

In the High Court of Judicature at Madras

Dated :: 20.04.2016

Coram ::

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition Nos. 6435, 6767, 7080,
9260 & 9261 of 2016
and 13265 of 2004

T.M.Kannaiah Naidu
91 Anna Street
Annexe Sri Iiyappa Nagar
Koyambedu
Chennai - 600 092.

... Petitioner/in WP.6435/16

Ravi Shankar

...Petitioner in WP.6767/16

T.M.Kannaiah Naidu

...Petitioner in WP.7080/16,
13265/14

P.Sathaiya

...Petitioner in WP.9260/16

G.Manoj Kumar

...Petitioner in WP.9261/16

-vs-

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore,
Chennai - 600 0008.

...1st Respondent in
WP. 6435, 6767, 7080
9260/16, 9261/16

2. Market Management Committee,
Rep. by its Chief Administrative Officer,
Koyambedu Wholesale Market Complex,
Koyambedu, Chennai.

...2nd Respondent in
WP.6435/16, 9260/16, 9261/16
1st Respondent in WP.13265/04

3. Urimam Petra Kaikari Vyaparigal
Podhu Nala Sangam
Rep. By its Secretary
S.R.M.Jayaraman

...3rd Respondents in 6435/16
2nd Respondent in WP.13265/04

Chennai Metropolitan development Authority
The Chief Executive Officer
No.1 Gandhi Irwin Road
Egmore Chennai-8

...2nd Respondent in
WP.6767/16 & 7080/16

A.Chinnadurai

...3rd Respodent in
WP.6767/16, 7080/16

P.Jayamoorthy

...4th Respondent in
WP.7080/16

H.Gokul Raj

...5th Respondent in
WP.7080/16

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a

(i) writ of mandamus directing the respondents 1 and 2 to unseal the portions bearing G-88/9 & G-88/10 in Periyar Vegetable Market, Koyambedu Wholesale Market Complex, Koyambedu, Chennai - 600 092, which is under the petitioner's occupation to which the petitioner is paying rent without any default and thereafter not to interfere with the petitioner's occupation without following the procedure as contemplated in Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975 [WP.6435/16]

(ii) to issue an order or a Direction or a Writ of Mandamus, for bearing the 1st and 2nd Respondents from allotting or handing over the possession of the G-88 godown to the third respondent pending representations dated 27.01.2016 and 18.02.2016 [WP.6767/2016]

iii) To issue a Writ of Certiorarified Mandamus to Call for the records of the authority meeting dated 18.02.2016 chaired by the 1st and 2nd respondent pertaining to the resolution made vide Agenda No.3 4 whereby the allotment of G-88 Godown in Periyar Vegetable Market Koyambedu Wholesale Market Complex Koyambedu Chennai-600 092 was favourably decided in favour of the respondents No.3 to 5 and quash the same and further direct the 1st and 2nd respondent to consider and decide the petitioners representation dated 17.12.2015 and 18.01.2016 as directed by this Honourable court in W.P.No.5104 of 2016 dated 11.02.2016 along with the representation of the respondents No.3 to 5 within the time [WP.No.7080/16]

iv) To issue a Writ of Mandamus directing the respondent to consider and pass orders on the representation dated 3.2.2016 seeking allotment of shops by conversion of the Godown G 88 into shops for the purpose of vegetable vending forthwith thereto on merits and within a time to be stipulated[WP.9260/16 & 9261/16]

v) To issue Writ of Mandamus directing the 1st respondent to accept the monthly rent and arrears as demanded by the 1st respondent vide letter No.MMC/SE/446/2000 dated 03.03.2004.

For petitioner :: Mr.SU.Srinivasan for
M/s Vanathi Srinivasan
in WP.6435/16,7080/16
13265/04

For Petitioner :: Mr.M.Raja sekhar in
WP.No.6767/16

For Petitioner :: Mr.L.Chandrakumar in
WP.9260 & 9261/16

For Petitioner :: Mr.M.Velmurugan in
WP.6435/16 and WP.9260 &
9261/16 for R2
for R1 in WP.13265/04

For Respondents :: Mr.K.Raja Srinivas
Standing Counsel for (CMDA)
for R1 and R2 in WP.6767/16
7080/16
for R1 in WP.9260 &9261/16

For Respondents :: Mr.V.Raghavachari for R3
in WP.6767/16

No appearance :: for R3 in WP.6435/16

COMMON ORDER

All these writ petitions concerns the Wholesale Vegetable Market at Koyambedu under the control of the Chennai Metropolitan Development Authority (C.M.D.A.). Though elaborate facts have been set out in each of the writ petitions, it would be not be necessary to deal with each case individually in the light of the subsequent development of the matter concerning the allotment of shops and godown bearing No: G-88 in the Koyambedu Wholesale Market on rental basis. Admittedly,

all the petitioners herein, who have not been given any allotment order, came into possession of a specified area in the godown and one among the petitioners viz. T.M. Kannaiah Naidu, who is the petitioner in W.P. Nos. 13265, 6435 and 7080 of 2016 is said to have been paying rent till date.

2. The issue concerning the very same godown viz. G 88 came up for consideration before the Hon'ble Division Bench of this Court in W.A. Nos: 1671 and 1673 of 2015. Those writ appeals were filed at the instance of an association called Urimam Petra Kaikari Vyaparigal Podu Nala Sangam. It is not in dispute that these individual petitioners before this Court were also the members of the said association. The association filed the writ appeal against the order passed in W.P.Nos: 11054 and 25199 of 2014 which writ petitions were filed for issuance of a writ of certiorarified mandamus to quash the order passed by the Member Secretary, C.M.D.A., dated 28.03.2014 / 18.08.2014 and 31.05.2015 and to direct the respondent to consider the representation of the petitioner / appellant association dated 10.04.2014 and 07.08.2014. These proceedings which were subject matter of challenge were the eviction notices issued by the C.M.D.A. against the members of the association which would cover the petitioners herein. That apart, the said impugned orders also declared the association as a defunct society.

3. The Hon'ble Division Bench considered the matter, took note of the facts and circumstances and held that the writ petitions were rightly dismissed and ultimately, by a common order dated 27.01.2016, while dismissing the writ appeals the following direction was issued to the C.M.D.A. :

" 19. The premises is stated to be under lock and key. We have, by order dated 27 November, 2015, directed CMDA to notify the shops for allotment by resorting to a transparent procedure. However, we directed the CMDA not to issue allotment orders, without specific orders from this Court. We are not informed by the learned Standing Counsel for CMDA that the shops are yet to be notified for auction. There is no point in keeping the shops under lock and seal without fetching income to CMDA. We therefore direct CMDA to notify the shops in question for allotment. The notification for public auction shall be published in newspapers. The lease / license should be given to the highest bidder, by following a fair and transparent procedure."

4. In terms of the above direction issued by the Hon'ble Division Bench, the C.M.D.A. was bound to notify the shops for allotment by resorting to a transparent procedure and the notification for such public auction should be published in

news papers and the lease / license should be given to the highest bidder by following a fair and transparent procedure. In the light of the judgment of the Hon'ble Division Bench, the C.M.D.A. is bound to strictly adhere to the same and the question of making allotment by making representations does not arise and the grant of license / lease shall only be by way of public auction which should be conducted in a transparent manner. So far as the case of T.M.Kannaiah Naidu is concerned, he is said to have been paying the rent all these years and he is not in default of rent. That by itself will not put him in a higher pedestal as he had paid the rent for enjoying the premises. However, it has to be pointed out that there was no order of allotment in his favour which would entitle him, as a matter of right, to continue in possession.

5. Accordingly, all these writ petitions are dismissed with a direction to the C.M.D.A. to abide by the directions issued by the Hon'ble Division Bench referred to supra. Connected miscellaneous petitions are closed. There shall be no orders as to the costs.

s/d-
Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore,
Chennai - 600 0008.
2. The Chief Administrative Officer
Market Management Committee,
Koyambedu Wholesale Market Complex,
Koyambedu, Chennai.
3. The Chief Executive Officer
Chennai Metropolitan development Authority
No.1 Gandhi Irwin Road,
Egmore Chennai-8

+1 cc to Mr.L.Chandrakumar Advocate sr.24490
+1 cc to Mr.K.Rajashrinivas Advocate sr.24748
+1 cc to Mr.M.Velmurugan Advocate sr.24793
+1 cc to Mr.M.Rajasekar Advocate sr.24701
+1 cc to Mr.V.Raghavachari Advocate sr.24867

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