

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.11768 OF 2016

Bagarsha Veedhi Vanigargal Nala Sangam

Rep. By its President K.Natarajan

S/o. R.Kothandapani

Having office at

No.29, Bagarsha Stree,

Villupuram Town and Taluk.

... Petitioner

Versus

The Commissioner

Villupuram Municipality

Villupuram.

.. Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondent to grant permission to erect the sunshades of the shops as detailed in annexure relating to the members of the petitioner association based on their representation dated 26.10.2015 forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.R.Rajeswaran

Special Government Pleader

O R D E R

Heard Mr.C.Prabakaran, learned counsel appearing for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader, who accepts notice for the respondent.

2.By consent, the writ petition is taken up for final disposal at the admission stage itself.

3.The petitioner, which is an Association, seeks for a direction to the respondent/Municipality to grant permission to erect sunshades in front of the shops and in this regard, a representation has been made to the respondent on 26.10.2015.

4. In my view, the prayer sought for in this writ petition is misconceived and the question of issuing positive direction to the respondent to erect sunshades does not arise. In fact, the petitioner / Association had filed a Public Interest Litigation in W.P.No.28465 of 2015, which was dismissed as withdrawn based on the endorsement made by the petitioner on 09.10.2015. Therefore, once again this Court cannot issue a positive direction. If there is a provision under the rules or in the terms and conditions of allotment of shop, then the Municipality will consider the same in accordance with law. Therefore, this Court is not inclined to issue any positive direction as sought for by the petitioner. However, it is open to the petitioner to pursue his representation dated 26.10.2015, which shall be considered by the respondent, in accordance with law, taking into consideration all the factors, including the public who use the road and open area in front of the shops. The said representation may be considered by the respondent as expeditiously as possible.

5. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

TK

To

The Commissioner
Villupuram Municipality
Villupuram.

+1cc to Mr.C. Prabakaran, Advocate, S.R.No.20059
+1cc to the Government Pleader, S.R.No.20151

SVI (CO)
EU(11/04/2016)

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