

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.9495 of 2018
and
W.M.P.No.11396 of 2018

R.G.Thirugnanasambandam Petitioner
-Vs-

1.The Secretary to Government,
Local Administration Department,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.

3.A.Moorthy Respondents

Prayer:

Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 30.01.2018 and remove the bunk shop erected by the 3rd respondent in front of the property owned by the petitioner on the Roadside pedestrian pathway situated at Nungambakkam High Road, Chennai 600 034, wherein he is selling tea, coffee and food items.

For Petitioner :Mr.T.Thiyagaeswaran
for M/s.Waraon and Sai Rams

For Respondents:Mr.R.Udhayakumar (for R1)
Additional Government Pleader

Mr.A.Nagarajan (for R2)

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The petitioner is the owner of the land and building situated at No.37, (New No.83/1), Nungambakkam Road, Chennai 600 034. The 3rd respondent is said to have erected a metal temporary structure known as bunk shop on 29.01.2018, without the knowledge and permission of the petitioner affecting the ingress and egress into the petitioner's property due to which, the garage is blocked, preventing the car from being taken into the garage.

2.When the petitioner questioned the 3rd respondent, he is said to have replied that he obtained an order in WP.No.6487 of 2016. On verification, it was found that the 3rd respondent, though obtained orders on 23.02.2016, erected the bunk shop only on 29.01.2018. Therefore, the petitioner gave a representation to the 2nd respondent on 31.01.2018, to remove the bunk shop. However, no action has been taken and therefore, the petitioner has come before this Court.

3.Heard Mr.T.Thiyagaeswaran, for Waraon and Sai Rams, learned counsel appearing for the petitioner; Mr.A.Nagarajan, learned counsel appearing for the 2nd respondent.

4.When the matter was taken up yesterday, after perusing the photographs, which clearly showed that about 40% of entrance of the petitioner's property was blocked by the bunk shop, this Court directed the Engineer, who permitted the 3rd respondent to put up the bunk shop, to appear before this Court and posted the matter today.

5.When the matter is called today, the Engineer, who is responsible for the erection of the bunk shop is present before this Court and Mr.A.Nagarajan, learned counsel for the Corporation would submit that the bunk shop has been removed and produced certain photographs to that effect. This Court has not directed the officer or the Corporation to remove it. It is only to see that the bunk does not obstruct the ingress and egress into the petitioner's property. Moreover, a perusal of the order dated 23.02.2016 passed in W.P.No.6487 of 2016, filed by Mr.A.Moorthy would show that he only sought for permission to run the bunk shop in Jagannathan Road, near Metro Plus, whereas the bunk shop was erected in front of the petitioner's property, probably on the objection of Metro Plus.

6.Though the bunk has been removed, as per the earlier order passed by this Court on 23.02.2016 in W.P.No.6487 of 2016, no

order was passed by the officials in compliance with the learned Single Judge's order. Without even passing an order, the permission has been granted orally to erect the bunk shop, in front of the petitioner's property. Even as per the order, if the bunk has been erected without affecting the petitioner's entry, there would not have been any problem whereas taking advantage of the order, in violation of petitioner's right, the bunk has been erected. Since, the bunk has already been removed and the photographs have been produced and statement has been made by the learned counsel for the Corporation that the bunk has been removed, no further order is necessary.

7. Accordingly, this Writ Petition is closed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sai

To

1.The Secretary to Government,
Local Administration Department,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.

+lcc to Mr.M/s.Waraon and Sai Rams, Advocate, S.R.No.29097

+lcc to Mr. Mr.A.Nagarajan, Advocate, S.R.No.30653

+lcc to the Government Pleader, S.R.No.29969

W.P.No.9495 of 2018

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nr 09/05/2018