

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.58 OF 2016

The Koyambedu Malarmalai Viyabarigam Matrum
Thozilalargal Nala Munnetra Sangam,
(registration No.63/2003)
Presented by its President S.Kothandam
F/A-28, Kamarajan Malar Angadi,
Koyambedu, Chennai 92

...Appellant

versus

1. The Chairman, MMC and
Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nagarajan Maligai,
Egmore, Chennai 8
- 2.The Superintending Engineer,
Division II, Construction Wing,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai 8.
- 3.The Chief Administrative Officer,
Market Management Committee,
Koyambedu Wholesale Market Complex,
Koyambedu, Chennai 92

4.M.D.Arul Viswasam

...Respondents

Appeal filed against the order passed by this Court dated 9.12.2015 passed in W.P.No.34094 of 2015 filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st Respondent in Crime No 24/2015 resolution No 24 dated 24.07.2015 to quash the same and direct the respondent to keep Gate No 20 on the Eastern side of Koyambedu Flower Market Complex, open at all time and to permit the ingress and egress of vehicles and people through the said gate No.20.

For appellant : Mr.V.Raghavachari

For Respondents : Mr.N.Sampath, Senior counsel
for respondents 1 and 2
Mr.M.Velmurugan, for R-3
Mr.Stalin Abhimanyu, for R-4

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The writ petition filed by the appellant calling in question the resolution no.24 dated 24 July 2015 closing Gate No.20, leading to the Koyambedu Kamarajar Flower Market was dismissed by the learned Single Judge. The order is under challenge at the instance of the Koyambedu Malarmalai Viyabarigal Matrum Thozhilalargal Nala Munnetra Sangam, which is stated to be a society registered under the Societies Registration Act.

2. The learned counsel for the appellant contended that Gate No.20 was catering to the needs of the traders and there is no reason for closing the said gate. According to the learned counsel, opening of Gate No.20 would provide direct access to the public from Kaliasan Koil Street, instead of travelling another 500m more to reach Gate No.2 on the Northern Side of the Flower Market Complex. It was submitted that since the flower market has only one entrance viz., Gate no.2, all the customers, retailers and general public are entering through the said gate. In case, Gate No.20 is opened, it would enable the customers to enter the market without any difficulty.

3. The learned Additional Advocate General appearing on behalf of the Market Managing Committee contended that Gate No.20 was not there originally. It was made to facilitate the construction of metro railway station. According to the learned Additional Advocate General, the said gate used to be opened only during festival season. It was further contended that in case the Gate No.20 is opened permanently, there is every likelihood of trespass into the complex.

4. This appeal was heard on multiple occasions. After hearing the counsel for the parties at length, and on a perusal of the plan produced by the appellant and the Market Management Committee, we directed the parties to visit the entry point near the Gate No.20 and resolve the issue.

5. The writ appeal was once again heard by us after the conclusion of the inspection by the parties.

6. When it was pointed out that a wicket gate could be provided near Gate No.20 in the interest of traders and the general public, respondents 1 to 3 agreed for such a course. We therefore directed the third respondent to file an affidavit.

7. The third respondent in his affidavit dated 5 December 2010 submitted that a wicket gate of 4 ft. length would be erected near the existing Gate No.20. The wicket gate would be kept open from 4 a.m. to 2 p.m. on all the working days of the Koyambedu Wholesale market. The undertaking given by the Chief Administrative Officer, Market Management Committee, Koyambedu Wholesale Market Complex is taken on record.

8. We direct the respondents 1 to 3 to provide the wicket gate as indicated in the affidavit, as expeditiously as possible and in any case, on or before 31 January 2018. The wicket gate should be kept open from 4 a.m. to 2 p.m. on all working days as undertaken by the Chief Administrative Officer. There would not be any right to the appellant to make a further claim for opening the Gate no.20, which is stated to be an emergency gate.

9. The intra court appeal is disposed of with the above direction. No costs. Consequently, C.M.P.No.1124 of 2016 is closed.

s/d-

Assistant Registrar (CS VI)

True Copy सत्यमेव जयते

Sub-Assistant Registrar

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To

1. The Chairman, MMC and
Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nagarajan Maligai,
Egmore, Chennai 8

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2.The Superintending Engineer,
Division II, Construction Wing,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai 8.

3.The Chief Administrative Officer,
Market Management Committee,
Koyambedu Wholesale Market Complex,
Koyambedu, Chennai 92

+1 CC to M/s. Stalin Abhimanyu, Advocate sr 86643.

+1 CC to M/s. M. Velmurugan, Advocate sr 87112.

+1 CC to Govt. Pleader sr 87652

W.A.No.58 OF 2016

GMI (CO)
SP(09/01/2018)



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