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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 2566 of 2026

G.Krishnaveni

..Petitioner(s)

Vs

The Commissioner of Corporation,
Coimbatore Corporation,
Office of the Commissioner of Corporation,
Coimbatore - Post and District.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India for issuing a writ of certiorari to call for the records of the proceedings made in S.R.No.58/2025/H1(W) on the file of the respondent dated 23.12.2025 and quash the same.

For Petitioner(s):	Mr.M.Devaraj
For Respondent(s):	Mr.D.Ferdinand Standing Counsel



ORDER

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

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Under assail is the notice issued by Commissioner, Coimbatore Corporation under Section 128(2) of the Tamil Nadu Urban Local Bodies Act, 1998 (hereinafter referred to as the 'Act').

2. Learned counsel for the petitioner would submit that documents have been already produced before respondents for consideration. Impugned notice is nothing but an order passed by Commissioner without providing a reasonable opportunity. Thus, the order is bad in law.

3. Learned Standing Counsel for Coimbatore Corporation would oppose by stating that procedures as contemplated under Section 128(2) of the Act has been complied with. Seven days time is granted to the encroachers to vacate themselves, failing which Corporation will remove the encroachments and initiate penal action. Thus, writ petition is devoid of merits.

4. Let us now consider the scope of Section 128 of the Act,

“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 ;”

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Sub-section (2) to Section 128 reads as under,

“(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.”

5. Therefore, Seven days time is to be granted to the encroachers to remove encroachments by themselves, failing which, competent authorities of Corporation is empowered to evict the encroachers without any further notice. This being the scope of the provision, petitioner cannot plead that there must be a detailed enquiry and an order to be passed. When the legislature thought fit and enacted a provision for expeditious removal of encroachments in public interest, the said provision is to be read as it is. There is no scope for the High Court to expand the scope of the provision or contemplate any additional procedure by way of interpretation, which would defeat the very purpose and objective of such stringent provision enacted by the legislature in public interest.



6. The language employed in the statutes is to be read as it is. Only in the event of an ambiguity, it may require further interpretation. When Section 128 of the Act is clear in its terms, and seven days time is contemplated affording opportunity to the encroachers to remove the encroachments by themselves and if not, authorities are empowered to evict the encroachers, there is no scope for expanding the scope of provision by providing further opportunity by the High Court in exercise of the powers of Judicial Review.

7. If at all, petitioner claims any title or ownership in respect of the subject property, he has to approach the competent Civil Court for seeking appropriate remedy in the manner known to law. Contrarily, by instituting a writ proceeding, the scope for eviction proceedings, if expanded, it would result in causing prejudice to the public interest and it may not be possible for the authorities in urban areas to remove the encroachments in an expeditious manner, so as to ensure free flow of traffic and to protect public properties including roads etc.

8. The only contention of the petitioner is that in the impugned notice, authorities have already determined that the petitioner is an encroacher. Authorities, on satisfaction, formed an opinion that petitioner has encroached upon the land belongs to the Corporation. Such a subjective satisfaction of the competent authority would be sufficient for invoking Section 128 of the Act.



Once the subjective satisfaction has been arrived, then there is no impediment for the authorities to issue a notice under Section 128(2) of the Act for removal of encroachments in respect of immovable property. No notice is contemplated for removal of movable property under Sub-section (1) to Section 128 of the Act.

9. Reading of the impugned order would show that a layout has been approved in the year 1987. Subject land is earmarked as “Community Hall”. Once the layout approval indicates that particular portion of the land is allotted for “Community Hall”, then the said area is to be utilised for the purpose for which it was approved under the layout. Wrong usage or sale of Community Hall area for construction of residence or any other purpose is in violation of the Act.

10. Learned counsel for the petitioner would submit that conversion order has been obtained from the competent authority.

11. If so, petitioner is at liberty to submit his explanation along with the documents within a period of 10 days from today. On receipt of any such explanation, Commissioner, Coimbatore Corporation shall consider the same and take a final decision and thereafter, proceed with the enforcement action, if required, by following the procedures.



12. With these observations, the present writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (C.K.,J.)
28.01.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GD

To
The Commissioner of Corporation,
Coimbatore Corporation,
Office of the Commissioner of Corporation,
Coimbatore - Post and District.



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**S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.**

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