

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI  
and

THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No.29454 of 2014

and

M.P. No.1 of 2014

Allikulam Pazhiyaporul Sirukadai Vyabarikal Sangam

Regn.No.35/91

represented by its President

Old Moore Market

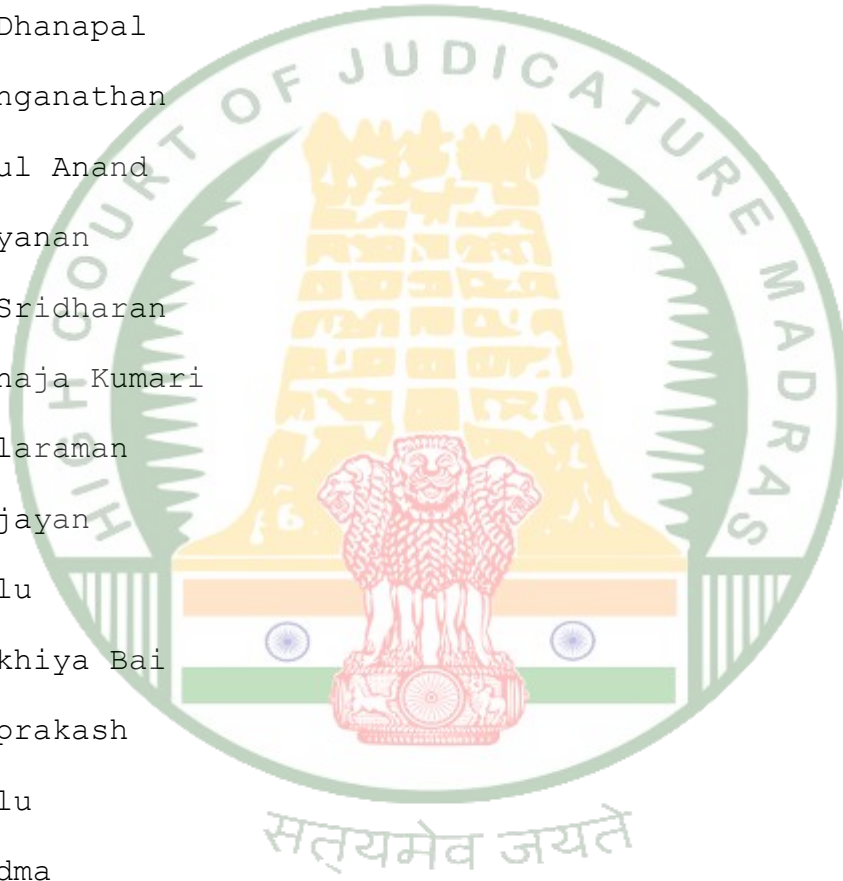
Chennai 600 003

....Petitioner

Vs.

- 1 The State of Tamil Nadu  
represented by the Secretary  
Department of Local Administration  
Fort St. George  
Chennai 600 009
- 2 The Commissioner  
Corporation of Chennai  
Chennai 600 003
- 3 The Chairman  
Hawking Zone Implementation Committee  
No.7/6, R.A. Puram  
III Cross Street  
R.A. Puram, Chennai 600 079
- 4 The Zonal Officer - 5  
Corporation of Chennai  
No.105, Basin Bridge Road  
Old Washermanpet  
Chennai 600 079

- 5 K. Balasubramanian
- 6 R. Palaniammal
- 7 S. Sandiyagu
- 8 N. Arjunan
- 9 Simson
- 10 M. Baskar
- 11 R.L. Dhanapal
- 12 S. Ranganathan
- 13 V. Amul Anand
- 14 A. Iyyanan
- 15 V.D. Sridharan
- 16 S. Vanaja Kumari
- 17 N. Balaraman
- 18 K. Vijayan
- 19 N. Velu
- 20 Z. Rukhiya Bai
- 21 V. Omprakash
- 22 S. Velu
- 23 V. Padma
- 24 K. Arokiadoss
- 25 B. Nagaraj
- 26 N. Arjunan
- 27 K. Purushothaman



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28 V. Harikrishnan

29 V. Saravanan

30 K.R. Mohan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records in connection with the proceedings of the third respondent bearing Ref.No.H.Z.I.C.C. No.134/2013 dated 27.10.2014 and the consequential proceedings of the 4<sup>th</sup> respondent bearing Ref.No. Z.O.V.C.No./11173/2014 dated 05.11.2014 and quash the same and further direct the respondents 2 and 4 to act only in accordance with the directions of the Hon'ble Supreme Court of India in the case of Maharashtra Ekta Hawkers' Union vs. Municipal Corporation, Greater Mumbai reported in 2014 (1) SCC 490.

For petitioner : Mr. V. Prakash, Senior Counsel  
for M/s. K. Sudalaikannu

For R1 : Mr. P.S. Sivashanmugasundaram  
Special Government Pleader

For RR 2 & 4 : Mr. G. Anantharangan,  
Standing Counsel

For R3 : Mr. Master Ganesh

For RR 5 to 30 : Mr. AR.L. Sundaresan,  
Sr. Counsel  
for M/s. AL. Ganthimathi

सतयमेव जयते  
O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

The instant writ petition seeks to challenge the proceedings dated 27 October 2014 issued by the third respondent and the consequential proceedings dated 05 November 2014 issued by the fourth respondent, whereunder, the members of the petitioner association have been directed to vacate the encroached places in Allikulam, near Southern Railway compound

wall of entrance gate, near Amman Temple, near entrance of Allikulam complex and other places.

2 The question as to whether the persons like the members of the petitioner association, who are stated to be vendors/hawkers engaged in street vending, as defined under Section 2(1) of the Act, are entitled to safeguard and protection, till the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, are implemented fully, came into consideration in B.Noor Ahmed and 48 others vs. State of Tamil Nadu represented by its Secretary, St. George Fort, Chennai - 9 and 3 others<sup>1</sup> and this Division Bench allowed the said batch of writ petitions vide order dated 30 September 2015, in the following terms:

"27 In such view of the matter, the State Government is directed to frame the rules and bye-laws, thereafter, at the earliest to extend sufficient protection, subject to regulations made therein, to all the street vendors/hawkers.

28 The vendors are protected under the statutory provision, viz, sub-section (3) of Section 3 of the Act and as such, till the Town Vending Committee is constituted under the provisions of the Act and a survey is made thereon, in accordance with the scheme, which is yet to be framed, the petitioners / the members of the petitioner associations, shall not be evicted from their place of business or trade.

29 We further direct that the petitioners/members of the petitioner associations shall not increase the size of their shops and spread the periphery of the same by littering goods and articles sold by them in the course of their trade/business.

The writ petitions are allowed to the extent indicated above. Costs made easy. Connected Miscellaneous Petitions are closed."

3 Since the members of the petitioner association are similarly-situated, they are entitled to the protection as laid down by this Court in B.Noor Ahmed<sup>1</sup>.

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<sup>1</sup> W.P. Nos.18397 of 2014 etc. batch

4 Insofar as respondents 5 to 30, their case is that they have been allotted the shops situated at the Victoria Hall Compound, which could not be occupied on account of possession of the same shops by the members of the petitioner association. They were having small vending shops in the Victoria Hall compound and carrying on their petty business. They were allotted alternative accommodation in old Moore Market, which is already in occupation by the members of the petitioner association. In view of the order passed by this Court on 30 September 2015 in B.Noor Ahmed<sup>1</sup>, the members of the petitioner association cannot be removed until the proper scheme, rules and bye-laws are framed under the Act. Ergo, the respondents 5 to 30 be permitted to make a representation to the Chennai Corporation and a direction may be issued to the Chennai Corporation to consider allotment of other place to the respondents 5 to 30, till a proper arrangement is made.

5 The learned Standing Counsel appearing for the Chennai Corporation submits that if a representation is made within a period of one week, the same shall be considered and the respondents 5 to 30 will be allotted a proper place, so that they can carry out their petty business, till the aforesaid order dated 30 September 2015 passed by this Court is complied with.

6 In view of the above submission of the learned Standing Counsel for the Chennai Corporation, the respondents 5 to 30 are at liberty to submit a fresh representation to the Chennai Corporation within a period of one week and on receipt of such representation from respondents 5 to 30, the Chennai Corporation shall consider the same and pass appropriate orders within a period of two weeks. It is made clear that if there are persons already occupying the shops, they should not be evicted or displaced.

7 This writ petition stands disposed of accordingly. Connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary  
State of Tamil Nadu  
Department of Local Administration  
Fort St. George  
Chennai 600 009
  - 2 The Commissioner  
Corporation of Chennai  
Chennai 600 003
  - 3 The Chairman  
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Corporation of Chennai  
No.105, Basin Bridge Road  
Old Washermanpet  
Chennai 600 079
- 1 CC to M/s. AL. Ganthimathi, Advocate SR.No. 54619
- 1 CC to K. Sudalaikannu, Advocate SR.No. 54666
- 1 CC to Mr.Ganesh, Advocate SR.No. 54680
- 1 CC to the Government Pleader, SR.No. 54637

सत्यमेव जयते

W.P. No.29454 of 2014

PSI (14.10.2015)

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