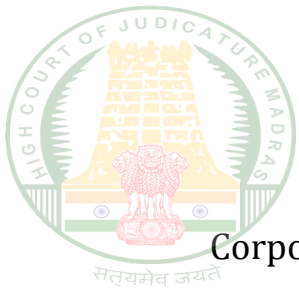
**ORDER**

WEB COPY

Heard both sides.

2. The petitioner has received notice from the Madurai Corporation calling upon him to remove the petition-mentioned encroachment. The allegation made against the petitioner is that the petitioner is occupying a portion of Kiruthumal river. Two grounds have been urged by the learned counsel for the petitioner. He would contend that the Corporation is not an authority to issue the impugned notice and it is only the PWD to issue notice. Secondly, he would add that without issuing show cause notice, the impugned order has been passed.

3. As regards the first ground, we need to clarify that even though Kiruthumal river vests only with the PWD, insofar as the area in which the river is flowing through Madurai Corporation limits, the Madurai Corporation has been mandated with the task of maintaining the same. The duty to maintain would include maintaining it free of encroachment. Therefore, the Madurai



Corporation is the authority which is competent to remove the encroachment in question.

4. There is however considerable merit in the petitioner's contention that there is breach of compliance of principles of natural justice.

5. In view of the enactment of Tamil Nadu Urban Local Bodies Act, 1998, which has come into force in the year 2023, action has to be taken under Section 128 of the Act. The said provision reads as follows:-

“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 1[land belonging to or vested with the municipality] with the municipal limit ;

(b) remove any immovable structure whether permanent or of temporary nature encroaching the



WEB COPY



street or public place or the 1[land belonging to or vested with the municipality] 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.

(2) Whoever makes any encroachment in any land or space (not being private property) in any public street or any 1[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.”

The provision itself envisages compliance with the principles of natural justice.

6. On this sole ground, the impugned notice is quashed. The



respondents are not only given liberty but mandated to take action under Section 128 of the Act within a period of four weeks from the date of receipt of a copy of this order. In other words, notice shall be issued by the respondents within a period of four weeks from the date of receipt of a copy of this order. The defences of the writ petitioner are left open. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)
25th September 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

To:

1. The Commissioner,
Madurai Corporation,
Madurai.
2. The Assistant Commissioner,
Zone-III(Central),
Madurai Corporation,
Madurai.



WEB COPY



6

W.P.(MD)NO.26459 OF 2025

G.R.SWAMINATHAN, J.

AND

B.PUGALENDHI, J.

PMU

W.P.(MD)No.26459 of 2025

25.09.2025