

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.09.2018

Coram:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

W.A.No.1954 of 2018

and

C.M.P.Nos.15634 and 15635 of 2018

Raja Mohamed Appellant/Petitioner

vs.

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,
rep.by its Chairman,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008

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

4.R.Ramiah

.. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 30.08.2018, made in W.P.No.22344 of 2018.

W.P.No.22344 of 2018

And Petition filed under Article 226 of the constitution of
India praying to issue a writ of mandamus directing the

respondents form interfering with peaceful possession and enjoyment of the petitioner in respect of Shop No. AU-19 Vegetable Market KVMC Koyambedu Chennai pending disposal of the above Appeal filed under Section 21(5) of the Tamil Nadu Specified Commodities Markets (Regulation of location) Act 1996)

For Appellant : Mr.M.Raja Sekhar

For Respondents : Mr.Karthick Rajan
for R1 and R2
Mr.M.Velmurugan for R3

JUDGMENT

(Judgment of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Appellant.

2.Earlier, the Learned Single Judge, in W.P.No.23344 of 2018 (filed by the Appellant as Petitioner), on 30.08.2018, at Paragraph Nos.5 and 6, had observed the following:

"5.This Court, in the earlier order permitting the Petitioner to file an Appeal and also directed the respondents not to seal the premises till the time granted for filing the appeal is over. Now the petitioner has also filed an appeal and it is for the appellate authority to consider the petitioner's appeal and also the stay petition and pass suitable orders. Now, the petitioner cannot once again approach this Court seeking such relief.

6.In the said circumstances, the prayer sought for in the writ petition cannot be granted. Hence, this petition is dismissed. However, since the stay petition filed by the petitioner is pending with the first respondent, the first respondent is directed to consider the petitioner's stay petition and pass suitable orders, within a period of one week from today (i.e.30.08.2018) after giving opportunity to the petitioner. No costs. Connected miscellaneous petition is closed."

3.Being dissatisfied with the Impugned Order dated

30.08.2018 in W.P.No.23344 of 2018, passed by the Learned Single Judge, the Appellant had focused the present Writ Appeal, on the ground that the Learned Single Judge had failed to note that the 3rd Respondent does not have any authority to seal the premises on the basis that the Appellant(Writ Petitioner) is not the owner of the Shop. Also it is represented on behalf of the Appellant that the 3rd Respondent, under the influence of 4th Respondent, is taking hectic steps to seal the premises only with an intention of favouring the 4th Respondent.

4.The Learned Counsel for the Appellant projects an argument that the Learned Single Judge had failed to appreciate that as regards the rejection of renewal of Licence alone, the Appeal remedy is available and in regard to the sealing of shop, this Court alone has the power to test the Order of sealing passed by the 3rd Respondent.

5.At this juncture, the Learned Counsel for the Appellant has made an endorsement in the Writ Appeal grounds, to the effect that 'the Counsel for the Appellant appeared before the Second Respondent on 04.09.2018 and the Appeal was heard. However, he Second Respondent has expressed his inability to pass the order within the time limit fixed by this Court and hence, prayed that the 3rd Respondent may be directed to defer taking action, as per Communication dated 16.08.2018. Further, the Learned Counsel for the Appellant has made an endorsement in the present Writ Appeal grounds that the 'Appellant undertakes to move the Learned Hon'ble Single Judge, to seek an enlargement of time, etc."

6.It is to be noted that a Litigant/Party is not to suffer owing to the inability of the concerned authority to pass necessary orders in Appeal, whatever may be the reason(s), in this regard.

7.Inasmuch as the Learned Single Judge, while dismissing the Writ Petition No.22344 of 2018, on 30.08.2018, had directed the First Respondent/Member Secretary, Chennai Metropolitan Development Authority, to consider the Petitioner's (Appellant) Stay Petition and pass suitable orders within a period of one week from the date of the Order (i.e. 30.08.2018), after giving opportunity to the Petitioner (i.e. Appellant) and since on behalf of the Appellant it is represented that the Appeal was heard by the Second Respondent/The Chief Executive officer, Chennai Metropolitan Development Authority, on 04.09.2018, but Orders were not passed because of the inability of the concerned Officer and also this Court, taking note of the fact that the Appellant has undertaken to move the Learned Single Judge to seek an enlargement of time, in the subject matter in issue, because of the subsequent development that had

taken place after the disposal of the Writ Petition, this Court, in the interest of 'Justice', 'Fair play', 'Equity', 'Good conscience' and even as a matter of prudence, simpliciter directs the Appellant to file necessary Miscellaneous Petition seeking 'Enlargement of time' and also to seek appropriate remedy for redressal of his grievances, in the subject matter in issue.

8. With the aforesaid Observations/Directions, the present Writ Appeal stands disposed of. No costs. Connected Miscellaneous Petitions are closed. Before parting with the case, this Court relevantly points out that it is open to the Appellant to produce the copy of the Judgment passed by this Court, in the present Writ Appeal, before the 3rd Respondent/Chief Administrative Officer, Market Management Committee, for perusal and necessary follow up action.

Sd/-

Assistant Registrar(CS II)

//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,
rep. by its Chairman,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008

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

+1cc to Mr.M.Raja Sekhar, Advocate, S.R.No.61579

+1cc to Mr.Karthik Rajan, Advocate, S.R.No.61830

W.A.No.1954 of 2018

GSP(06/09/2018)