

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.9921/2016 & WMP.No.8907/2016

T.Murugesan

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Petitioner

Versus

- 1.The Secretary,
Government of Tamil Nadu
Housing & Urban Development
Department, Fort St George
Chennai 600 009.
- 2.The Member Secretary
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
- 3.The Chief Executive Officer i/c
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008. ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.7/1, Badrian Street, Chennai 600 001 under the occupation of the petitioner till the disposal of suit on the OS.No.1370/2016.

For Petitioner : No Appearance
For R1 : Mr.K.Thangapandi,
Government Advocate
For R2 & R3 : Mr.M.Karthikeyan for CMDA

ORDER

There is no representation on behalf of the petitioner. This Court, taking into consideration the limited scope of prayer sought for by the petitioner, is inclined to dispose of the main writ petition itself.

2 The petitioner, in the affidavit filed in support of this writ petition, would aver among other things, that he is doing retail flower vending business in the name and style as "TMA Retail Flower Shop" at No.7/1, Badrian Street, Flower Bazaar, Chennai-1, for the past five years and the area occupied by the petitioner for his business is a small portion of 100 sq.ft only and according to the petitioner, except the said place, he has no other place for storing and selling flowers and in any warehouse or go-down etc. He would state that he resorts retail vending of the flowers to eke out his livelihood for his family and as per the normal practice, he used to purchase flower in retail from Koyambedu Flower Market and sell the same by way of retail business in Badrian Street. According to the petitioner, in the said Street, Flower Bazaar, there are more than 130 small retail flower vendors doing their business in the same manner and apprehending eviction, without following due process of law, the petitioner also filed OS.No.1370/2016 on the file of the Court of V Assistant Judge, City Civil Court, Chennai, against CMDA and the Commissioner, Corporation of Chennai, for declaration, declaring that he is a retail flower vendor, who is doing business in the schedule mentioned property and also for permanent injunction, restraining the defendants or their men or their agents, servants or any other persons claiming through them from in any manner from interfering with the petitioner's peaceful possession and enjoyment of the said property. The grievance expressed by the petitioner is that despite the pendency of the suit, the 2nd respondent is taking urgent steps to dispossess the petitioner and according to him, since he is retail flower vendor, the Tamil Nadu Specified Commodities Markets [Regulation and Location] Act, 1966, have no application and therefore, he cannot be evicted without due process of law. Hence, the petitioner came forward to file the present writ petition.

3 Heard the submissions of Mr.K.Thangapandi, learned Government Advocate, appearing on behalf of the 1st respondent and Mr.M.Karthikeyan, learned counsel appearing on behalf of the respondents 2 and 3.

4 Admittedly, the petitioner did not submit any representation apprehending dispossession without recourse to due process of law at the hands of the respondents 2 and 3. The affidavit filed in support of this writ petition is also silent as to the pendency of the suit in OS.No.1370/2016 and as to whether the petitioner had obtained any interim orders, restraining the respondents 2 and 3 / defendants from interfering with the peaceful possession and enjoyment of the Schedule mentioned property.

5 This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a representation to the respondents 2 and 3 within a period of two weeks from the date of receipt of a copy of this order and the respondents 2 and 3, on receipt of the same, shall consider and dispose of the said representation on merits and in accordance with law and pass orders within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner.

6 The writ petition is disposed of with the above direction. No costs. The interim order granted by this Court, stands vacated and the miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

AP
To

- 1.The Secretary,
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Housing & Urban Development
Department, Fort St George
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+1 cc to M/s.M.Karthikeyan Advocate sr.34658
+1 cc to Government Pleader sr.34132

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