

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.20151 OF 2015

AND M.P.NO.1 OF 2015

R.Usha

... Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
8, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

2.A.C.Sarangan

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to issue the renewed license subsequent to 31.03.2009 and the sale deed in favour of the petitioner, for the shop Type C-1, Shop B-35 at Koyambedu Wholesale Flower Market Complex, Koyambedu, Chennai - 600 092.

For Petitioner : M/s.Lenin and Bhagya

For Respondent-1 : Mr.K.Raja Srinivas

For Respondent-2 : Mr.S.Rajkumar

O R D E R

Heard the learned counsel appearing on either side.

2.The petitioner has filed this writ petition seeking for a direction to the first respondent to issue the renewed license subsequent to 31.03.2009 and the sale deed in favour of the petitioner, for the shop Type C-1, Shop B-35 at Koyambedu Wholesale Flower Market Complex, Koyambedu, Chennai-600 092.

3.The relevant facts to be taken into consideration is that the petitioner's licence was not renewed in the light of the fact that the Second Appeal filed by the petitioner in S.A.No.694 of 2009, as against the judgment and decree in A.S.No.314 of 2008, dated 13.04.2009, on the file of the IV Additional Judge, City Civil Court, Chennai, was pending. It is seen that the said appeal was allowed vide judgment dated 18.02.2015, wherein there is a clear finding upholding the case of the petitioner.

4.In such circumstances of the case, the first respondent cannot withhold the renewal of licence, more so, when there is another order passed by this Court in Review Application (Writs) No.106 of 09 in W.P.No.9011 of 2009 dated 08.10.2009. The said review application was filed by the petitioner herein, as against the order passed in the writ petition dated 06.05.2009, which was filed by the second respondent herein and disposed of without notice to the petitioner herein. The operative portion of the order in the Review Application reads as follows:

"3.The learned counsel for the review applicant would submit that in respect of the suit filed before the City Civil Court, Chennai which has come up to the second appeal in S.A.No.694 of 2009, this Court, while admitting the second appeal, has granted an order of injunction, apart from passing some other directions, and therefore, the present review application is filed so as to enable the third respondent herein to take into consideration the order passed by this Court in the second appeal while passing orders on the representation dated 4.2.2009 of the writ petitioner.

4.Under such circumstances, this review application is disposed of with the following modification to the order dated 6.5.2009 made in W.P.No.9011 of 2009:

"The third respondent herein is directed to consider the representation dated 4.2.2009 of the writ petitioner, who is the first respondent in the review application, and pass appropriate orders in accordance with law, after giving opportunity to the writ petitioner as well as the fourth respondent, who is the review applicant, and also taking note of the

interim order passed by this Court in the second appeal. Such order shall be passed by the third respondent herein within eight weeks from the date of receipt of a copy of this order."

5.Thus, the only impediment was the second appeal, which was pending before this Court and the same was allowed in favour of the petitioner. Therefore, the first respondent should consider the case of the petitioner for renewal of licence by taking note of the representation dated 18.03.2015.

6.The learned counsel for the second respondent submitted that a review petition has been filed to review the judgment and decree in S.A.No.694 of 2009. However, it is admitted that the review petition has not yet been numbered and the learned counsel is not able to readily given even the SR number and date of filing. Hence, on the grounds raised by the second respondent, the first respondent cannot be injuncted and prevented from proceeding in accordance with law.

7.The writ petition is disposed of with a direction to the first respondent to take into consideration the above facts and dispose of the petitioner's representation dated 18.03.2015, which has been submitted for renewal of licence, in respect of the shop, which has been allotted in favour of the petitioner. The said exercise shall be complied with by the first respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

TK

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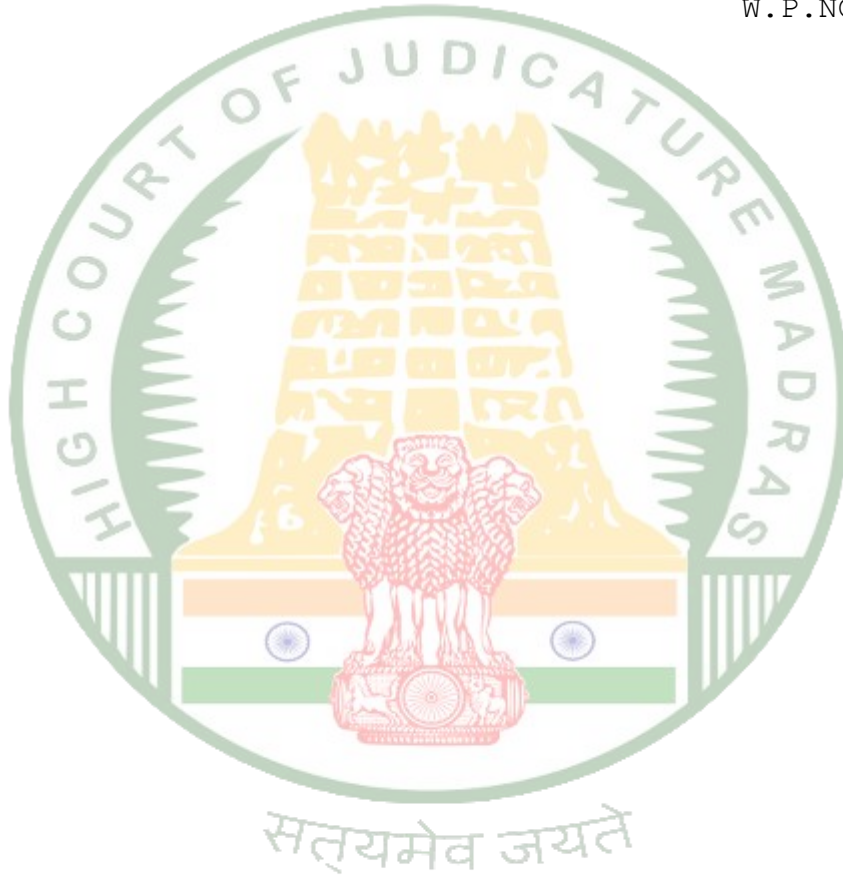
To

The Member Secretary
Chennai Metropolitan Development Authority
8, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

1 cc to Mr. Lenin & Bhagya, Advocate, Sr. 22834

W.P.NO.20151 OF 2015

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