

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.29953 of 2016

Xone Lifestyle Pvt. Ltd.
rep. by its Director, S.Rajagopal
aged about 46 years
Door No.427, Anna Salai
Teynampet
Chennai - 600 018. ... Petitioner

Vs.

1. The District Collector
Chennai.
2. The Commissioner
Corporation of Chennai
Chennai. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus to forbear the respondents, their men, agents or any one claiming through them from in any manner removing or disturbing the display boards of the petitioner kept at the premises of its Registered Office at Door No.427, Anna Salai, Teynampet, Chennai - 600 018.

For Petitioner : Mr.T.Saikrishnan
for M/s.S.Ajikumar
For Respondents : Mr.C.Manishankar
Addl. Advocate General,
assisted by
Mr.M.K.Subramanian,
Govt.Pleader
for 1st respondent
Mr.V.C.Selvasekaran
for 2nd respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The hoarding of the petitioner stands removed. The petitioner claims that in the family held set up, the building belongs to the father. He seeks to rely on Section 326-G of the Chennai City Municipal Corporation Act, 1919, which is the exemption section. The said provision reads as under:

"Section 326-G. Exemption.- Nothing contained in this Chapter shall apply to any hoarding or digital banner or placard on which is exhibited any advertisement which relates to,-

(a) the trade or business carried on within the land or building, upon or over, which such hoarding or digital banner or placard is erected or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held upon or in such land or building; or

(b) the name of the land or building, upon or over which the hoarding or digital banner or placard is erected or to the name of the owner or occupier of such land or building:

Provided that the exemption under this section shall be subject to such size and nature of hoarding or digital banner or placard as may be prescribed."

(emphasis supplied)

The aforesaid, thus, makes it quite clear that the exemption is subject to size and nature of hoarding.

2. The learned counsel for the petitioner states that no sizes have been prescribed. In this behalf, learned Additional Advocate General has drawn our attention to Rule 6 of the Chennai City Municipal Corporation Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules, 2003, which prescribes the sizes depending on the width of the road.

3. We are unable to accept the submission of the learned counsel for the petitioner that this size restriction is only qua licenses issued and not for the exempted category. It is, thus, open to the petitioner to have a hoarding as per the norms and rules and not of any size it pleases.

4. The learned counsel for the petitioner seeks to rely upon the pictures of hoardings and advertisements run as own businesses located in different places. These have been submitted in Court. In our view, there cannot be any discrimination principle applicable to violation of law. But,

we would emphasize that if there are other violators, then equally action should be taken against them.

The writ petition is dismissed with the aforesaid observation. No costs. Consequently, W.M.P.No.25908 of 2016 is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

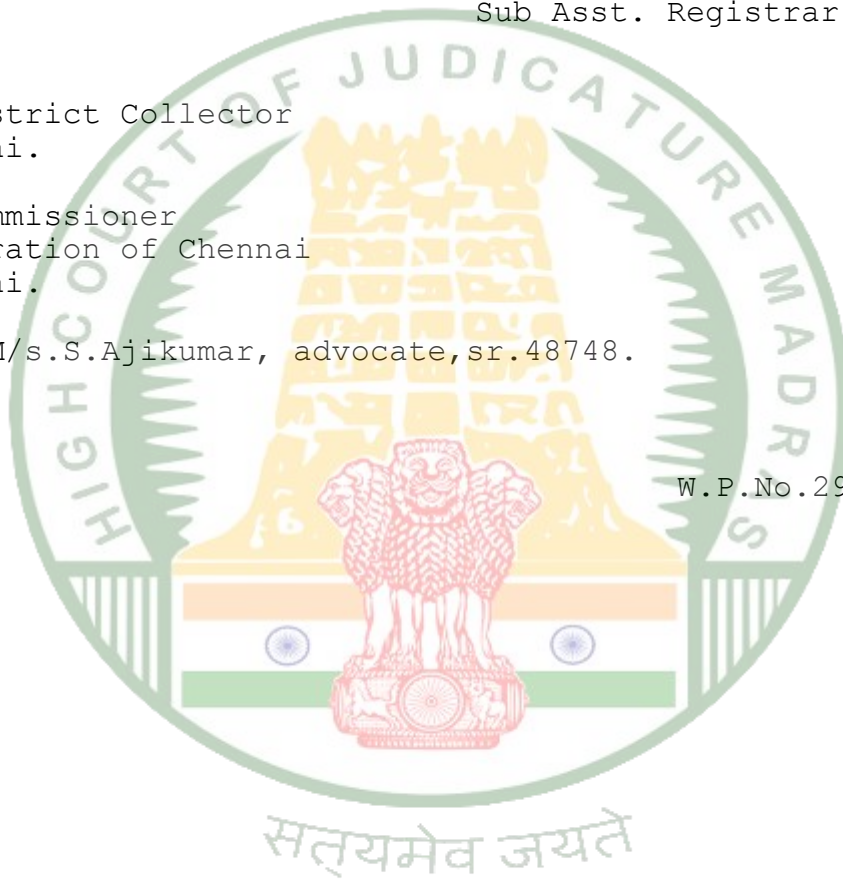
To:

1. The District Collector
Chennai.
2. The Commissioner
Corporation of Chennai
Chennai.

+1 cc to M/s.S.Ajikumar, advocate,sr.48748.

ug(co)
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W.P.No.29953 of 2016



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