

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.12.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.Nos.26985 to 26987 of 2015 & 27145 to 27147 of 2015 &
MP. Nos.1& 2 of 2015(7 Mps)

S.Ravikumar ... Petitioner in WP.No.26985 of 2015
A.Suresh ... Petitioner in WP.No.26986 of 2015
B.Venketaraman ... Petitioner in WP.No.26987 of 2015
R.C.Balaji Raja ... Petitioner in WP.No.27145 of 2015
R.Sampath ... Petitioner in WP.No.27146 of 2015
J.Subathra ... Petitioner in WP.No.27147 of 2015

Versus

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

2.The Zonal Officer,
Zone-15, Corporation of Chennai,
No.120, Rajiv Gandhi Salai,
Sholinganallur,
Chennai-600 119.

... Respondents in all WPs.

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus, calling for the records relating to the second respondent's proceedings in Ma.A.15.Va.Thu.Na.Ka.No. / R1/809/2015 dated 18.08.2015, quashing the same, directing the respondents herein to allow the petitioners to continue to run their shops in its current premises(in all WPs).

For Petitioners (in all WPs) : K.Elango

For Respondents : Mr.P.H.Aravindh Pandian, AAG,
assisted by MR.P.V.Selvakumar.

C O M M O N O R D E R

By consent of the learned counsel on either side, the writ petitions are taken up for final disposal and perused the materials placed on record.

2. Heard Mr.K.Elango, learned counsel appearing for the petitioners and Mr.P.H.Aravindh Pandian, learned Additional Advocate General, assisted by Mr.P.V.Selvakumar, appearing on behalf of the respondents.

3. In all these writ petitions, the petitioners were permitted to occupy certain shops by Neelankarai Panchayat. The petitioners would state that they have been paying rents regularly to the Panchayat and the rents were also increased periodically @ 15% p.a. Though the petitioners were not granted any letters of allotment or any lease deed was executed by the Panchayat, the learned counsel for the petitioners has drawn attention of this Court to the order passed by this Court in W.P.No.25250 of 2004 dated 14.09.2004. The petitioner in the said writ petition is the petitioner in W.P.No.26985 of 2015. Admittedly, the petitioners have been in occupation for several years and as on date, the petitioners would not be justified in stating that they should be permitted to continue in occupation nor could they rely upon in the Government order for extension of lease, when admittedly, there is no document produced to establish that there was a lease between the petitioners and the Panchayat.

4. However, the fact remains that the petitioners have been remitting rents to the Panchayat. After the Panchayat area was annexed to the Corporation of Chennai, they have initiated action against the petitioners by issuing a notice dated 19.03.2015. The petitioners challenged the said notice by filing W.P.Nos.11457, 11496 to 11500 of 2015, which were partly allowed by this Court by an order dated 21.04.2015. The directions issued by this Court in the said writ petitions is to the following effect:

"13. In the result, the writ petitions are partly allowed and the impugned orders dated 19.03.2015, passed by the second respondent, are set aside and the matter is once again remanded to the second respondent. The writ petitioners are at liberty to submit their individual representations to the second respondent within a period of two weeks from the date of receipt of a copy of this order and the second respondent, on receipt of the same, is directed to consider

and dispose it of in accordance with the Rules and Regulations/Norms and dispose it of in accordance with the Rules and Regulations/Norms, within a period of four weeks thereafter and till such time, status quo, as exists today, shall be maintained by both the parties. No. Costs. Consequently, connected miscellaneous petitioners are closed''.

Pursuant thereto, the petitioners have submitted representations, to which the second respondent had passed an order dated 18.08.2015, which are impugned in these writ petitions.

5. On a perusal of the impugned orders, it is seen that, two reasons have been assigned by the respondents while calling upon the petitioners' to vacate and handed over the vacant possession of the premises. Firstly, there is a proposal to demolish the existing shops, which are said to be in dilapidated condition and there is a proposal to construct a Corporation Council Office to facilitate in rendering service to the local public.

6. This objective of the respondent Corporation cannot be resisted by the petitioners nor could be interdicted by this Court, more particularly, when there is no established plea of malafide. Therefore, essentially, the petitioners have to comply with the impugned orders and vacate and handed over the vacant possession of the premises.

7. When this Court expressed the above at the time of hearing of the writ petitions on 15.12.2015, the learned counsel for the petitioners sought for adjournment to get instructions in the matter. Accordingly, the case has been posted today before the Court and the petitioners have filed affidavits before this Court undertaking to vacate the premises on or before 31.05.2016. The petitioners would make a further request to the respondents to inform them whenever auction/ tender is issued for letting out any shop in Zone 15 and in case the second respondent constructs a commercial complex in the same premises, preference may be given to the petitioners.

8. So far as the time sought for by the petitioners to vacate the premises, the learned counsel for the respondent Corporation on the instructions submitted that they may be granted two months time to vacate the premises, since action has to be initiated to commence a new construction. Further, it is submitted that as on date, there is no proposal to construct any shop in that area or in respect of any other shopping

complex in that area, if there is any vacancy, the same will be informed by giving due publicity and the petitioners can participate in the auction/tender.

9. In the light of the undertaking affidavits filed by the petitioners, this Court of the view that ends of justice would be met, if the petitioners are granted time till 30.04.2016, to vacate and handed over the premises. Till such time, the petitioners are not entitled to make any structural alterations to the premises nor they should part possession or induct any third parties into the premises nor make any change of user or change of business activities in the premises. In other words, the status quo, which is prevailing today (17.12.2015) shall continue till 30.04.2016, on which date the petitioners shall handed over the vacant possession of the premises to the respondents without any resistance.

10. So far as the request made by the petitioners with regard to the auction/tender in respect of any other shops in Zone -15, if there is any such auction is to be conducted for the lease of shops in Zone-15, copy of any such notification may be sent to the petitioners for which purpose, the petitioners should furnish their residential addresses or any other place of business to the second respondent along with the copy of this order.

11. Thus, placing on record, the undertaking affidavits submitted by the petitioners, the petitioners are permitted to continue the occupation of the premises till 30.04.2016 and on such date, they will handed over the vacant possession of the premises to the second respondent without any resistance and during the period of occupation i.e. till 30.04.2016, the petitioners are not entitled to make any structural alteration in the premises nor they should part possession or induct any third parties into the premises nor make any change of using or change of business activities in the premises and the status quo prevailing as on today (17.12.2015) shall continue till 30.04.2016.

12. The writ petitions are disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

dn/rpa

To

1.The Commissioner,
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Rippon Building,
Chennai-600 003.

2.The Zonal Officer,
Zone-15, Corporation of Chennai,
No.120, Rajiv Gandhi Salai,
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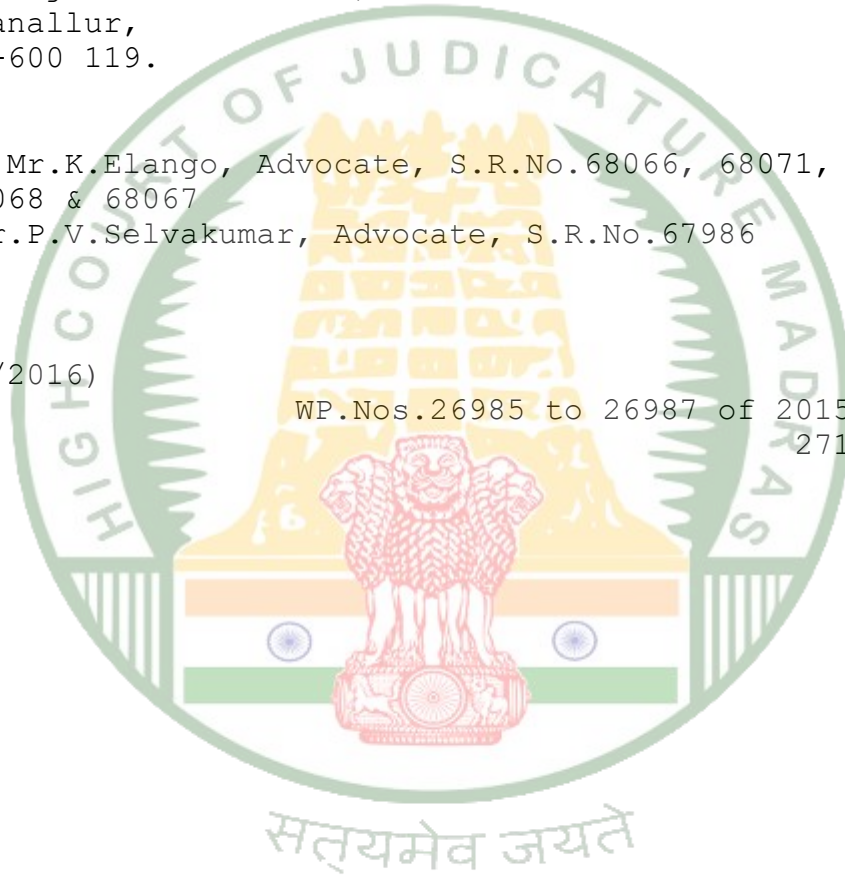
+6 ccs to Mr.K.Elango, Advocate, S.R.No.68066, 68071, 68070,
68069, 68068 & 68067

+1cc to Mr.P.V.Selvakumar, Advocate, S.R.No.67986

vd (CO)

kra(12/01/2016)

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