

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.4365 of 2018
and
W.M.P.No.5361 of 2018

1.K.Chandrasekhar

2.M.Kothandaraman

... Petitioners

Vs

1.Chennai Metropolitan Development Authority
Rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2.Chennai Metropolitan Development Authority
Rep. by its Chief Executive Officer,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his communication in letter No.K4/2493/2017 dated .01.2018 and to quash the same and further direct the respondents to effect name transfer in respect of Shop No.N69 Koyambedu Wholesale Market Complex, Koyambedu, Chennai - 600 002 in favour of the petitioner.

For Petitioners : Mr.M.Raja Sekhar

For Respondents : Mr.P.Tamilmani

O R D E R

The order of rejection signed by the 2nd respondent on 12.01.2018 in respect of the claim of the 1st petitioner to effect name transfer of Shop No.N-69 in Koyambedu Wholesale Market Complex, Koyambedu, is under challenge in this writ petition.

2.The learned counsel for the writ petitioners made a submission that the father of the 1st petitioner Mr.R.V.Kannan applied for allotment of a shop to an extent of 150 sq.ft vide his application dated 14.07.1987 and paid a sum of Rs.16,975/- on 13.01.1989 and further a sum of Rs.10,000/- on 24.04.1991, to the respondents. Accordingly, the shop bearing No.N-69 was allotted to the father of the 1st petitioner on 15.03.1994. The father of the 1st petitioner was selling vegetables in the shop and he passed away. Subsequently, the brother of the 1st petitioner was running the shop and thereafter, the 1st petitioner has taken over the business of his father. Accordingly, he submitted an application seeking name transfer in the allotment order.

3.However, the said application submitted by the 1st petitioner, seeking name transfer, had been rejected on the ground that the father of the 1st petitioner has not paid the installments, as per the terms of agreement and therefore, the shop was cancelled on 22.07.1997 and was included in the list of 404 cancelled shops, which was published in "The Hindu" newspaper on 12.08.1997. The Shop No.N-69 was included in the vacant list for re-allotment by conducting drawal of lot. Thus, in view of the fact that the allotment in respect of the Shop No.N-69 was cancelled and it was notified in the list of for re-allotment, the case of the 1st petitioner was rejected.

4.This Court is of opinion that admittedly, the father of the 1st petitioner was the original allottee. This apart, the installments were not paid by him punctually.

5.The learned counsel for the writ petitioners states that the brother of the 1st petitioner had expressed his willingness to settle all the dues, through his representation. In these circumstances, the case of the writ petitioners shall be considered for a fresh allotment, is they are otherwise qualified, and as per the terms and conditions stipulated in the Rules in force.

6.Thus, without going into the merits of the matter, this Court directs the writ petitioners to submit a fresh application, either for transfer or for re-allotment, to the respondents, within a period of two weeks from the date of receipt of a copy of this order and in the event of receiving any such application, the same shall be considered by the respondents and an order shall be passed by them, within a period of twelve weeks from the date of receipt of such application.

With the above directions, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Member Secretary,
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2.The Chief Executive Officer,
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.M.Raja Sekhar, Advocate, S.R.No.74049

+1cc to Mr.P.Tamilmani, Advocate, S.R.No.75027

W.P.No.4365 of 2018 and
W.M.P.No.5361 of 2018

GSP(20/11/2018)

सत्यमेव जयते
WEB COPY