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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE M.SUNDAR

Review Application No.697 of 2017
and
W.M.P.Nos.33783 and 33784 of 2017

Perunagara Chennai Salaiyora Kaikani Mattrum
Pookkal Sirukadai Viyabarigal Sangam,
MRC Nagar Branch,
Rep., by its Working Secretary, A.Raja,
No.40, Nambikkai Nagaram, Pattinapakkam,
Chennai-600 028.

..Review Petitioner/
Proposed Respondent

-vs-

1.The Commissioner,
Corporation of Chennai,
Rippon Building, EVR Salai,
Chennai-600 003.

2.The Commissioner of Police,
Greater Chennai, EVK Sampath Road,
Vepery, Chennai-600 007.

.. Respondents/Respondents

3.Ragu Raman

.. Respondent/Writ Petitioner

Review Application under Order 47 Rules 1 and 2 of Code of Civil Procedure read with Article 226 of the Constitution of India to review the order dated 27.06.2017, made in W.P.No.16009 of 2017.

W.P.No.16009 of 2017:- Writ Petition under Article 226 of the Constitution of India, praying that this Hon'ble Court may be pleased to issue a Writ of Mandamus directing the 1st respondent to remove the encroachment found in M.R.C. Nagar R.A.Puram area and its streets namely Janaki Avenue Near Sindhiya Tower and T.V.H. Belesia Tower Sathyadev Avenue near Padmalaya Towers Ceebros Sathyam Avenue near Iyyappan Temple and Chettinadu Vidhyashram School consequently direct the respondent to make M.R.C. Nagar R.A.Puram Chennai 600 028 as a no hawking zone.



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For applicant : Mr.R.Sankara Subbu
For Respondent-1 : Mr.V.Selvasekaran,
Standing Counsel
For Respondent-2 : Mr.A.Zahir Hussain,
Government Advocate

O R D E R

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

Heard Mr.R.Sankara Subbu, learned counsel for the review applicant; Mr.V.Selvasekaran, learned Standing Counsel for the 1st respondent; and Mr.A.Zahir Hussain, learned Government Advocate for the 2nd respondent.

2.This review application has been filed to review the order and direction issued in W.P.No.16009 of 2017, dated 27.06.2017.

3.The said writ petition was filed as a Public Interest Litigation by a person claiming to be a resident of M.R.C.Nagar seeking a direction upon the respondent/authorities and in particular the Corporation of Greater Chennai to remove the encroachments in M.R.C.Nagar in R.A.Puram area and declare the area as a 'No-Hawking' Zone.

4.The learned Additional Government Pleader, who appeared for the Commissioner of Corporation, Greater Chennai, on instructions submitted that unauthorised eateries have been set up and the attention of the Corporation authorities has been drawn to the same and necessary action is to be taken.

5.The Court disposed of the writ petition by directing the authorities to take necessary action to remove unauthorised encroachments in M.R.C.Nagar area in accordance with law. The Corporation was also directed to consider the representation of the writ petitioner for declaration of the area in question as a 'No-Hawking' Zone and such decision to be taken within a time frame.

6.It is the submission of Mr.R.Sankara Subbu, that pursuant to the orders passed in the writ petition, the respondents had evicted the review applicants in a high-handed manner, who are all small vendors, who had established eateries, juice shops, etc., and this high-handed action of the respondents is illegal for one more reason is that the review applicants were not put on notice.



7.The learned counsel placed reliance on the decision of the Hon'ble Supreme Court in Rupa Ashok Hurra vs. Ashok Hurra And Anr., reported in (2002) 4 SCC 388.

8.After we elaborately heard Mr.R.Sankara Subbu, learned counsel for the review applicant, we are of the firm view that the grounds set out by the review applicant are not grounds of review. Admittedly, the direction issued by the Court was an innocuous direction to consider the representation of the writ petitioner. If at all any action has been taken, by which the applicants are aggrieved, it is up to the applicants to invoke the appropriate remedy, which is available to them under law and on that ground, we find no reasons to entertain the review application. Furthermore, the applicants have not been able to point out any error which is apparent on the face of the order for invoking the review jurisdiction.

9.The arguments of the review applicants that they were thrown out from their respective establishments without notice to them and it is in violation of principles of natural justice are not grounds to review the order passed in the writ petition, which was an innocuous direction to the respondent to remove unauthorised encroachments and to consider the representation.

10.Thus, for the above reasons, we are not inclined to entertain the review application. However, this will not prevent the applicants from exhausting other remedies available to them.

11.In the result, the review application stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

abr

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Corporation of Chennai,
Rippon Building, EVR Salai,
Chennai-600 003.



2.The Commissioner of Police,
Greater Chennai,
EVK Sampath Road,
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Kak(18/09/2019)