

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.13174 of 2017
and W.M.P.No.14161 of 2017

M.Noorjehan

...Petitioner

Vs.

1. Chennai Metropolitan Development Authority,
Rep. by its Member-Secretary, Gandhi Irwin Road,
Egmore, Chennai - 8.
 2. The Market Management Committee,
Koyambedu Wholesale market Complex,
Rep by its Chief Administrative Officer,
koyambedu, Chennai 92.
 3. Jayakumar
- ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the Shop No.T/A 106, Anna Fruit Market, Koyambedu Wholesale Market Complex, Chennai -600 092, except in accordance with the procedure established by law.

For Petitioner : Mr.N.Ramakrishnan
for M/s.Waraon and Sairam
For Respondents : Mr.P.Tamilmani, for R1
Mr.M.Velmurugan, for R2
No Appearance, for R3

ORDER

The prayer in the writ petition is for issuance of a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the Shop No.T/A 106, in Anna Fruit Market, Koyambedu Wholesale Market Complex, Chennai.

2. The petitioner would state that fruit trade is her family business and her husband Mr.C.A.Kaffoor was carrying on the trade for more than 30 years at Bunder Street in Kothawalchavadi Market and after establishment of Koyambedu Wholesale Market Complex, they have to relocate their business.

3. The petitioner would further state that they have been continuously applying before the respondents 1 and 2 for allotment of shop in the Market Complex from 1997, but in vain. Hence, they have been using Shop No.T/A 106, which was allotted to the third respondent. It is further alleged that on 20.05.2017, the officials of the respondents 1 and 2 armed with police force, suddenly, driven out her employees from the shop and placed it under lock and seal. Hence, the present writ petition.

4. The second respondent filed a detailed counter affidavit denying the allegations of the petitioner and stated that the Shop No. T/A 106 in Anna Fruit Market was allotted to the third respondent under out right purchase scheme on 10.04.1996, but based on the Power of Attorney, registered on 01.07.1996, trade licence was issued in the name of his agent Mr.Damodharan.

5. It is further stated that one Mr.S.Srinivasan filed a writ petition in W.P.No.13638 of 2015 seeking direction to take action on his representation dated 20.03.2015 for cancellation of allotment obtained by the said Damodharan by illegal means. Pursuant to the order passed in the writ petition, and based on the letter of Chennai Fruit Commission Agents Association, dated 20.03.2015, and report of the Chief Administrative Officer / Market Management Committee, dated 11.11.2016, allotment of 22 shops including the shop No.T/A 106 was cancelled and also the order of lock and seal was passed on 07.04.2017. On the basis of the order of cancellation, the officials of the respondents have locked and sealed the shops on 16.05.2017 and 20.05.2017.

6. It is further stated that the writ petitioner is an unauthorised tenant in the Fruit Shop No.T/A 106 and the allottee of the shop has not obtained registration certificate and licence, and hence he prayed for dismissal of the writ petition.

7. In the case on hand, it is not the case of the petitioner, that she is the allottee of the Shop No.T/A 106 and admittedly the shop was allotted in favour of the third respondent. In the counter affidavit, it has been stated that the third respondent has executed a registered Power of Attorney in favour of one Damodaran and he has obtained trade licence and as per the order in W.P.No.13638 of 2015, the respondents have cancelled the allotment of 22 shops including the shop in dispute. When the petitioner is not the allottee of the shop and no licence was issued in the name of the petitioner under the Tamil Nadu Specified Market (Regulation of Location) Act, 1996, she is not entitled for the prayer sought for in the writ petition.

8. For the reasons stated supra, I find no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Member-Secretary.

Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Chennai - 8.

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

+1cc to Mr.M.VELMURUGAN, Advocate, S.R.No.48645

+1cc to Mr.P.TAMILMANI, Advocate, S.R.No.48638

WP.No.13174 of 2017

PA(CO)
TR(01/08/2018)

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