

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.32488 of 2015

and

M.P.No.1 of 2015

J.Suryakanth

...Petitioner

Vs.

Chennai Metropolitan Development Authority,
rep. by its Member Secretary,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondent to execute and register a Regular Sale Deed, conveying the allotted shop, Restaurant No.F/A/70 at Kamaraj Building, Flower Market, Koyambedu, Chennai - 600 092 in favour of the petitioner Mr.J.Suryakanth.

For Petitioner : Mr.G.Vijay Anand

For Respondent : Mr.K.Raja Srinivas
Standing Counsel for CMDA

ORDER

The petitioner has sought for the following relief:-

To issue a Writ, in the nature of Mandamus, directing the respondent to execute a sale Deed, thereby, conveying the allotted shop in favour of the petitioner.

2. Heard the learned counsels appearing for the petitioner.

3. The learned Standing Counsel for the respondent/Chennai Metropolitan Development Authority (CMDA) would submit that the shop was allotted to the petitioner, only to run a Restaurant, and therefore, the petitioner has to run only a Restaurant, and he cannot partly run a vegetable shop, and partly run a Restaurant. As long as the terms and conditions of the allotment are not altered, the petitioner is bound by the same, he should run the Shop, for the purpose, for which, it was allotted to him, and should not conduct any other trade to suit his own purpose. If the petitioner accept for the same, he is entitled to continue as an allottee. Otherwise, the allotment itself, is liable to be annulled. In the instant case, the petitioner is

stated to be a defaulter, and he has to pay a sum of Rs.34,50,100/- as on 30.11.2014. The learned counsel appearing for the petitioner submits that the petitioner has already paid the said amount, which aspect has to be verified by the respondent/CMDA. The learned Standing Counsel for the respondent/CMDA submits that, if the petitioner runs the Restaurant in the Shop allotted, and pays all the dues till date, then, the respondent/CMDA has no impediment, and will issue the deed of conveyance in favour of the petitioner.

4. In the light of the above, there will be a direction to the petitioner to approach the respondent/CMDA and pay the amount, due and payable by him as on date and give an undertaking that he will run only a Restaurant. Subject to the said terms, the respondent/CMDA shall consider and execute the deed of conveyance in favour of the petitioner. The direction issued herein shall be complied by the respondent/CMDA within a period of eight weeks from the date on which, the petitioner appears before the respondent, in terms of the abovesaid direction, and complies with the twin conditions.

5. In the result, the Writ Petition is disposed of. No costs.
Consequently, connected Miscellaneous Petition is closed.

03.03.2016

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Index : yes/no

To

Chennai Metropolitan Development Authority,
rep. by its Member Secretary,
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T.S.Sivagnanam, J.

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Writ Petition No.32488 of 2015

03.03.2016

W.M.P.No.3787 of 2016
in
W.P.No.32488 of 2015

T.S.Sivagnanam,J.,

This Miscellaneous Petition has been filed, seeking to set aside the order of dismissal passed by this Court, in the above Writ Petition, dated 22.12.2015.

Heard the learned counsel appearing for petitioner, and perused the affidavit, filed in support of this Petition, and having been satisfied with the reasons assigned thereunder, this Petition is allowed. Consequently, the order, dated 22.12.2015 is set aside and the Writ Petition is taken up for disposal today itself.

03.03.2016

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