



W.P(MD)No.1896 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.01.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)No.1896 of 2026
and
W.M.P(MD)Nos.1483 & 1485 of 2026**

R.Manoharan

... Petitioner

Vs.

1.The District Collector,
O/o the District Collector,
Theni District.

2.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Tahsildar,
O/o the Tahsildar,
Uthamapalayam Taluk,
Theni District.

4.The Executive Officer,
O/o the Executive Officer,
Odaipatti Town Panchayat,
Odaipatti,
Theni District.

... Respondent



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of Impugned Form III eviction notice in Reference No.Na.Ka.No.292/2025 dated 09.10.2025 issued by the 4th Respondent insofar as the petitioner is concerned and quash the same as illegal.

For Petitioner : Mr.O.R.Gokul Abimanyu
for Ms.A.V.Asha

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

Heard both sides.

2.One Vanajothi filed W.P(MD)No.16796 of 2025 for removing the encroachment in Survey No.241 in Odaipatti Village in Uthamapalayam Taluk.

We disposed of the said writ petition on 24.06.2025 in the following direction:

“3.When the matter was taken up for hearing, the learned Additional Government Pleader confirmed that Survey No.241 has been classified as “Odai”. On written instructions from the Tahsildar, Uthamapalayam, the learned Additional Government Pleader states that survey of the said survey number will be undertaken. Notice will be issued to all the interested parties including R5 & R6. If the results of the survey indicate that there are encroachments, the same will be removed by adhering to due process of law. The



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encroachers will be given due opportunity before taking any coercive action. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.”

Pursuant to the said direction, the Executive Officer of Odaipatti Town Panchayat had issued the impugned notice dated 09.10.2025. Challenging the same, this writ petition has been filed.

3.The learned counsel appearing for the petitioner is right in his contention that without issuing show cause notice, the petitioner has been straightaway called upon to remove the alleged encroachment. He would further submit that no Form – II notice was issued.

4.Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998 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 land belonging to the departments of the Central or State Government within the municipal limit



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(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.

(2) whoever makes any encroachment in any land or space (not being private property) in any public street or any land belonging to the departments of the Central or State Governments 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 twenty 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 Section empowers the Commissioner to remove the encroachment in any public place after issuing show cause notice. The expression “Commissioner” has been defined in Section 2(7) of the Act. In relation to the Town Panchayat, the Executive Officer who will be the Commissioner for the purpose of Section 128 of the Act.



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5. Even though we decline to interfere with the impugned communication, since it does not threaten the petitioner with any adverse consequence, we make it clear that the direction earlier issued by us has to be complied with strictly adhering to Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998. In other words, the Executive Officer of Town Panchayat concerned will have to issue show cause notice to the petitioner. If the petitioner submits any representation or objection within seven (7) days, the same will have to be considered before passing final order. The show cause notice to be issued by the Executive Officer will have to mention the precise extent of encroachment said to have been committed by the petitioner.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
29.01.2026

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



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