

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-12-2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION No.34094 OF 2015

Koyambedu Malarmalai Viyabarigal matttrum
Thozhilalargal Nalla Munnetra Sangam,
(Registration No.63/2003)
represented by its President S.Kothandan,
FA-28, Kamarajar Malar Angadi, Koyambedu,
Chennai-600 092. Petitioner

-vs-

- 1.The Chairman, MMC, and,
The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Malligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 2.The Superintending Engineer-I,
Division-II, Construction Wing,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.The Chief Administrative Officer,
Market Management Committee,
Koyambedu Wholesale Market Complex,
Koyambedu, Chennai-600 092.

4.M.D.Arul Visvasam Respondents

R-4 is suo-motu impleaded as per order,
dated 29.10.2015, in M.P.No.2/2015.

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records on the file of the first respondent in C.R.No.024/2015, Resolution No.24, dated 24.07.2015, to quash the same, and direct the respondents to keep Gate No.20 on the Eastern side of the Koyambedu Flower Market Complex, open at all times, and to permit the ingress and egress of vehicles and people through the said Gate No.20.

For petitioner : Mr.V.Raghavachari

For respondents 1 & 2 : Mr.K.Raja Srinivas

For respondent 3 : Mr.M.Velmurugan

For respondent 4 : Mr.Stalin Abhimanyu

O R D E R

Heard Mr.V.Lakshminarayan, learned counsel appearing for Mr.V.Raghavachari, learned counsel on record for the petitioner; Mr.K.Raja Srinivas, learned counsel appearing for respondents 1 and 2; Mr.M.Velmurugan, learned counsel for respondent 3; and Mr.Stalin Abhimanyu, learned counsel for respondent 4.

2. The petitioner is an association, consisting of Members, who are dealing in wholesale flower business, and carrying on their business activities in the Koyambedu wholesale market, which is under the control of the respondent-CMDA.

3. The dispute in the present Writ Petition lies on a narrow campus. The petitioner is aggrieved by the resolution passed by the Market Management Committee, dated 24.07.2015.

4. On a perusal of the abovesaid resolution, it is seen that it pertains to the manner in which the gates in the market complex are to be kept open or closed. The grievance of the petitioner is, that in respect of Gate No.20, by the impugned resolution, the Committee took a decision to maintain 18 number of gates open, as originally designed, and not to allow any new gate in Flower Market, and to maintain Gate No.20 in locked condition, with a view to use on festival and special occasions only, after getting approval from the Chairman, MMC, and Member Secretary, CMDA.

5. Learned counsel for the petitioner raised various contentions referring to typed set of documents, more particularly, to the reply, dated 27.04.2015, secured by them, under the Right To Information Act, and submitted, that the impugned decision is contrary to the existing state of affairs and Gate No.20 is sought to be kept locked, so as to benefit certain private individuals, who are, in fact, members of the Market Management Committee. Though several allegations of mala fadies have been attributed as against members of the Committee before this Court during the course of argument, the parties concerned are not impleaded as respondents in the Writ Petition and, therefore, the same cannot be adjudicated.

6. Though adjournment was sought for on two earlier occasions at the instance of the third respondent for filing a counter affidavit, till-date, no counter affidavit has been filed, nor is there any counsel, appearing for third respondent. In any event, the market having been established

by CMDA to benefit the traders and consumers, and the management of the market is being regulated by a Market Management Committee, the decisions pertaining to opening and closing of the gates are essentially administrative decisions. Such decisions cannot be supervised by this Court, as if being an appellate body or a supervising authority over the Market Management Committee. If the members of the petitioner association have any grievance, then, they have to approach the authorities concerned, by way of a representation, and ventilate their grievances. This Court, exercising jurisdiction under Article 226 of the Constitution of India, will not convert itself into an appellate forum over the decisions of the Market Management Committee or that of CMDA, as those authorities have to regulate their affairs, by themselves. However, if there is any grievance by an individual trader or a group of traders, they have to work out their remedy before the competent authority, and a Writ Petition of this kind is thoroughly misconceived. In fact, an identical issue came up for consideration before this Court in W.P.No.7859 of 2015, and this Court, by an order, dated 19.03.2015, dismissed the said Writ Petition. The operative portion of the said order reads as follows :

"3. On notice, the learned standing counsel appearing for the respondents pointed out that gate No.20 was ordered to be closed for emergency purpose and with a view to use the same during festival season. An administrative decision was taken by the respondents to close gate No.20 and to use it as and when there arises a need for using the same. The petitioner association has no right to prevent the respondents, who are administrators of the wholesale market, to close the gate and that the gate is sought to be closed for a public purpose. In any event, closing gate No.20 will not prevent the access to the traders in the market as there are several other gates to be used for transportation of goods and commodities into the market.

4. Having regard to the above submission of the learned counsel for the respondents, when an administrative decision was taken to close the gate No.20 and to use it during emergency purpose or during the festival season, this Court finds no reason to interfere with such decision taken by the respondents. A discretion is vested with the respondents to administer the wholesale market and only in exercise of such discretionary remedy, the respondents have

decided to close gate No.20 and to use it as and when a need arises. In such circumstances, the relief sought for in this writ petition cannot be granted. The writ petition is dismissed."

7. The reasoning assigned in the above order is equally applicable to the instant case as well. Hence, the prayer sought for in this Writ Petition cannot be granted. However, this order will not prevent the petitioner from making a representation to the first respondent, and, if the same is made, it shall be considered by the first respondent in accordance with law, after notice to all concerned.

8. Writ Petition is dismissed. No costs. consequently, the connected M.P.Nos.1 and 2 are also dismissed, vacating the interim order granted.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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Koyambedu, Chennai-600 092.

+1 cc to M/s.K.Raja Shrinivas, Advocate, sr.66471

+1 cc to M/s.V.Raghavachari, Advocate, sr.66090

+1 cc to M/s.stalin Abbimanyu, Advocate, sr.66073

W.P.No.34094 OF 2015

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