



WEB COPY

W.P.(MD) No.5470 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2026

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.P.(MD) No.5470 of 2026
and
W.M.P.(MD) No.4596 of 2026**

Ponnangan

... Petitioner

-vs-

- 1.The District Collector
District Collector Office
Theni District
- 2.The Revenue Divisional Officer (RDO)
Uthamapalayam
Theni District
- 3.The Tahsildar
Uthamapalayam
Theni District
- 4.The Executive Officer
Odapatti Town Panchayat
Theni District

5.Sekar

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the 4th respondent dated 19.02.2026 in NA.Ka.No.165/2021 and to quash the same as passed without jurisdiction, arbitrary, illegal and in violation of principles of natural justice in consequently direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment of his property comprised in Natham survey No.340, new S.No.833/25 of Odapatti Village, Uthamapalayam Taluk, Theni District, measuring to an extent of 1782 sq.ft. till the disposal of the O.S.No.15/2026 pending on the file of District Munsif Court, Uthamapalayam in the nature and circumstances of the case interest of justice.

For Petitioner : Mr.R.Rajamohan
for M/s.Dhana Law Associates

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 to R3
Mr.S.R.A.Ramachandran
Additional Government Pleader for R4



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ORDER

[Order of the Court was made by DR.G.JAYACHANDRAN, J.]

Mr.J.Ashok, learned Additional Government Pleader, takes notice for the respondents 1 to 3 and Mr.S.R.A.Ramachandran, learned Additional Government Pleader, takes notice for the fourth respondent.

2. This writ petition is filed challenging the notice dated 19.02.2026, issued by the fourth respondent, directing the petitioner herein to remove the encroachment made by him in the subject land.

3. Learned counsel for the petitioner submits that the impugned notice has been issued by the fourth respondent alleging that the petitioner is in occupation of the Panchayat land, which is classified as a Street in the revenue records and therefore, the same has been directed to be removed on or before 27.02.2026 or else, the same will be removed at his costs. He would further submit that the said notice has been issued without affording any opportunity to the petitioner and he would further submit that the RCC construction put up by the petitioner is in his patta land.



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4. Learned Additional Government Pleader appearing for the fourth respondent, on instructions, submitted that the petitioner is the owner of the land in Survey No.833/25 of Odapatti Village. Whereas, he has encroached upon the Street in Survey No.833/22 and therefore, after surveying the area, the impugned notice has been issued by the Executive Officer in exercise of his power under Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1988.

5. Learned Additional Government Pleader appearing for the fourth respondent fairly conceded that before causing the impugned notice, the petitioner should have been afforded an opportunity to show cause as to why action should not be taken against him for removal of the encroachment. In this case, no opportunity was afforded to the petitioner before issuing the impugned notice and therefore, the impugned notice dated 19.02.2026 must be treated as a show cause notice and if the petitioner gives his explanation within a period of fifteen days, the same will be considered and appropriate orders will be passed by the authority concerned.



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6. Taking note of the submissions of the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the fourth respondent and also taking into consideration the provisions of the Tamil Nadu Urban Local Bodies Act, 1998, we are of the view that it will be suffice to provide an opportunity to the petitioner to show cause as to whether his construction is within the land comprised in Survey No.833/25 for which he holds patta or he has encroached upon the Street of the Panchayat, which is in Survey No.833/22 and after receiving his explanation, the authority concerned shall proceed further with the matter in accordance with law.

7. Accordingly, the impugned notice dated 19.02.2026, issued by the fourth respondent, shall be treated as a show cause. The petitioner is granted 15 days time from today to submit his explanation to the authority concerned. If the petitioner submits his explanation within the stipulated period of 15 days from today, the authority concerned shall consider the same and pass orders on merits and in accordance with law.



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8. We also find that the petitioner has also preferred an appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, before the District Collector.

9. In view of the present order we have passed, there shall not be any order in the appeal proceedings pending before the District Collect, so that there will not be any parallel proceedings before two different authorities.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[G.J., J.]

[K.K.R.K., J.]

26.02.2026

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

krk

To:

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AND
K.K.RAMAKRISHNAN, J.

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