

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.07.2015

DATE OF DECISION: 28.07.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. Nos.28520 and 28521 of 2011 and
M.P. Nos.1 of 2011 and 1 of 2013

The Chennai Fruit Commission Agent's
Association

T/D 101, Anna Fruit Market
Koyambedu
Chennai 600 092
represented by its President
S. Srinivasan

Petitioner in WP No.28520 of 2011

K. Ramalingam

Petitioner in WP No.28521 of 2011

vs.

1 The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore
Chennai 600 008

2. Dr. Ambedkar Small Shops Traders Association
represented by its President A. Veerasami
No.56/77, Anna Street
Iyappan Nagar
Koyambedu
Chennai 600 092

Impleader as per dt. 28.7.2015
in MP.1/2013)

Respondents in WP No.28520/2011

The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
Prayer in W.P. No.28520 of 2011:

Respondent in WP No.28521/2011

Writ Petition filed under Article 226 of the Constitution of India seeking a mandamus forbearing the respondent from granting any right in the form of permission, licence, allotment or sale to the retail vendors or any third parties other than the allottees of the shops constructed as per the respondent's approved Koyambedu Wholesale Fruit Market Complex Plan dated 12.12.1988 or permitting such third parties to carry on any trade in the common built up area like platforms, shopping and service streets, court yard, etc. provided within the Koyambedu Wholesale Fruit Market Complex.

Prayer in W.P. No.28521 of 2011:

Writ Petition filed under Article 226 of the Constitution of India seeking a mandamus forbearing the respondent from granting any right in the form of permission, licence, allotment or sale to the retail vendors or any third parties other than the allottees of the shops constructed as per the respondent's approved Koyambedu Wholesale Fruit Market Complex Plan dated 12.12.1988 or permitting such third parties to carry on any trade in the common built up area like platforms, shopping and service streets, court yard, etc. provided within the Koyambedu Wholesale Fruit Market Complex and consequently, direct the respondent to evict all unauthorised traders/persons carrying on trade in the Koyambedu Wholesale Market Complex forthwith.

For petitioner
in both the WPs Mr. S. Thankasivan
For respondent
in both the WPs Mr. P.H. Arvinth Pandian
Additional Advocate General
for Mr. N. Sampath
For petitioner in
Impleading Petition Mr. R. Vijayaraghavan

COMMON ORDER

SATISH K. AGNIHOTRI, J. सत्यमेव जयते

The petitioner in W.P. No.28520 of 2011, stated to be an association of the Fruit Commission Agents, represented through its President S. Srinivasan of Anna Fruit Market, Koyambedu and the petitioner in W.P. No.28521 of 2011, stated to be an individual allottee, have come up with the instant writ petitions, seeking a mandamus forbearing the respondent from granting any right in the form of permission, licence, allotment or sale to the retail vendors or any third parties other than the allottees of the shops constructed as per the respondent's approved Koyambedu Wholesale Fruit Market Complex Plan dated 12th December 1988 or permitting such third parties to carry on any trade in the common built up area like platforms, shopping and service streets, court yard, etc. provided within the Koyambedu Wholesale Fruit Market Complex.

2 The relevant facts necessary for adjudication, in brief, are that the Government of Tamil Nadu conceived a wholesale market complex at Koyambedu to shift and replace the shopkeepers in the Kothavalchavadi George Town congested area for vegetables, fruits and flower wholesale market. Indisputably, the said market was developed and constructed under self-financing scheme at the cost of the allottees. According to the petitioners, all the allottees paid the cost of godowns, open parking place for vehicles, drainage facilities, court yard and toilet facilities in the shops, separate verandahs to be held and vast common area to be under their ownership. The entire complex comprises 456 shops as per the approved plan. The fixation of the cost of the said shops was questioned by the petitioner association in Civil Suit being C.S. No.250 of 1988, wherein, it was clearly stated by the respondent that the project was conceived, planned and developed as a socio-welfare measure on no profit basis. The actual cost is paid by the allottees alone to their benefit. According to the petitioners, the complex was completed in the year 1991 and it was opened for allotment to the members of the petitioner association from 1996 onwards. Thereafter, the allottees have been carrying on their wholesale trade in the said complex. However, handing and taking over took place formally in July 2006. Ultimately, the sale deed was executed in December 2006. The allottees continued thereafter as lawful owners of the shops as specified in Schedule B and all other common built up area like platforms, shopping and service streets, court yard, etc. under common ownership. These writ petitions, as aforestated, seek a direction forbearing respondent from granting any right in the form of permission, licence, allotment or sale to the retail vendors or any third parties other than the allottees of the shops constructed.

3 Mr. S. Thankasivan, learned counsel for the petitioners would submit that it is evident from the counter affidavit filed by the respondent in Application No.1205 of 1988 in C.S. No.250 of 1988, as aforestated, that the entire project was constructed at the cost of the allottees under self-financing scheme. The very purpose to release congestion in George Town area by constructing this complex would stand defeated, if the platform shops are allotted to the retailers or any third parties. If such allotment is made, it would alter the approved plan and also amount to infringement of the ownership and title passed on to the allottees in common, as the entire complex was developed under self-financing scheme. In the individual sale deed executed in December 2006, it is clearly stated that on payment of the sale consideration, the allottees would become the absolute owner of the property mentioned in the B Schedule. The purchasers will have easements, rights in common and privileges mentioned in the Schedules D and E and with all the fixtures, electrical installation, water and drainage connection, rights, easements and appurtenances of the ways, paths, liberties, advantages and privileges whatsoever belonging thereto and they will have and hold the said shop and all and singular the rights, titles, interest, etc. in the property thereby conveyed, granted, transferred and

assigned unto and to the use of the purchaser to be enjoyed by the purchaser for ever absolutely, free from all encumbrances and charges whatsoever, except the restrictions and undertakings given by them. Except the restrictions in respect of carrying on the wholesale trade, the allottees were granted building ownership in respect of not only the shop, but, other common areas including platform, etc., as aforesaid. As such, the respondent authority is divested of power to deal with the platform shops by granting lease, permission or sale to any other third party. It is further contended that the width of service streets is admittedly 16 ft. only out of which, 3 to 4 ft. is occupied by platforms. If these platforms are allotted to third parties and the service streets are converted into shopping streets, that would lead to further congestion and defeat the basic purpose of the shifting and re-locating the present allottees from the old place.

4 The learned counsel would further contend that the Court Commissioner had clearly observed that the allotment of new shops would add to the congestion in the already heavily choked and clogged wholesale shopping complex. It was further observed that the original plan is meant purely for the purpose of service, i.e., loading and unloading of goods by the shop owners and for garbage vans and other such services. Shopping complex of wholesale traders is regulated under the provisions of the Tamil Nadu Specified Commodities (Regulation and Location) Market Act, 1996 (for short "the Act, 1996") and as such, there is a prohibition to permit any other authorised person to carry on trade in the market, except wholesale trade and as such, permitting retailers would amount to infringement of the provisions of the Act, 1996.

5 Countering the submissions of the learned Additional Advocate General appearing for the respondent that the allotment letter states that the ownership of the common area such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. which is not specified in Schedule B, shall be vested with the respondent-authority and also the lessee, i.e., allottee will have no right to either jointly or severally claim any part or portion of the market area, except the specified shop mentioned in Schedule B, it is submitted by the learned counsel for the petitioners that the said Clause stands obliterated for the fact that individual sale deed was executed thereafter, whereunder, the ownership of the common areas was transferred to the allottees to be held in common ownership and as such, the conditions prescribed in the letter of allotment of shops would not be applicable. Lastly, it is contended that the entire exercise of allotting platform shops to third parties would amount to encroachment into the ownership, rights and title of the allottees holding the common area under joint/common ownership. Thus, a direction be issued to the authority concerned not to allot the same to any person.

6 On the other hand, Mr. P.H. Arvinth Pandian, learned Additional Advocate General appearing for the respondent authority would submit that it is undeniable and indisputable that the complex was conceived, developed and constructed for the purpose of re-locating the wholesale traders and semi-wholesale traders who were doing business at the George Town area, to de-congest the said area. The open space area available was constructed without disturbing the wholesale traders and their trade activities. The respondent authority had called for applications from semi-wholesale traders and allotted the platform shops in the vegetable market and so as to allot platform shops in the fruit market, the authority has called for applications from the semi-wholesale traders to allot the shops. The draw of lots of platform shops was conducted and 97 applicants were selected and intimated of the shop number assigned to them vide letter dated 17th November 1999. The petitioners have not objected to the said exercise at the relevant point of time. Now, the said shops have been earmarked in A,B,C and D Blocks in the area and at this stage, the petitioners have no right to question the allotment, particularly, when the platform shops so allotted are not in the common area.

7 The learned Additional Advocate General, relying on Clause 10(b) of the allotment letter, would submit that it was never intended to transfer the ownership of the common area such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. to the petitioners, as it was clearly specified in the concerned clause that the same shall be vested with the respondent-authority. It was further clarified in the same clause that the lessee will have no right, either jointly or severally, to claim any part or portion of the market area, except the specified shop mentioned in Schedule B. Even in the sale deed, the area specified in Schedule B alone, was allotted with the terms and conditions to carry on trade. The other area was only for the purpose of enjoyment and the ownership of the said area was never transferred to the petitioners under joint ownership, as claimed by them.

8 The learned Additional Advocate General would next contend that the service road has been left intact. The platform is not used for any other purpose, rather, it encourages unnecessary encroachment, which is being regularised by proper allotment to the semi-wholesale traders or retailers.

9 Lastly, it is contended that the provisions of the Act 1996, shall be observed strictly in its letter and spirit. The purpose of allotment of platform shops is not to congest the area, but, to regularise the illegal encroachment made by the vendors. Thus, the respondent authority is fully competent and authorised to make allotment to other needy vendors, i.e., semi-wholesale dealers and/or retailers. Consequently, the writ petitions are liable to be dismissed.

10 Dr. Ambedkar Small Shops Traders Association have filed M.P. 1 of 2013 seeking permission to be impleaded as a party respondent in W.P.No.28520 of 2011. This Miscellaneous Petition seeking impleadment is allowed.

11 The members of this petitioner association claim to be platform fruit vendors at Anna Fruit Market Shop, Phase I, in the Complex in question. According to the petitioner association, they have paid the application fee and also, draw of lots was conducted on 20th November 1998 allotting the platform shops. Needless to state that pursuant to the alleged allotment, no allotment has been effected or right created in favour of the members of the said association.

12 We have heard the learned counsel for the parties, perused the pleadings and documents appended thereto.

13 The facts in respect of conception, construction and development of the wholesale market complex at Koyambedu are not in dispute. Under the caption of "allotment of shop", a deed of lease-cum-sale agreement was executed between the purchaser and the respondent authority and the seller (allottee) on 23rd March 1998, prescribing the conditions for allotment of the shop in question. A copy of the same, which is stated to be common in all cases, is annexed herewith the petition. Clauses 10(a) and 10 (b) of the said agreement read as under:

"10 a Allotment of shop in the Perishables Market constructed under the Koyambedu Wholesale Market Complex Project' of Madras Metropolitan Development Authority, Madras - 600 008 (hereinafter referred to as the Authority) shall be on lease for a period from the date it is offered for occupation till payment of all instalments and the amount due and payable under the agreement subject to the rules and regulations of the Authority as amended from time to time.)

b) The ownership of the common area such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. which is not specified in Schedule "B" mentioned hereunder shall be vested with MMDA."

14 The relevant clauses viz., Clause 9 and Clause 10 provide for vesting of the common area such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. with the Madras Metropolitan Development Authority, which is now re-named as Chennai Metropolitan Development Authority (the respondent herein).

15 The petitioners have been writing to the authority regularly not to transfer the platform shops to any third person, including unauthorised retail vendors. The handing and taking over, as is

evident from a report dated 10th July 2006, it appears, had taken place in July 2006 in respect of the shops specified in Schedule B. The individual sale deed was executed in December 2006. The relevant clauses of the said sale deed read as under:

"4. AND WHEREAS the Purchaser is one of the applicants, allotted with Shop No.T/A-18 in reference No.P3/9268/89 in Fruit Market to an extent of approximately 342.72 sq. ft. on specifically mentioned in schedule B with terms and conditions as stated in the allotment order dated 26.03.1991 and lease-cum-sale agreement executed on 20.1.97.

8. NOW THIS DEED WITNESSETH that in pursuance to the above said terms and conditions the Purchaser has paid the sale consideration of the sum of Rs.1,74,980/- (Rupees One lakh, seventy four thousand, nine hundred eighty only) to the vendor, the receipt of which the vendor doth hereby acknowledge hereinafter reserved and the covenants of the purchaser hereinafter contained the vendor does by way of absolute sale hereby GRANT, CONVEY, TRANSFER AND ASSIGN unto the Purchaser the Schedule "B" mentioned property, the building shown in the plan annexed hereto and thereon coloured red together with the Shop No.18 in the Block A at Anna Fruit Market, Koyambedu, Chennai 600 092.

The easements, rights in common and privileges mentioned in the Schedule D hereto subject as therein to and reserving as mentioned in the Schedule E hereto and with all the fixtures, electrical installation, water and drainage connection, rights, easements and appurtenances of the ways, paths, liberties, advantages and privileges whatsoever belonging thereto in, to and upon the said property TO HAVE AND TO HOLD the said shop and all and singular the rights, titles, interest, etc. in the property hereby conveyed, granted, transferred and assigned unto and to the use of the Purchaser to be enjoyed by the Purchaser for ever absolutely, free from all encumbrances and charges whatsoever except the restrictions and undertakings given herein.

11. The Vendor hereby further covenants with the Purchaser the property sold hereunder shall be subjected to all condition of Schedule "C" mentioned hereunder. The Purchaser has no right to change the trade activity other than permissible trade by Market Management Committee.

The Purchaser hereby covenants with the Vendor as follows:

a The Purchaser shall use the shop only for carrying the wholesale trade in the trades prescribed after duly obtaining licence from the Market Management Committee and it shall not be kept locked for a continuous period.

b x x x x x x

c x x x x x x

d x x x x x x

e x x x x x x

f The Purchaser covenants that the open space and circulation areas will not be used for storage or exclusive use except the legitimate access purposes and also covenants that he will not throw or dump garbage on either the shopping streets or on the service streets except in the place set apart for dumping of garbage within his shop.

SCHEDULE - B

(THE PROPERTY HEREBY CONVEYED)

The Shop No.T/A-18 of Fruit in Koyambedu Wholesale Market Complex-Perishable market known as Anna Fruit Market comprising in T.S.No.2 Part, Block No.65 of Koyambedu Village within the limits of Egmore-Nungambakkam Taluk, Sub-Registration District of Anna Nagar and Registration Bounded on the:

North by	:	Toilet
South by	:	Shop No.T/A-16
East by	:	Shopping Street
West by	:	Service Street

admeasuring 342,72 sq. ft. of land and 293.57 sq. ft. of building marked in red in the plan annexed.

SCHEDULE C

Restrictions imposed in respect of the shop:

2 Not to permit to be done in the shop any act or thing which may render void or voidable any policy of insurance on any shop or in part of the building or may cause and increased premium to be payable in respect thereof.

3 Not to throw dirt, rubbish, rags or other objectionable things or permit the same to be thrown into the baths, lavatories cisterns or waste to soil pipes in the shop or in the common areas such as shopping street, service lanes, loading and unloading areas, parking, etc.

6 The vacant land around the complex in which the shop mentioned hereunder in the Schedule A shall be held in common by the owners of all the shop in the said complex and the purchaser herein shall not be entitled to convert the said common land for his personal or exclusive use.

7. No garbage/waste liquid should be thrown on the streets and the Shop should be kept clean and tidy.

SCHEDULE D

Easements, Rights and Privileges include in the transfer:

1 Full right and liberty for the Purchaser and all persons authorised by the Purchaser (in common with all other persons entitled to the like right) at all times by day or by night and for all purposes to go, pass and repass over and along the forecourt shown in the plan annexed hereto through and along the main entrances of the complex and the passages, leading to the shop.

16 The petitioner association had come forward earlier also in W.P. No.3943 of 2001, which was disposed of on 19.08.2008 on the basis of the statement made by the first respondent therein that unauthorised hawkers could not be permitted to vend their products within the Koyambedu market area. However, the said writ petition was disposed of reserving liberty to the petitioner association to challenge any such decision taken by the respondent to allot the common area to the retail vendors in future.

17 On the request of the learned counsel appearing for the parties, this Court, by order dated 05.03.2015, appointed a 2-member Committee comprising an advocate and a technical person, to have spot inspection of Koyambedu market and submit a report in respect of the allegation of encroachment and other related issues. Both the Commissioners have submitted separate reports.

18 The Advocate Commissioner has submitted his report dated 24th March 2015 as under:

"8. In conclusion, it is submitted that while the establishment of shops on the platforms may not directly affect the ingress and egress to the petitioners' shops and the inflow and outflow of air and light to the petitioners'

shops, the issue of congestion in the wholesale fruit market remains a matter of concern. This is primarily so because the allocation would lead to the effective conversions of what were previously service roads into purely shopping roads, coupled with the existing encroachments in the market. Needless to say, the respondent CMDA is well within its authority to make such a conversion. However, in my considered opinion, the issue of the encroachments (whether by the petitioners' shops or by third parties) ought to be effectively addressed at first. If such encroachments are cleared, the respondent CMDA might be within its authority in arguing that the platform shops will not in and by themselves lead to greater congestion. This Hon'ble Court will therefore have to weight the respondent's argument that the allocation of the platform shops lead to a more organised market with the larger question of the steps that require to be taken in order to reduce the congestion in the market in deciding the present lis."

19 The other member, who happens to be the Chief Planner of the respondent authority, had taken a different view and her report dated 24th March 2015, is as under:

"The following are the observations arising out of the site inspection:

(i)

a) With regard to availability of space for air and light, it was observed that the platform shops do not obstruct, in any way, the passage of air and light to the regular allotted fruit shops, as these platform shops are located behind the side wall of the regular allotted fruit shops. The side wall is a blank wall that stretches from the floor to the ceiling with no opening into these regular allotted fruit shops.

b) With regard to ingress and egress of persons, it was observed that the entrance to the regular allotted fruit shops was onto the shopping street and entrance to the platform shops was onto the service street. Therefore, the ingress and egress of persons into the regular allotted fruit shops are not hindered.

(ii) With regard to avoiding congestion, it may be pointed out that some amount of congestion was observed, due to the encroachments onto the shopping street and service street by the regular allotted fruit shop traders and the platform shop vendors respectively, by way of stacking of goods onto the streets.

(iii) With regard to other incidental and relevant information, I wish to submit that the regular allotted fruit shops vary in size from 150 sq. ft. to 2400 sq. ft. and the size of the platform shops vary from 20 ft. to 38 sq. ft. The platform shops have been proposed by CMDA in the vacant spaces, to prevent any form of unauthorised encroachments. These platform shops do not have any form of superstructure. They are demarcated by painted lines and numbers. The CMDA has demarcated 156 such platform shops in the fruit market, of which 97 shop spaces have been issued letters of intimation for allotment, but further procedures stopped and 59 shop spaces are yet to be allotted. However, most of these platform shops are occupied and business is being conducted by unknown persons. The inspection sketch is enclosed as Annexe I for reference."

20 A Full Bench of this Court in Tamil Nadu Housing Board, represented by its Managing Director, Anna Salai, Nandanam, Chennai 600 035 vs. Mary Rani Immanuel and Others¹, cited by the learned counsel for the petitioners, was examining the issue as to whether No Objection Certificate has to be obtained from the Tamil Nadu Housing Board before demolition of existing flats and reconstruction of a new one. The Tamil Nadu Housing Board, after constructing the flats, sold the same to the allottees. Allotment and other conditions of all the flats were governed by the Tamil Nadu Apartment Ownership Act, 1994, wherein, Section 6 contemplates that each apartment owner is entitled to undivided interest in the common area and facilities. Rule 17 of the Tamil Nadu Apartment Ownership Rules, 1997, provided that undivided interest in the general and / or restricted common areas and facilities shall not be separated from the apartment to which it appertains and shall be deemed conveyed or encumbered with the apartment, even though such interest is not expressly mentioned or described in the conveyance or other instrument. In such facts, it was held by the Full Bench as under:

"15. Thus, the reading of the various provisions of the Tamil Nadu Apartment Ownership Act, 1994, the covenants in the sale deed executed by the Tamil Nadu Housing Board in favour of the allottees will amply establish that the Tamil Nadu Housing Board having not retained any right over the land appurtenant to the flats or common area, the question of obtaining "No Objection Certificate" from the Tamil Nadu Housing Board will not arise. In such circumstances, the allottees of the flats, after execution of the sale deed in their favour have got every right to demolish the existing building and construct new apartment blocks. Even if additional dwelling units are constructed and sold to the third parties, the Tamil Nadu Housing Board

1 2013 (3) CTC 129

cannot lay any claim over such additional construction. As long as the construction are within the parameters of the Rules of the CMDA, in our considered view, the Tamil Nadu Housing Board have got not say, even if additional dwelling units are constructed after demolishing the existing flats.

x x x x x x x x x x"

21 The facts in the case on hand are entirely different. The construction and transfer of the shops in question are not governed under any statutory prescription. In the instant case, the transfer, assignment, conveyance, including nature of trading activities are governed by the terms and conditions of the deed of lease-cum-sale agreement read with sale agreement. As held in the preceding paragraphs, the entire complex was constructed on the basis of costs and expenses contributed by the allottees. The allotments were contemplated to be made on the basis of individual applications. The deed of lease-cum-sale agreement under caption "Allotment of shop" clearly conveyed the intention to the effect that the ownership of common area such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. which is not specified in Schedule B shall be vested with the respondent-authority, which was further clarified that the lessee has no right, either jointly or severally, to claim any part or portion of the market area, except the specified shop mentioned therein. This deed culminated into execution of the sale deed, which again prescribes for sale and purchase of the concerned shop to an area specified in Schedule B. There is no clause which prescribes for sale and transfer of ownership in respect of common area, except the enjoyment of the same, jointly and in common interest. Even Clause 8 which has been relied on by the learned counsel for the petitioners prescribes for absolute sale of the schedule mentioned property. The other easements, rights in common and privileges were conveyed, granted transferred and assigned for the use of purchaser absolutely, free from all encumbrances, with the condition that the same shall not be used for storage therein or dumping garbage, except for the legitimate access purposes. Under Clause 11, it was clearly prescribed that the purchaser has no right to change the trade activity, other than the permissible trade by Market Management Committee.

22 Thus, by no stretch of imagination, it can be held that the common areas such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. have been conveyed, transferred or sold under the joint ownership of the allottees/purchasers to deal with the same as they desire. Since there was no clear prescription in the individual sale deed, Clause 10(b) of the deed of lease-cum-sale agreement shall form part of the sale deed and the said clause clearly provides that the aforestated common area shall be vested with the respondent-authority, without conferring any right on the lessees/purchasers, jointly or severally, to claim any part or portion of the said area, except the specified shop mentioned in Schedule B.

23 For the reasons mentioned hereinabove, we have no hesitation to hold that the allottees/purchasers have merely the right to enjoy the common areas such as roads, pathway, passage, corridors, verandah, parking, drainage, water course, etc. and cannot claim ownership of the same.

24 However, we make it clear that if the respondent-authority decides to allot platform shops, the terms and conditions of the Act, 1996 have to be strictly adhered to, as the area is declared as a wholesale market area in respect of congestion in the area.

25 Before parting with the matter, we would like to place on record that the Court Commissioner has submitted a fair report clearly observing that there is no obstruction to the ingress and egress to the petitioners' shops and the also, inflow and outflow of air and light to their shops is not affected. However, there is the problem of congestion, which ought to be effectively addressed at first. There is no dispute that on inspection, it was found that there were several encroachments and the common space was also used by the allottees for keeping their goods. It is also not in dispute that the allocation of platform on the service road to new shops may add to the congestion in the already heavily choked and clogged wholesale shopping complex. Though the said platforms were not used as service roads, the service road is left intact for loading and unloading of goods by the shop owners and for garbage vans and other such services. Some small kiosks were already found located on the service road. But, service road is not available for being converted into shopping lanes, as there are already several encroachers. The other Technical Member has submitted the separate report in tune with the official stand of the respondent-authority.

26 Noticing the said report and also certain photographs produced before us, it is evident that the area in question is clogged and there is severe congestion in the area. This congestion was on account of the alleged encroachers on the service road also. No doubt, the platform is not a part of service road and also, the ownership and title do not vest with the allottees or the purchasers. However, it is for the authority to ensure that the market complex is neat and clean with clear service road, wherein, the movement of people and vans is easily possible. Even if allotments are made on the platform shops, they should be strictly regulated in such a way that they do not spread their trading activity outside the allotted area. The original allottees/vendors be also directed to conform to the terms and conditions and not to create any congestion in the open space available for the benefit of all, by dumping their goods outside the allotted area.

27 Mr. Suhrit Parthasarathy, learned counsel, was appointed as a member of the Committee of Advocates on 5th March 2015. Initially, a payment of a sum of Rs.15,000/- on account towards expenses was directed to be paid. We further direct the respondent-authority to

pay additionally, a sum of Rs.15,000/- towards honorarium and expenses. The other member, being an officer of the respondent-authority, is not entitled to honorarium.

28 With the aforesaid observations, the writ petitions stand dismissed. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore
Chennai 600 008.

2. Mr.Suhrith Parthasarathy, Advocate, No.39,
Law Chambers, High Court, Chennai. (M. 8939717592)

+ 2 ccs to Mr.N. Sampath, Advocate Sr.38484, 38483
+ 1 cc to Mr.S. Thankaasivan, Advocate SR.38574
+ 1 cc to Mr.P. Vijayaraghavann, Advocate Sr.38991

W.P. Nos.28520 and 28521 of 2011

TEJ(CO)
Eu 26.08.15

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