



CONT.P(MD)No.708 of 2025 &
W.P(MD)Nos.31284, 29462 & 32034 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	14.11.2025 & 21.11.2025
Pronounced on	09.01.2026

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI
CONT.P(MD)No.708 of 2025

W.P(MD)Nos.31284 of 2025 & WMP(MD)Nos.24478, 24480, 24481 &
25488 of 2025

W.P(MD)No.29462 of 2025 & WMP(MD)No.22794, 25098 & 22984 of
2025

and

W.P(MD)No.32034 of 2025 & WMP(MD)Nos.25220 & 25221 of 2025

CONT.P(MD)No.708 of 2025:

1. Keerthikumar
2. Navya

... Petitioners

vs.

1. Mr.Chitra Vijayan I.A.S.,
The Commissioner,
Madurai Corporation,
Madurai.

2. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai.

... Respondents

(R2 *suo motu* impleaded as per the order of this Court dated 21.08.2025)

Prayer:- Contempt Petition filed under Section 11 of the
Contempt of Courts Act, 1971, to punish the contemnor / 1st respondent



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for his wilful, deliberate, disobedience of the order of this Court made in

W.P(MD)No.23474 of 2024 dated 15.10.2024.

For Petitioners : Mr.J.Barathan for
Mr.M.Gnanagurunathan
For R1 : Mr.S.Vinayak, Standing Counsel
For R2 : Mr.R.Sivakumar

W.P(MD)No.31284 of 2025:

1. R.Shanmuganantham
2. K.Saravanakumar ... Petitioners

vs.

1. The Commissioner,
Madurai Corporation,
Madurai.

2. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai.

3. Keerthikumar

4. Navya ... Respondents
(R3 & R4 are impleaded vide court order dated _____.01.2026 in
WMP(MD)No.25488 of 2025 in W.P(MD)No.31284 of 2025)

Prayer : Petition filed under Article 226 of the Constitution of
India, to issue a Writ of Certiorari, calling for the records pertaining to
the impugned demolition notice issued by the 1st respondent in File



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No.Ma2/E1/004494/2024, dated 08.10.2025 and quash the same as
illegal.

For Petitioners : Mr.J.Lawrance
For R1 : Mr.K.K.Kannan, Standing Counsel
For R2 : Mr.R.Sivakumar
For R3 & R4 : Mr.J.Barathan for
Mr.M.Gnanagurunathan

W.P(MD)No.29462 of 2025:

Nagoor Kani

... Petitioner

vs.

1. The Commissioner,
Madurai Corporation,
Madurai.

2. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai.

3. Keerthikumar

4. Navya ... Respondents
(R3 & R4 are impleaded vide court order dated 17.10.2025 in
WMP(MD)No.22984 of 2025 in W.P(MD)No.29462 of 2025)

Prayer : Petition filed under Article 226 of the Constitution of
India, to issue a Writ of Certiorari, to call for the records of the
impugned order in File No.Ma2/E1/004494/2024, dated 08.10.2025 on
the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai



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For R1 : Mr.K.K.Kannan, Standing Counsel
For R2 : Mr.R.Sivakumar
For R3 & R4 : Mr.J.Barathan for
Mr.M.Gnanagurunathan

W.P(MD)No.32034 of 2025:

Rathna

Represented by her Power Agent/Father
Mr.Ramanathan

... Petitioner

vs.

1. The Commissioner,
Madurai Corporation,
Madurai.

2. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai.

3. Keerthikumar

4. Navya ... Respondents
(R3 & R4 are impleaded vide court order dated _____.01.2026 in
WMP(MD)No.25487 of 2025 in W.P(MD)No.32034 of 2025)

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in File No.Ma2/E1/004494/2024, dated 08.10.2025 on the file of the 1st respondent and quash the same and further directing the 1st respondent to process the application dated 03.11.2025 of the petitioner.



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For Petitioner : Mr.G.Prabhu Rajadurai
For R1 : Mr.K.K.Kannan, Standing Counsel
For R2 : Mr.R.Sivakumar
For R3 & R4 : Mr.J.Barathan for
Mr.M.Gnanagurunathan

COMMON ORDER

(Judgment of the Court was made by **P.VELMURUAN, J.**)

Being satisfied with the reasons stated in WMP(MD)No.25488 of 2025 filed for impleadment, the said petition is allowed. WMP(MD)No.24478 of 2025 filed to permit the petitioners to file a single writ petition is allowed.

The impleaded respondents in the writ petitions originally filed W.P(MD)No.23474 of 2024 for a Mandamus, directing the respondents 1 to 3 therein to remove the unauthorized constructions made by the respondents 4 to 8 therein in the common area or the land, which are reserved for common use for all the flat owners in Block No.A8 in Resurvey No.161/1A Part & 168/8 Part situated at Madurai Corporation ward No.44, M.I.G. Colony, K.K.Nagar, Madurai, and also direct to ensure that the respondents 4 to 8 therein shall not put up any construction. This Court after hearing both sides, by order dated



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15.10.2024 disposed of the said writ petition with the following direction:

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"4.In this backdrop, we deem it fit to direct the Commissioner, Madurai Corporation, to cause an inspection of the area through his officials and take action to remove the unauthorized constructions put up anywhere inside the apartment complex. The learned counsel for the Housing Board is directed to hand over the copy of the plan of the construction put up by the Housing Board to the Madurai Corporation. The Madurai Corporation will issue appropriate notices under the Town and Country Planning Act and take action to remove all the unauthorized constructions that are found inside the apartment complex, by following the procedure prescribed under the Town and Country Planning Act. Let the needful be done within a period of 12 weeks from the date of receipt of copy of this order."

2. Since the respondents 1 to 3 therein not complied with the order, the writ petitioners in W.P(MD)No.23474 of 2024 have filed Cont.P(MD)No.708 of 2025 against the Commissioner of Madurai Corporation. Subsequently, the Executive Engineer of Tamil Nadu Housing Board, Madurai has been *suo motu* impleaded as 2nd respondent by the order of this Court dated 21.08.2025. Pending contempt petition, the 1st respondent/Commissioner of Madurai Corporation issued show



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cause notices dated 15.09.2025 invoking Section 135(1 & 2) of the Tamil Nadu Urban Local Bodies Act 1998, to the private respondents in W.P(MD)No.23474 of 2024 calling for explanation as to why the unauthorised construction put up by them should not be demolished. The private respondents also submitted their explanations to the same. However, rejecting the explanations of the private respondents, the 1st respondent issued the impugned demolition notices dated 08.10.2025 under Section 135(1 & 2) of the Tamil Nadu Urban Local Bodies Act 1998, directing them to remove the unauthorised construction put up by them by themselves otherwise it will be removed by the Corporation. Challenging the said notices, the present writ petitions have been filed and the Division Bench of this Court had granted an order of status quo to be maintained. Since the prayer in the three writ petitions is one and the same, they were tagged along with the contempt petition and heard together.

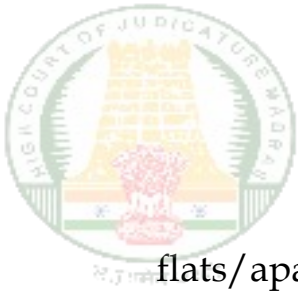
3. As far as the contempt petition is concerned, since the original approved plan was not available with the 1st respondent/Commissioner of Madurai Corporation, this Court *suo motu*



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impleaded the Executive Engineer, Tamil Nadu Housing Board, Madurai, as 2nd respondent in the contempt petition and directed him to furnish copy of the plan of construction put up by the Housing Board to the Commissioner, Madurai Corporation and based on that, the Commissioner of Corporation was directed to take steps to remove the encroachment/violation/deviation. Subsequently after obtaining the plan, even though the 1st respondent was not able to comply with the order of this Court within the stipulated time, subsequently they have taken steps by issuing notices under Section 135(1 & 2) of the Tamil Nadu Urban Local Bodies Act, 1998 and also issued final notices of demolition. Thus, this Court finds that there is no wilful disobedience on the part of the 1st respondent. Accordingly, recording the compliance, the Contempt Petition is closed.

4. The case of the petitioners in the writ petitions is that the 2nd respondent/Tamil Nadu Housing Board (hereinafter referred to as TNHB) had developed a housing scheme in the land comprised in Resurvey No.161/1A (part) and 168/8 (part) of Tallakulam Village (now K.K Nagar) in the year 1972 by putting up construction of several



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flats/apartments and sold out to various persons from 1975 onwards.

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There are four flats in Block No.A8 which consists of ground floor and first floor with the common area for all the flat owners. Out of four flats, three were sold namely, Flat Nos.A8/1 and A8/2 in the ground floor A8/3 in the first floor which are the subject properties in the three writ petitions. According to the petitioners, even prior to purchase of the subject properties from the original allottees, the owners of all the four flats in Block No.A8 divided the common area between themselves and put up constructions and rented out the same. While so, the respondents 3 and 4 in the writ petitions purchased Flat No.A8/1 in the year 2022. Contending that the common area has been encroached upon by putting up shops and rented out to third parties, the respondents 3 and 4 sent representation to the 1st respondent for removal of the encroachment in the common area. Thereafter, they also filed W.P(MD)No.23474 of 2024 and based on the orders passed in the writ petition, the 1st respondent issued show cause notices to the petitioners and thereafter passed the impugned demolition notices. Hence, the writ petitions.



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5. The learned counsel for the petitioners in the writ petitions would contend that; the impugned demolition notices are vague and bereft of details regarding violation of building plan, as such, there is a violation of principles of natural justice; all the original owners of four flats in Block No.A8 divided the common area between themselves by mutual understanding, put up construction in the said area and were in continuous separate possession and enjoyment of the same by obtaining necessary permission from the 1st respondent and also paying property tax to the 1st respondent corporation; even the Full Bench of this Court in a batch of Writ Appeals in W.A.Nos.783 of 2011 etc., batch dated 26.04.2013 has held that flat owners have right to put up constructions in the common area in accordance with the building rules; once the TNHB sold the flats, it no longer has control over the subject properties, hence, the reason assigned by the 1st respondent that there was violation of the building plan of TNHB is erroneous; the respondents 3 and 4 after purchasing Flat No.A8/1, also constructed a small shop without obtaining plan approval and let out the same to other individuals, but the 1st respondent without taking action against them, proceeded to issue the impugned demolition notices insofar as the



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writ petitioners are concerned which clearly reflects arbitrariness and unreasonableness; the 1st respondent ought to have kept the matter pending till the disposal of the civil suit pending before the civil court with regard to the subject properties and that the impugned notices of the 1st respondent show non application of mind. Thus, the learned counsel would submit that the impugned notices are liable to be set aside.

6. Pending writ petitions, this Court has granted an order of status quo to be maintained. However, to vacate the said order, the respondents 3 and 4 in the writ petitions filed WMP(MD)No.25098 of 2025.

7. The learned counsel for the respondents 3 and 4 would contend that when there are four flats in Block No.A8 along with a common passage for the common usage of all the flat owners and occupants, no construction shall be put up therein. However, the original purchasers by encroaching the common area, put up constructions and rented out the same. After purchasing Flat A8/1, the



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respondents 3 and 4 finding such encroachment, made a representation to the 1st respondent and then filed writ petition and based on the orders of this Court, the impugned demolition notices have rightly been issued. Thus, he would pray for dismissal of the writ petitions.

8. Heard both sides and perused the records.

9. While the writ petitioners contended that their predecessors have put up construction in the common area after obtaining permission and were in enjoyment, the respondents 3 and 4 would contend that the common area should be maintained free from encroachment and it should be available for the common use of all the flat owners and occupants. Admittedly, in this case, even the predecessors put up certain constructions in the common area thereby violated the building plan of TNHB. Only after the respondents 3 and 4 purchased Flat No.A8/1, they came to know about the alleged encroachment and after making representation to the 1st respondent, they filed W.P(MD)No.23474 of 2024 and a Division Bench of this Court by order dated 15.10.2024, disposed of the said writ petition directing the



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Commissioner, Madurai Corporation, to cause an inspection of the area through his officials and to take action to remove the unauthorized constructions put up anywhere inside the apartment complex. The Division Bench also directed the counsel for the Housing Board to hand over the copy of the plan of the construction put up by the Housing Board to the Madurai Corporation in order to enable the Corporation to issue appropriate notices under the Town and Country Planning Act and take action to remove all the unauthorized constructions that are found inside the apartment complex, by following the procedure prescribed under the Town and Country Planning Act.

10. In compliance with the above said direction of this Court, the 1st respondent/Commissioner of Madurai Corporation issued show cause notices dated 15.09.2025 under Section 135(1 & 2) of the Tamil Nadu Urban Local Bodies Act 1998, to the writ petitioners calling upon them to submit their explanations as to why the unauthorised construction put up by them should not be demolished. Though the petitioners submitted their explanations, rejecting the same, the 1st respondent held that the common area is an undivided property



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earmarked for common enjoyment, hence no flat owner can have exclusive right over the same and issued the impugned demolition notices dated 08.10.2025 under Section 135(1 & 2) of the Tamil Nadu Urban Local Bodies Act 1998, requiring the petitioners to remove the unauthorised construction either by themselves or otherwise it will be removed by the Corporation. Challenging such notices, the present writ petitions have been filed.

11. Perusal of the impugned demolition notices discloses that as per the building plan of TNHB, the open area around Block No.A8 is an undivided common area earmarked for common enjoyment for all the flat owners and hence, the constructions put up in the common area is contrary to the building plan of TNHB. This Court has already given suitable direction to remove the unauthorised constructions after following the procedure by issuing appropriate notice to the writ petitioners. Accordingly, the writ petitioners were issued with show cause notices and the 1st respondent dissatisfied with the petitioners' explanations, issued the impugned demolition notices. After physical verification and inspection and also after affording



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opportunity to the writ petitioners, the 1st respondent has taken steps in accordance with law. The writ petitioners have no exclusive right to enjoy the common area or to deviate from the original building plan and put up constructions obstructing the common area. The enjoyment of common area does not mean that the common area can be divided between the flat owners by mutual understanding contrary to the original building plan. The enjoyment of common area means the flat owners either jointly or severally use the common area and it should be free from encroachment and available for usage by any flat owner at any time. Admittedly, there is no such express contract or condition in any of the sale deeds by TNHB with regard to division of the common area. Further, the writ petitioners are not original owners and they are subsequent owners/tenants as the case may be and that the pendency of civil suit will not stand in the way of the corporation removing the encroachments in the common area. Further, there is no material to show that there was an oral arrangement/understanding with regard to division of undivided common area between the original owners. If at all there was any oral agreement or mutual understanding between the original owners, the petitioners have to work out their remedy before the



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Civil Court. Hence, the petitioners are not entitled to the relief sought for and the impugned demolition notices since have been passed in accordance with law, they do not warrant interference by this Court. The Corporation has rightly taken action for removing the encroachment put up by the petitioners. Since the area of encroachment itself is in common area, the question of ratification of the unauthorised construction does not arise. Accordingly, the consequential prayer of the petitioner in W.P(MD)No.32034 of 2025 to direct the 1st respondent to process the application dated 03.11.2025 deserves to be rejected and accordingly rejected.

12. In the result, the Writ Petitions stand dismissed and the Contempt Petition stands closed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

[P.V, J.] [L.V.G, J.]
09.01.2026

Index : Yes / No
Neutral Citation : Yes / No
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To

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1. Mr.Chitra Vijayan I.A.S.,
The Commissioner,
Madurai Corporation,
Madurai.
2. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai.



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P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

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PRE-DELIVERY COMMON
ORDER MADE IN
CONT.P(MD)No.708 of 2025,
W.P(MD)Nos.31284, 29462 & 32034 of 2025

DATED : 09.01.2026