

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.8661 of 2012; 5476; 5477 of 2013; 27989 of 2011; 8923 of 2013; 17337 of 2014; 18564 of 2011 and 18605 of 2015 and M.P.Nos.1 of 2011; 1 of 2012; 1 of 2013; 1 of 2014;

1 of 2015

and

W.A.Nos.2864 of 2012; 113 of 2013; 669, 670 of 2015 and M.P.Nos.1 of 2012; 1 of 2013; 1 of 2015

Eyeball Media Pvt. Ltd.,
Rep. by Mr.N.R. Shailender
General Manager
30, Sburamanian Street,
Abhiramapuram, Chennai 600 018.

..Petitioner in WP.8661/12
& WP.5476/13

M/s. Prakash Arts,
Rep. by its Manager M.Yogan,
Real Towers No.2, 2nd Floor,
No.51/52, Royapettah High Road,
Chennai - 600 004.

.. Petitioner in WP 5477/13

M/s. Sri Ragavendra Ad Lab,
Rep. by its Proprietor,
22/28, Ammaiappan Lane,
Royapettah, Chennai - 600 014.

.. Petitioner WP 27989/11

M/s. Green Tails Outdoors,
Rep. by its Proprietor,
Matheen Saleem,
S/o. Mohammed Saleem,
W 115 A, Anna Nagar,
Chennai - 40.

.. Petitioner in W.P.8923/13

M/s.ARTEC Advertising,
Rep by its Partner,
P.B.Abdul Rahman,
S/o.P.S.M.Bukhari,
2nd Level,
Rasheed Building,
622 Anna Salai, Thousand Lights,
Chennai 6.

...Petitioner in W.P.No.17337 of 2014

PARK & GLOW MEDIA,
REP. BY ITS PROPRIETOR,
MR.R.RAVI,
R-1 SIXTH AVENUE,
ANNA NAGAR,
CHENNAI-40.

...Petitioner in W.P.No.18564 of 2011

M/s.BASS ADS
Rep.by its Proprietrix,
B.Mangayarkarasi,
W/o.Late V.Baskaran,
No.8/109, Kavimani Road,
Mogappair West,
Chennai - 600 037.

... Petitioner in WP.18605/15

M/s.Prakash Arts,
Rep.by its Branch Manager M.Yogan,
Real Towers No.2, 2nd Floor,
No.51/52, Royapettah High Road,
Chennai - 600 004.

... Appellant in WA.2864/12

M/s.Sri Ragavendra Ad Lab
Rep by its Proprietor,
22/28, Ammalyappan Lane,
Royapettah, Chennai 600 014.

...Appellant/Petitioner in W.A.113/13

M/s.Bass
Rep by its Proprietor B.Mangayarkarasi,
No.8/109 Kavimani Road,
Mogappair West,
Chennai - 600 037.

...Appellant/Petitioner in W.A.No.669/13 & 670/13

Vs

1.The Senior Divisional
Commercial Manager, Southern Railway,
Divisional Commercial Manager's office
Chennai-3

...R1 WP.No.8661/12,27989/11,
8923/13, 17337/14,18564/11/18605/15
R2 WP.Nos.5476/13, 5477/13
1st Respondent in WA.2864/12,113/13
669 & 670/15

2.The Commissioner
Corporation of Chennai
Ripon Building Chennai-3

...R2 in WP.8661/12,27989/11
8923/13,17337/14 18564/11
& 18605/15, R3-in
W.P.Nos.5476/13
R5-5477/13
2nd Respondent WA 2864/12
113/13, 669 & 670/13

- 3.The Managing Director
TamilNadu Road Development Company Ltd,
Panthon Road
Egmore, Chennai-8 ...R3 in WP.8661/12
- 4.The Assistant Executive Engineer
Corporation of Chennai Unit
Chennai ...R4 in WP.NO.8661/12
- 5.The Inspector of Police
Tharamani Police Station,
Chennai ...R5 in WP.No.8661/12
- 6.The Union of India
Owning Southern Railway
Chennai-600 003 ...R1 in WP.5476/13,5477/13
- 7.The Senior Divisional Commercial
Manager, Southern Railway
Salem Division ...R3 in WP.5477/13
- 8.The Senior Divisional Commercial
Manager, Southern Railway,
Trichy, Divisional Trichy ...R4 in WP.5477/13
- 9.The Commissioner
Corporation of Trichy
Trichy ...R7 in WP 5477/13
- 10.The Collector
Coimbatore District
Coimbatore ...R9 in WP.5477/13
- 11.The District Collector
Chennai District Chennai ...R4 in WP.5476/13
R8 in WP.5477/13
R4 in WA.2864/12
- 12.The Commissioner
Corporation of Coimbatore
Coimbatore ...R6 in WP.5477/13
- 13.The Collector
Trichy District, Trichy ...R10 in WP.5477/13
- 14.The Zonal officer
Corporation of Chennai Zone VII
Lake Area, Nungambakkam,
Chennai-37 ...R3 in WP.18564/11

15.The Zonal Officer
Corporation of Chennai,Zone III
71, Dr.Ambedkar College Road,
Perambur Barracks,
Chennai-12

...R4 in WP.18564/11

16.M/S.IT Express way Limited
Rep.by its Managing Director
Sindur Pantheon Plaza
2nd Floor No.346 Pantheon Road
Egmore, Chennai-8

....R3 in WA.2864/12

These Writ Petitions filed under Article 226 Constitution of India Pleased to issue a Writ, order or direction in the nature of WRIT OF MANDAMUS;

W.P.No.8661 of 2012: Forbearing the respondents 2 to 5 from in any way interfering with the Petitioner's right to carry on business by keeping display Non-lit boards at Thiruvannamiyur Railway station in terms of the license granted by the 1st respondent.

WP.No.5476 of 2013: Directing the respondents 3 & 4 not to interfere with the display boards erected by the petitioner in the property owned and licensed by the 2nd respondent the details of which are given in the schedule to the petition.

WP No.5477/13: Directing the respondent 5 to 10 not to interfere with the display boards erected by the petitioner in the property owned and licensed by the respondents 2 to 4, the details of which are given in the schedule to the petition.

WP No.27789/11: Forbearing the 2nd respondent its officers, subordinates or any one acting under or through him from in anyway interfering with the petitioner's right to carry on its business by keeping the display boards in the places allotted by 1st respondent at 1) Near New Secretariat, ii) On Trestle near New Secretariat, iii) Near PH Road, Officer Quarters, iv) Near Public Toilet, V) Near Veeran Allagu Muthu Statue, vi) Gandhi Irwin Road Near Railway Quarters, the places allotted by 1st respondent under valid licence issued by the 1st respondent.

W.P.8923/13: Forbearing the Respondents, their officers, subordinates or any one acting through them or under them from in any manner interfering with the petitioner's right to carry on its business by keeping the display boards in the places allotted by the 1st Respondent appended to the petition.

W.P.No.17337 of 2014: Forbearing the respondents, their officers, subordinates or any one acting through them or under them from in any manner interfering with the petitioners right to carry on its business by keeping the display boards in the places allotted by the 1st respondent appended to the petition.

W.P.No.18564 of 2011: Forbearing the respondents 2 to 4 from in any way interfering with the Petitioner's rights to carry on business by keeping display boards in the following places 1) Chennai Central Railway Station (Near Pre-paid taxi Booth Facing the concourse Area) 2) Chennai Central Railway Station (Above Shelter roof Near Pre-Paid Auto Facing Taxi Parking) 3) Central Railway Station MMC Complex Outside (In Front of MMC building Facing Car Park) 4) Central Railway-Moore market-MMC outside (Inside Car Park compound Opposite to SBI ATM) 5) Egmore Railway Station (Unipole Left side at the Entrance to the parcel office from Gandhi Irwin Road - Display facing Station Building) 6) Egmore Railway Station - Near VIP Car Parking in terms of the licence granted by the 1st respondent.

WP.18605 of 2015: Forbearing the Respondents, their Officers, Subordinates or any one acting through them or under them from in any manner interfering with the Petitioner's right to carry on its business by keeping the display boards in the places allotted by the 1st Respondent appended to the petition.

WA.2864 of 2012 against WP.7322 of 2012: This Writ Appeal filed under Clause 15 of the Letter Patent against the order made in W.P.No.7322 of 2012, dated 04.12.2012, directing the 2nd Respondent not to interfere with the display boards erected by the petitioner in the property owned and licensed by the 1st Respondent the details of which are given in the schedule to the petition.

WA.113 of 2013 against W.P.3165/2012: This writ appeal filed under Clause 15 of letters patent against the order made in W.P.No 3165/2012 dated 04.12.2012, forbearing the 2nd respondent its officers subordinates or any one acting under or through him from in anyway interfering with the petitioner right to carry on its business by keeping the display boards in the places allotted by 1st respondent at i) Two Display Boards Both sides of LB Road ii) One Board at the Junction near Station Building at Thiruvanniyur iii) Four boards at Padi Railway Station facing G.N.T. Road issued by the 1st respondent.

W.A.669/2015 against W.P.13849 of 2012: This writ appeal filed under Clause 15 letters patent against the order made in W.P.No 13849/12 dated 04.12.2012, forbearing the 2nd respondent its officers subordinates or any one acting under or through him from in anyway interfering with the petitioners right to carry on its business by keeping the display boards/Vinyl Stickers in the places allotted by the 1st respondent (i) Thiruvanniyur Station facing West Avenue Road (ii) Near Indra Nagar Station Building facing KTBR Railway Station (iii) Between KTBR & INDR Stations facing KTBR between Pillar Nos.486-487 under valid licence issued by the 1st respondent.

W.A.670 of 2013 against W.P.2720 of 2012: This writ appeal filed under Clause 15 of letters patent against the order made in W.P.No 2720 of 2012 dated 04.12.2012, forbearing the 2nd respondents its officers subordinates or any one acting under or through him from in anyway interfering with the petitioners right to carry on its business by keeping the display boards/Vinyl stickers in the places allotted by the 1st respondent i) Glow sign boards between Thiruvanmiyur Tharamani between Pillars 602 603 facing SRP tools ii) Near Thiruvanmiyur Pillar No.569 facing Tidel Park iii) Near Thiruvanmiyur facing SRP tools near Pillar No.570 iv) Near Pillar No.569 facing Kasturibai Station side v) Near Pillar No.467 facing Guindy side and vi) Vinyl sticker Near Thiruvanmiyur Near Pillar No.569 facing Tidel Park under valid licence issued by the 1st respondent.

For Petitioner : Mr.K.Bhawatharini
in W.P.8661/2012

For Petitioners in
W.P.5476&5477/2013 : M/s.B.S.G.Firm
and Appellant in
W.A.2864/2012

For Petitioners in : Mr.S.Rajendra Kumar
W.P.27989/2011;8923/
2013; 17337/2014 &
Appellant in W.A.Nos.
669, 670/2015 &
113/2013

For Petitioner in : Mr.V.Manohar
W.P.18564/2011

For Petitioner in : Mr.S.K.P.Dilip Babu
W.P.18605/2015

For Respondent No.1: Mr.P.T.Ramkumar
in W.P.Nos.8661/2012;
27989 of 2011; 8923/
2013; 17337 of 2014;
18564 of 2011 and 18605
of 2015 and
W.A.Nos.2864 of 2012;
113 of 2013; 669, 670 of 2015
Respondent No.2 in
W.P.5476/2013 &
Respondent Nos.1 to 4
in W.P.5477/2013

For Respondent No.2 : Mr.K.Soundararajan
in W.P.No.8661/2012;
W.A.Nos.669 & 670/2015
Respondents in

W.P.No.18564/2011
Respondent No.3 in
W.P.5476/2013;
Respondent No.5 in
W.P.5477/2013

For Respondent No.2 : Mr.P.H.Arvinth Pandian
in W.A.Nos.2864/2012 Addl. Advocate General
W.P.Nos.17337/2014 assisted by
18605/15; 27989/2011; Mr.K.Soundarajan
8923/2013 & W.A.No.113/2013

For Respondent No.4 : Mr.P.H.Arvinth Pandian
in W.P.5476/2013 Addl. Advocate General
& Respondent Nos.6 assisted by
to 10 in W.P.5477/2013 Mr.STS.Moorthy
Govt. Pleader &
Mr.V.R.Kamalanathan
Addl. Government Pleader

For Respondent No.3 : Mr.S.Siva Varathanan
in W.P.No.8661/2012;
W.A.No.2864/2012

For Respondent No.5 : Mr.STS.Moorthy
in W.P.No.8661/2012 Government Pleader
assisted by
Mr.V.R.Kamalathan
Addl. Government Pleader

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The common question which arises for consideration in these matters is whether the permission to display advertisements on railway properties with permission of the railways would suffice or whether the permission is also required from the Municipal Corporation/District Collector (whoever is the authority concerned).

2. It is pointed out that the issue is no more res integra, in view of the judgment of the Division Bench of this Court in W.P.No.16751 of 2000 (Union of India, owning Southern Railway, rep. by its General Manager, Southern Railway, Chennai-3 v. Govt. of Tamil Nadu, rep. by its Secretary, Municipal Administration and Water Supplies Department, Chennai-9 and 3 others), decided on 23.03.2001 where the lone contention made by the Southern Railway pleading non-requirement of such permission from the Corporation has been repelled. It was also pointed out by the learned Additional Advocate General that even the Format of the Southern Railways as

well as the Permission Order for display of advertisements at Railway premises granting such permission, the relevant Clauses makes it abundantly clear. The relevant Clauses in Format M/C 37 136112 dated 10.02.2012 have been reproduced herein as under:-

"16.It shall be your responsibility to obtain Permission/Permit/Licence from the Municipal Corporation or any other Government or Local departments for display, if and as and when required, so as not to contravene any rule or law of the land.

17.You shall pay the municipal corporation or any to any other Government or Local Departments concerned requisite licence fees and corporation taxes or/and other local tax, advertisement tax or any other taxes/fees etc. directly where levied or become leviable on any or all advertisements. The Railway administration will not be liable for payment of any sum or reimburse any payment made in this behalf by the contractor.

Clause 13 of the Permission Order for display of Advertisements at Railway premises has also been reproduced hereunder:-

"13.It shall be your responsibility to obtain permission licence from the Municipal/Corporation or any other Government or local authorities for display, if and as and when required, so as not to contravene any rule or law of the land."

In Clause 14 of the Permission Order for display of Advertisements at Railway Premises, it has been inter alia provided as under:-

"Advertiser should obtain Permission from the Corporation for Road Facing Sites."

3. In view of the aforesaid position, these writ petitions and the writ appeals have to be necessarily dismissed, but since the petitioners have been enjoying the interim orders, the same would continue to enure for the benefit of the petitioners for some time to facilitate them to obtain permission from the Corporation/District Collector (whoever is the authority concerned), if such permission in the given facts is entitled in law. Since this should not be an endless exercise, any such application would be required to be made by the petitioners within fifteen days from today and the Corporation/District Collector (whoever is the authority concerned) will dispose of the application within a period of thirty days thereafter. Unless the permission is granted, the interim orders shall stand extinguished and if the permission is so granted, naturally, it will be governed by the terms and conditions of the permission.

4. The writ petitions and the writ appeals, accordingly, stand disposed of. No costs. Consequently, all connected miscellaneous applications are closed.

5. As pointed out by the learned counsel for the Southern Railway, there are other writ petitions pending. Those writ petitions be also listed before this Bench on 18.08.2015.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr

To

- 1.The Senior Divisional Commercial Manager,
Southern Railway,
Divisional Commercial Manager's Office,
Chennai-600 003.
- 2.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.
- 3.The Managing Director,
Tamil Nadu Road Development Company Ltd.,
Pantheon Road, Egmore,
Chennai-600 008.
- 4.The Assistant Executive Engineer,
Corporation of Chennai, Unit
Chennai-3.
- 5.The Inspector of Police,
Tharamani Police Station,
Chennai.
- 6.The Union of India
Owning Southern Railway
Chennai-600 003
- 7.The Senior Divisional Commercial
Manager, Southern Railway
Salem Division.
- 8.The Senior Divisional Commercial
Manager, Southern Railway,
Trichy, Divisional Trichy

- 9.The Commissioner
Corporation of Trichy,Trichy
- 10.The Collector
Coimbatore District, Coimbatore
- 11.The District Collector
Chennai District Chennai
- 12.The Commissioner
Corporation of Coimbatore
Coimbatore.
- 13.The Collector
Trichy District, Trichy
- 14.The Zonal officer
Corporation of Chennai Zone VII
Lake Area, Nungambakkam, Chennai-37
- 15.The Zonal Officer
Corporation of Chennai,Zone III
71, Dr.Ambedkar College Road,
Perambur Barracks,
Chennai-12.
- 16.M/S.IT Express way Limited
Rep.by its Managing Director
Sindur Pantheon Plaza
2nd Floor No.346 Pantheon Road
Egmore, Chennai-8.

- + 4 ccs to Mr.S. Rajendra Kumar, Advocate Sr.42145 & 42146
+ 3 ccs to M/s. B.S.G. firm Advocate Sr.42124 to 42126
+ 1 cc to Mr.M. Siva Varthanan, Advocate Sr.42193
+ 1 cc to P.T.Ramkumar, Advocate Sr.42182
+ 1 cc to Mr.L.G. Sahadevan, Advocate SR.41852

W.P.Nos.8661 of 2012; 5476; 5477 of
2013; 27989 of 2011; 8923 of 2013;
17337 of 2014; 18564 of 2011 and
18605 of 2015 and W.A.Nos.2864 of
2012; 113 of 2013; 669, 670 of 2015

RJ(CO)
eu, aa, kra, psi, ca, pmk.