

(2025) 11 MAD CK 1985

In the Madras High Court, Madurai Bench

Case No : Writ Petition (MD) No. 32820 Of 2025, Writ Miscellaneous Petition (MD) No. 25887 Of 2025

Jeyanthilal

APPELLANT

Vs

Director And Others

RESPONDENT

Date of Decision : 18-11-2025

Acts Referred:

Tamil Nadu Urban Local Bodies Act, 1998 — Section 128, 128(1)(b)

Citation : (2025) 11 MAD CK 1985

Hon'ble Judges : Dr, Anita Sumanth, J;C.Kumarappan, J

Bench : Division Bench

Advocate : AN.Ramanathan, A.Arun Prasad, M.Sarangan, R.Baskaran, K.Balasubramani

Final Decision : Disposed Of

Judgement

Dr.Anita Sumanth, J

1. We have had occasion to consider the similar issue in W.P. (MD)No.32539 to 32544 of 2025 and have passed the following order dated 14.11.2025 therein:

'The writ petitions in W.P.(MD)No.32539 to 32544 of 2025 are listed for admission today. Other writ petitions where similar relief as in the aforesaid matter had been sought and granted by us, are listed as item No.98 under the caption 'for being mentioned'.

2. We have heard Mr.B.Saravanan, learned Senior Counsel, who appears on behalf of M/s.Ajmal Associates for the petitioners, Mr.J.Ashok, learned Additional Government Pleader for R1 and Mr.R.Baskaran, learned Additional Advocate General, who appears on behalf of Mr.K.Balasubramani, learned Standing Counsel for R2.

3. In the light of the order proposed to be passed in these matters, no notice is necessary to R3, M/s. Karur District Vengamedu, Kongu Nagar, Residents Welfare

Associations ('Association') and also the private respondents, at this stage.

4. The prayer is for a certiorari, challenging an order dated 17.10.2025 passed by the Municipal Commissioner, Karur District.

5. The matter has a chequered history. The Association had filed a writ petition in WP(MD)No.2895 of 2011, wherein the prayer was for a mandamus, directing the official respondents to remove the unauthorized developments found in areas reserved for public purpose in SF Nos. 135,136,137,138,140,141,146,151,152,153,154,155&160 in Vengamedu Region, Inam Karur Town, Karur District ('properties'/'properties in question').

6. The learned counsel would accede to the position that there is an identity between the properties being the subject matter of the earlier writ petition and the present batch of writ petitions.

7. An order was passed in that writ petition on 04.04.2016, wherein after recording rival contentions, the learned Judge rendered two categorical findings at para 10, which reads as follows:-

'(a) that plots in the land earmarked for public purposes have been and are being sold indiscriminately on the specious plea that the layout is unapproved and

(b) every one of the respondents in now washing away their hands prompting the purchasers as well as people, who put up constructions, to seek regularization.'

8. In summary, the findings rendered at para 22 of the order dated 04.04.2016 are extracted below:-

'22. Therefore, in fine, we are of the considered view

(i) that a layout plan was approved way back in 1983

(ii) that there has been an attempt on the part of the respondents 1 to 3 to suppress the factum approval of layout and to mislead this Court as though there was only a technical approval

(iii) that even admittedly, the plots forming part of all the lands earmarked for public purposes have been sold, construction permitted and electricity connection given

(iv) that in order to overreach the orders of this Court passed in two earlier writ petitions and in order to overcome to present writ petition, the Municipal Council had passed two resolutions during the pendency of this writ petition seeking to regularize the unauthorized construction and

(v) that based upon those resolutions, the Municipal Chairman and the elected councilors have purchased plots in the names of their relatives, during the pendency of the writ petition.'

9 That writ petition was disposed on 04.04.2016, with the following directions:-

'27. Hence, the writ petition is disposed of with the following directions:

(i) A Committee comprising of a Joint Director of Town and Country Planning, nominated by the first respondent, a Revenue Divisional Officer nominated by the second respondent and an officer of the rank of Assistant Director of Survey and Land Records, nominated by the second respondent, is hereby constituted.

(ii) Within two weeks of receipt of a copy of this order, the first respondent shall nominate an officer of the rank of Director of Town and Country Planning, who has a track record as an officer of high integrity.

Similarly, the second respondent District Collector shall also nominate an officer of the rank of Revenue Divisional Officer and an officer of the rank of Assistant Director of Survey and Land Records within two weeks of the receipt of the copy of this order.

(iii) The Committee so constituted shall take into possession, within two weeks of the constitution, all the records available in the offices of the respondents 1 to 3 or in the offices of any one of the Assistant Directors or Deputy Directors of Town and Country Planning, which relate to the layout in question.

(iv) Thereafter, the Committee shall conduct a local inspection of the lands in S.F.Nos. 135, 136, 137, 138, 140, 141, 146, 151, 152, 153, 154, 155 and 160 in Vengamedu region, Inam Karur Town, Karur District with the help of Town/Municipal Surveyors, Village Administrative Officers and Revenue Inspectors and submit a report.

(v) The report shall indicate

(a) the lands earmarked for public purposes as per the approved layout

(b) the details of lands sold by the promoters/original owners, from out of the lands earmarked for public purposes

(c) the details of persons, who have purchased the lands

(d) the details of buildings constructed at such lands along with an indication whether building plan approvals have been obtained or not

(e) the details of the elected representatives of the third respondent Municipality, who ha purchased lands in their own names or in the names of their close relatives and the details of construction put up by them

(vi) The report as indicated above shall be submitted by the Committee within a period of three months from the date of constitution of the Committee

(vii) Till the Committee submits its report, the concerned Sub-Registrar/District Registrar shall not allow registration of any documents relating to the lands in the above survey numbers, unless the Committee issues a no objection

certificate that such a land does not form part of the land earmarked for public purposes

(viii) Till the Committee files its report, the Municipality shall not accord any building plan approval, on the land earmarked for public purposes, except with a no objection certificate issued by the Committee

(ix) Till the Committee submits its report, no electricity connection shall be given to the buildings that have come up recently on the lands earmarked for public purposes and

(x) The third respondent Municipality is also enjoined from granting regularization to unauthorized constructions and the constructions put up on the lands earmarked for public purposes.

There will be no order as to costs.'

10. Thereafter, the writ petition filed by the Association in WP(MD)No.2895 of 2011 came up for compliance and was heard along with Cont.P.(MD)No.1487 of 2019 and disposed by an order dated 26.06.2023. The order of the Division Bench is crisp and extracted below:-

"Pursuant to the orders of the Division Bench dated 04.04.2016, the committee has inspected the property in question and has filed a report.

2. It is the claim of the impleaded respondents that there is no final sanctioned plan and the lands that did not belong to either the Society or the original promoter, were made a part of the lay out. If that be so, then the original sanction itself would suffer from irregularity and the title that is now set up by the impleaded parties cannot be gone into by this Court.

3. We, therefore, direct the Director of Town and Country Planning, Chennai, in collaboration with the Commissioner of Karur Municipal Corporation, to initiate appropriate action for restoration of the area that is earmarked for public purposes measuring an extent of 12.97 acres. While doing so, the Director of Town and Country Planning and the Commissioner of Karur Municipal Corporation shall ensure that the original promoter or the Society which had submitted plans for approval had title to the properties that were included as a part of the entire lay out, particularly, to the land that was shown as reserved for public purposes. If it is found that the promoter or the Society had included lands which did not belong to them in the lay out, such lands will stand excluded and the authorities cannot enforce the lay out conditions on such lands which did not belong to the promoter who had formed the lay out.

4. The writ petition is disposed of with the above observation. In view of the dismissal of the writ petition, the contempt petition is closed. The above exercise shall be carried out within a period of six months from the date of service of the copy of the order on the Director of Town and Country Planning, Chennai. The persons who are claiming rival title shall be heard by the Director before orders

are passed. No costs. Connected miscellaneous petitions are closed.”

11. This now brings us to the present impugned notices / orders, while it is the case of the petitioners that no notice has been issued to them prior to passing the impugned orders.

12. The learned Additional Advocate General would submit that no notice was required to be given and it is for the petitioners to have approached the authorities with requisite documents establishing their title. He also submits on instructions that some of the parties are before the Civil Court agitating their title for the properties that are the subject matter of these writ petitions.

13. The learned Additional Advocate General would justify passing of the impugned orders even without notice, drawing our attention to the order dated 04.10.2025 in Cont.P. (MD)No.1897 of 2024, wherein the Bench has adjourned the matter to 31.10.2025 directing the second respondent therein to initiate proceedings and comply with the order of this Court. According to him, the impugned notices have been issued solely as a measure to comply with the order dated 26.06.2023 and also the directions under order dated 14.10.2025.

14. In any event, as a measure of resolving the matter, learned Additional Advocate General would suggest that the impugned orders be taken as notices, drawing our attention to proviso under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998 ('Act').

15. Section 128 of the Act deals with the power to remove encroachments from public places, which provides for issuance of a show cause notice granting 15 days for reply.

16. Admittedly, such notices have not been issued in the present cases. Hence, without expressing any opinion on whether the order dated 26.06.2023 casts a burden either on the petitioners or the authorities to take things forward, it would suffice for us to permit the petitioners to file response treating the impugned orders as notices under section 128 (1)(b) of the Act, whereupon the authorities shall adhere to the procedure set out under the Act thereafter.

17. Though the notices have been issued by R2, both the learned counsel would accede to the position that they may appear before R1 / the Director of Town and Country Planning, Chennai, as per the directions under order dated 26.06.2023.

18. In order to facilitate the closure of the matter that has been hanging fire since 2016, we fix the date of hearing as

17. 11.2025, on which date, the petitioners shall appear before R1 / the Director of Town and Country Planning, Chennai, at 11:00 am, without anticipating any notice in this regard. They shall be granted audience, and the State will supply copies of reports dated 11.07.2016, 25.07.2016, 27.07.2016 and 10.08.2016 to the petitioners in the course of the hearing on 17.11.2025, including the petitioners in the matters listed 'for being mentioned' today. The petitioners shall

submit their replies and supporting documents in respect of their title, and orders shall be passed within a period of two weeks from 17.11.2025 in accordance with law.

19. With the above directions, these writ petitions stand disposed. No costs. Connected miscellaneous petitions are closed.'

2. Today, Mr.K.Balasubramani, learned standing counsel enters appearance for the third respondent and is represented by Mr.R.Baskaran, learned Additional Advocate General. He states that enquiry scheduled on 17.11.2025 has taken place and the matter is listed for continuation of submissions today (18.11.2025) before the authority.

3. Hence, the present petitioners shall also appear before R1 / the Director of Town and Country Planning, Chennai, today (18.11.2025), without anticipating any notice in this regard. They shall be granted audience, and the State will supply copies of reports dated 11.07.2016, 25.07.2016, 27.07.2016 and 10.08.2016 to the petitioners in the course of the hearing. The petitioners shall submit their replies and supporting documents in respect of title, and orders shall be passed within a period of two weeks from 18.11.2025, in accordance with law.

4. With the above directions, these writ petition stands disposed. No costs. Connected miscellaneous petition is closed.