

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.A.No.1046 of 2012
M.P.No.1 of 2012

S.M.Simon .. Appellant

versus

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Park Town, Chennai 600 003.
2. The Zonal Officer,
Corporation of Chennai,
Zone-III, Chennai 600 012.
3. The Health Officer,
Corporation of Chennai,
Rippon Building,
Park Town, Chennai 600 003. .. Respondents

Writ Appeal filed against the order, dated 17.04.2012, in M.P.No.1 of 2012 in W.P.No.10465 of 2012.

M.P.No.1 of 2012 in WP.10465 of 2012: Petition praying that the circumstances stated therein and in the affidavit filed therewith, the High Court will be pleased to grant an order of interim injunction restraining the 1st respondent corporation from proceedings with the allotment of shops as per the official proceeding in M.A.5/Na.K.No.B4/Spl.2011 dated 21.12.2011, without due consideration, to the Division Bench order of this Hon'ble Court in the batch of W.A.Nos.1584 to 1615 of 2009 dated 20.11.2009, regarding the allotment of shop to the petitioner, pending disposal of the writ petition No.10465/12.

WP.No.10465 of 2012: Petition filed under Article 226 of the constitution of India praying this Hon'ble Court a writ of Mandamus directing the 1st and 2nd respondents to allot a shop to the petitioner in compliance with the Division Bench order of this Honourable Court in the batch of writ appeals W.A.No.1588 of 2009 dated 20.11.2009 with in the sketch marked (Exhibit C-1) by the 1st respondent in the said batch of writ appeals construing that the initial common proceedings of the

1st respondent Ne.Ma.U.Th.Na.Ka.No.LE4/3489/2009 dated 19.05.2011 do not survive in the light of the subsequent common proceedings of the 1st respondent in M.A.5/Na.K.No.B4/Spl.2011 dated 21.12.2011 submitted by the 1st respondent in the batch of writ petitions in W.P.Nos.19028 to 19036 and 20766 to 20771 of 2011, regarding the same issue and consequently to issue necessary orders in the name of the petitioner, including him in the shop-allotment-list, for allotting a shop to the petitioner to establish an eatery shop, along with the other eatable vending shop owners.

For Appellant : Mr.P.K.Rajesh Praveen Kumar
For Respondents: Mr.B.B.Senthil Kumar

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

Material on record discloses that the petitioner has filed W.P.No.10465 of 2012, for a Writ of Mandamus, directing respondents 1 and 2 to allot a shop to the petitioner/appellant, in compliance with the Hon'ble Division Bench order of this Court in W.A.No.1588 of 2009, etc. batch, dated 20.11.2009, within the sketch marked (Exhibit C-1) by the 1st respondent, in the said batch of writ appeals, construing that the initial common proceedings of the 1st respondent in Ne.Ma.U.Th.Na.Ka.No.LE4/3489/2009, dated 19.05.2011, do not survive in the light of the subsequent common proceedings of the 1st respondent in M.A.5/Na.K.No.B4/Spl.2011, dated 21.12.2011, submitted by the 1st respondent in the batch of writ petitions in W.P.Nos.19028 to 19036 and 20766 to 20771 of 2011, regarding the same issue and consequently, to issue necessary orders in the name of the petitioner, including him in the shop-allotment-list, for allotting a shop to the petitioner to establish an eatery shop, along with other eatable vending shop owners.

2. Pending disposal of W.P.No.10465 of 2012, the petitioner has filed M.P.No.1 of 2012, for an interim injunction, restraining the 1st respondent-Corporation from proceeding with the allotment of shops, as per the proceedings in M.A.5/Na.K.No.B4/Spl.2011, dated 21.12.2011, without due consideration to the orders of the Hon'ble Division Bench, in a batch of W.A.Nos.1588 of 2009 etc., dated 20.11.2009, regarding allotment of shop to the petitioner.

3. Vide order, dated 17.04.2012, in M.P.No.1 of 2012 in W.P.No.10465 of 2012, the Writ Court dismissed the petition, prayed for an interim injunction. Being aggrieved by the same, instant appeal has been filed in the year 2012.

4. While ordering notice of motion on 23.05.2012, returnable in six weeks, a Hon'ble Division Bench of this Court has directed the respondents to keep one shop vacant. Now, more than four years and six months have lapsed and the respondents have not taken any steps for vacating the interim order, dated 23.05.2012.

5. On this day, when the matter came up for hearing, Mr.P.K.Rajesh Praveen Kumar, learned counsel for the appellant/petitioner submitted that there are ten similar writ petitions, pending before the Writ Court.

6. Mr.B.B.Senthil Kumar, learned counsel for the respondents-Corporation wanted time to get instructions. Considering the limited scope of the appeal and the interim order in force, for nearly four years and six months, we are not inclined to modify the abovesaid order. Interim injunction sought for, is not to allot one shop, has been rightly dismissed by the writ Court. While sustaining the order impugned before us, we are not disturbing the interim order, to keep one shop vacant, granted in this appeal, till the disposal of W.P.No.10465 of 2012.

7. Accordingly, the Writ Appeal is disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

skm

To

1. The Commissioner,
Corporation of Chennai,
Rippon Building, Park Town, Chennai 600 003.
2. The Zonal Officer,
Corporation of Chennai,
Zone-III, Chennai 600 012.
3. The Health Officer,
Corporation of Chennai,
Rippon Building, Park Town, Chennai 600 003.

Copy to: The Section Officer, Writ Section, High Court, Madras
(for posting the above writ petition along with the concerned batch)

+ 2 ccs to Mr.P.K. Rajesh Praveen Kumar, Advocate SR.65130

W.A.No.1046 of 2012

SV (CO)

<https://hcservices.ecourts.gov.in/hcservices/>

EU 20.12.16