

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.03.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.Nos.16760 of 2015 and M.P.No.1 of 2015 and 18582 of 2015,
and W.P.No.13419 of 2016

J.Vincent .. Petitioner in W.P.No.16760 of 2015
S.Srinivasan .. Petitioner in W.P.No.18582 of 2015
S.Srinivasan .. Petitioner in W.P.No.13419 of 2016

Vs.

1. The Secretary,
Housing and Urban Development Department
Secretariat, Fort St. George,
Chennai - 600 009
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
3. The Chief Administrative Officer,
Market Management Committee,
Koyambedu Whole Sale Market Complex,
Chennai - 92
4. The Secretary to Government,
Home Department, Fort St. George
Chennai - 9
5. The Director General of Police,
The DGP's Office,
Mylapore, Chennai - 4
6. The Commissioner of Police,
Chennai City,
Egmore, Chennai - 8 .. Respondents in W.P.No.16760 of 2015

[R4 to R6 Suomotu impleaded as per order
dated 30.08.2016]

1. The Chief Administrative Officer
Market Management Committee
Koyambedu Wholesale Market
Complex, Chennai
 2. The Member secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
 3. J.Vincent
Shop No.F, C-28,
Kamaraj Flower Market,
KWMC, Koyambedu, Chennai 92
 4. The Secretary to Government,
Home Department, Fort St. George
Chennai - 9
 5. The Director of Police,
The DGP's Office,
Mylapore, Chennai - 4
 6. The Commissioner of Police,
Chennai City,
Egmore, Chennai - 8
- ...Respondents in W.P.No.18582 of 2015
[R4 to R6 Suomotu impleaded as per order
dated 30.08.2016]

1. The Chief Administrative Officer
Market Management Committee
Koyambedu Wholesale Market
Complex, Chennai
2. Vincent, S/o.P.Jeganathan
Shop No.F, C-28,
Kamaraj Flower Market,
KWMC, Koyambedu, Chennai 92
3. The Chennai Metropolitan Development
Authority,
Rep. By its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
4. The Secretary to Government,
Home Department, Fort St. George
Chennai - 9

5. The Director of Police,
The DGP's Office,
Mylapore, Chennai - 4

6. The Commissioner of Police,
Chennai City,
Egmore, Chennai - 8 ..Respondents in W.P.No.13419 of 2016

[R2 Impleaded as per order dated
29.06.2016 in WMP No.18878 of 2016
in W.P.No.13419 of 2016]

[R3 is suo-motu impleaded as per order
dated 29.07.2016 in W.P.
No.13419 of 2016]

[R4 to R6 Suomotu impleaded as per order
dated 30.08.2016]

Prayer in W.P.No.16760 of 2015: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent in Letter No.K3/124/2010 dated 12.05.2015, whereby 2nd respondent has rejected the statutory appeal filed by the petitioner under Section 21(5) of the Tamilnadu Specified Commodities Markets (Regulation and Location) Act and under Rule 4 of the Act, on 11.08.2014, against the Proceedings in Letter No.MMC/A1/430/2007 dated 30.07.2014 issued by the 3rd Respondent and quash the same and consequently direct the 2nd and 3rd Respondents to issue temporary / provisional license to the petitioner to run shop at Shop No.FC-28, Flower market, Koyambedu Market Complex, Chennai.

Prayer in W.P.No.18582 of 2015: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the 1st Respondent to take appropriate action against the 3rd Respondent in terms of representation dated 20.02.2015.

Prayer in W.P.No.13419 of 2015: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to consider his representation dated 26.03.2016 for issuance of license for the Shop No.FC-28, Flower Market, Koyembedu.

W.P.No.16760 of 2015

For Petitioner : Mr.A.Thiyagarajan,
Senior Counsel for
for Mr.M.Kempraj

For Respondents : Mr.A.N.Thambidurai for R1, 4 to 6
Special Government Pleader
Mr.K.Rajasrinivas for R2
Ms.Benisha for
Mr.M.Velmurugan for R3

W.P.No. 18582 of 2015

For Petitioner : Mr.G.Senthilkumar

For Respondents : Ms.Benisha for
Mr.M.Velmurugan for R1
Mr.K.Rajasrinivas for R2
Mr.Kempraj for R3
Mr.A.N.Thambidurai for R4 to 6
Special Government Pleader

W.P.No. 13419 of 2016

For Petitioner : Mr.G.Senthilkumar

For Respondents: Ms.Benisha for
Mr.M.Velmurugan for R1
Mr.Kempraj for R2
Mr.K.Rajasrinivas for R3
Mr.A.N.Thambidurai for R4 to 6
Special Government Pleader

C O M M O N O R D E R

[Common Order of the Court was made by S.VAIDYANATHAN, J.]

Since the Writ Petitions are interlinked, they are taken up together for disposal by a common order.

2. The petitioner in W.P.Nos.13419 of 2016 and 18582 of 2015 are one and the same, namely, S.Srinivasan. In W.P.No.18582 of 2015, he has sought for a direction to the 1st respondent to take appropriate action against the 3rd respondent, namely, J.Vincent in terms of his representation dated 20.02.2015 and in W.P.No.13419 of 2016, he has sought a direction to the 1st respondent to consider the representation dated 26.03.2016 for issuance of license for the Shop No.FC-28, Flower Market, Koyambedu. The petitioner, namely, J.Vincent in W.P.No.16760 of 2015 has filed the writ petition, to call for the records of the 2nd Respondent in Letter No.K3/124/2010 dated 12.05.2015 and consequently to direct the 2nd and 3rd Respondents to issue

temporary / provisional license to him to run shop at Shop No.FC-28, Flower market, Koyambedu Market Complex, Chennai.

3. At the earlier stage, this Court suo-motu impleaded the respondents 4 to 6 in all the Writ Petitions. When the Writ Petitions are taken up for hearing, Mr.Rajasrinivas, learned counsel, appearing on behalf of CMDA submitted that the license for the said shop was granted and the registration certificate was issued in favour of the petitioner, namely, S.Srinivasan and that the license was issued up to the year 2012. Since a new person, namely, J.Vincent came on the scene, which fact was not known to CMDA, the request by J.Vincent for issuance of license was rejected on 12.05.2015 and against the said order, J.Vincent, who is the petitioner in W.P.No.16760 of 2015 has preferred the Review Petition and the same is pending.

4. According to the learned counsel appearing for petitioner, namely, Srinivasan in W.P.Nos.18582 of 2015 and 13419 of 2016, J.Vincent is running the shop without license and that action has got to be taken against him. Apart from that, as the place was given to S.Srinivasan, J.Vincent had usurped the property by means of an agreement, Civil Suit No.413 of 2011 was filed by J.Vincent with regard to the Specific Performance and the same was dismissed by this Court on 01.10.2015. Aggrieved against the same, he has preferred O.S.A.No.247 of 2015 and the same is pending. In the meanwhile, Contempt Proceedings has been initiated in Cont.P.No.2850 of 2014 by the petitioner, namely, S.Srinivasan, for wilfully disobeying the order dated 06.06.2014 in W.P.No.15063 of 2013 and the same is pending.

5. Heard the learned counsel for the parties and perused the documents placed on record.

6. It is made clear that this Court is not going into the following questions in these Writ Petitions, since already the issue is culminated into the one of O.S.A.No.207 of 2015 with regard to the Specific Performance.

- (i) Whether the license has been granted to S.Srinivasan?
- (ii) Whether J.Vincent is entitled for license?
- (iii) Whether J.Vincent can run the shop without license?

7. Further, it is brought to the attention of this Court that J.Vincent, petitioner in W.P.No.16760 of 2015 has filed a Review Petition before the concerned Appellate Authority and the same is pending. However, it is for the successful party to apply / continue the license in Shop No.F/C No.28 and during the pendency of these Writ Petitions and O.S.A., the parties were able to carry on the license till date. In any event, the period for which, both the private parties, namely, S.Srinivasan

and J.Vincent are fighting comes to an end by 31.03.2018, therefore, this Court, without prejudice to the rights and contentions of the parties, namely, J.Vincent and S.Srinivasan in O.S.A.No. 247 of 2015, disposes of these two Writ Petitions, filed by S.Srinivasan, namely, W.P.Nos.18582 of 2015 and 13419 of 2016, as no further adjudication is required.

8. Since the petitioner, namely J.Vincent in W.P.No.16760 of 2015 has filed a review petition against the order passed by the Member Secretary, CMDA Egmore, Chennai dated 12.05.2015 and the same is pending before the concerned Appellate Authority, namely, Government, this Writ Petition, namely, W.P.No.16760 of 2015 seeking to set aside the Original Order may not arise. Therefore, this Court is of the considered view that since the petitioner, has already approached the alternate forum, this W.P.No.16760 of 2015 is not maintainable and the same is dismissed. However, the parties are at liberty to raise all factual and legal pleas before the concerned Authority. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssd
To

1. The Secretary,
Housing and Urban Development Department
Secretariat, Fort St. George,
Chennai - 600 009
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
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The DGP's Office,
Mylapore, Chennai - 4

6. The Commissioner of Police,
Chennai City,
Egmore, Chennai - 8

+3 ccs to M/s.M.Kemparaj Advocate sr 18337 to 18339
+3 ccs to M/s.S.Sethuraman Advocate sr 18215 to 18217
+1 ccs to Govt Pleader sr 18436 to 18438

W.P.Nos.16760 of 2015 and M.P.No.1
of 2015 and 18582 of 2015,
and W.P.No.13419 of 2016

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