

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2822, 1135, 2002, 2117, 2137 to 2140, 2144, 2226, 2385 to 2399, 2711, 2994, 3461 to 3463, 3476 & 3477, 3712 to 3715, 3716 & 3717, 4632, 4662 to 4666, 5242 to 5251, 5252 to 5254, 6080 to 6086, 6213, 6839, 10113 of 2016

and

W.M.P.Nos.869, 1743 & 1744, 1844, 1857 to 1861, 1864, 1916 & 1917, 2071 to 2085, 2264 & 2265, 2366, 2468 & 2469, 2830 to 2834, 2843 & 2844, 3098 to 3101, 3102 & 3103, 3986 to 3988, 4038 to 4042, 4611 to 4620, 4621 to 4623, 5410 to 5416, 5543, 6089 of 2016

M.K.P.MURUGAN ...PETITIONER IN W.P.NO.2822/2016.

- 1 T.N.NAGARAJAN ... PETITIONER in WP No.1135 of 2016
PROP. T.N.RETAIL FLOWER SHOP. NO.46/30
BADRIAN STREET CHENNAI-1.
- 1 A.PAAL PANDI ... PETITIONER in WP No.2002 of 2016
S/O. ALAGARSAMY NO.18/A BATHIRIAN STREET
PARRYS CHENNAI-600 001
- 1 K.VISWASAM ... PETITIONER in WP No.2117 of 2016
S/O.SANTHIYAGU 21 BADRIAN STREET CHENNAI-1.
- 1 MAHESH ... PETITIONER in WP No.2137 of 2016
S/O.MOHANA KRISHNAN 6/4 BADRIAN STREET
CHENNAI-1.
- 1 P.S.BALAN ... PETITIONER in WP No.2138 of 2016
S/O.PARAMASIVAM 6/1 BADRIAN STREET
CHENNAI-1.
- 1 S.M.SIVASAMY ... PETITIONER in WP No.2139 of 2016
S/O.MANI 6/4 BADRIAN STREET CHENNAI-1.
- 1 M.P.MUTHURAJ ... PETITIONER in WP No.2140 of 2016
S/O.PICHAMUTHU 14/3 ABITH NAGAR
CHOO LAIMEDU CHENNAI-94

- 1 SEKAR ... PETITIONER in WP No.2144 of 2016
S/O.RASU THEVAR 36 BADRIAN STREET CHENNAI-
1.
- 1 O.ILAYARAJA ... PETITIONER in WP No.2226 of 2016
S/O.ONDHAN 14/14 NEW NO.30 SOWRASTRA
NAGAR 7TH STREET CHOOOLAIMEDU CHENNAI-94
- 1 K.T.RAJA ... PETITIONER in WP No.2385 of 2016
PROP. K.T.RETAIL FLOWER SHOP NO.48/7
BADRIAN STREET CHENNAI-600 001.
- 1 M.K.NAGARAJ ... PETITIONER in WP No.2386 of 2016
PROP. M.K.N.RETAIL FLOWER SHOP NO.46/30
BADRIAN STREET CHENNAI-600 001.
- 1 R.MARAN ... PETITIONER in WP No.2387 of 2016
PROP. MARAN RETAIL FLOWER SHOP NO.46/30
BADRIAN STREET CHENNAI-600 001.
- 1 S.SATHISH ... PETITIONER in WP No.2388 of 2016
PROP. SATISH RETAIL FLOWER SHOP NO.42/1
BADRIAN STREET CHENNAI-600 001.
- 1 A.PALANISAMY ... PETITIONER in WP No.2389 of 2016
PROP.M.N.M. RETAIL FLOWER SHOP NO.15
GROUND FLOOR BADRIAN STREET CHENNAI-600
001.
- 1 S.V.SHANMUGAVEL ... PETITIONER in WP No.2390 of 2016
PROP. SHANMUGAVEL RETAIL FLOWER SHOP NO.44
BADRIAN STREET CHENNAI-600 001.
- 1 S.LOGANATHAN ... PETITIONER in WP No.2391 of 2016
PROP. SST RETAIL FLOWER SHOP NO.15 GROUND
FLOOR BADRIAN STREET CHENNAI-600 001.
- 1 S.SASIKUMAR ... PETITIONER in WP No.2392 of 2016
PROP. S.K.L.S. RETAIL FLOWER SHOP NO.20/40
BADRIAN STREET CHENNAI-600 001.
- 1 P.DHANARAJ ... PETITIONER in WP No.2393 of 2016
PROP. V.P.R.SESUMARI RETAIL FLOWER SHOP NO.
20/40 BADRIAN STREET CHENNAI-600 001
- 1 K.LINGAPPAN ... PETITIONER in WP No.2394 of 2016
PROP. K.L.N. RETAIL FLOWER SHOP NO.14
BADRIAN STREET CHENNAI-600 001

- 1 K.DINESH ... PETITIONER in WP No.2395 of 2016
PROP. DINESH RETAIL FLOWER SHOP NO.36/42
BADRIAN STREET CHENNAI-600 001
- 1 S.WILLIAM ELIYAS ... PETITIONER in WP No.2396 of 2016
PROP. MADHA RETAIL FLOWER SHOP NO.44
BADRIAN STREET CHENNAI-600 001
- 1 S.GOPALAKRISHNAN ... PETITIONER in WP No.2397 of 2016
PROP. SELVA PUSHPA VINAYAGAR RETAIL FLOWER
SHOP NO.42/6 BADRIAN STREET CHENNAI-600
001
- 1 R.RAJAN ... PETITIONER in WP No.2398 of 2016
PROP. R.V.N. RETAIL FLOWER SHOP NO.42
BADRIAN STREET CHENNAI-600 001
- 1 O.VEERAN ... PETITIONER in WP No.2399 of 2016
PROP. MAHALAKSHMI RETAIL FLOWER SHOP NO.
24/46 BADRIAN STREET CHENNAI-600 001
- 1 R.S.MATHU ... PETITIONER in WP No.2711 of 2016
S/O.SEKAR NO.18/B BADRIYAN STREET CHENNAI-
600 001
- 1 K.GANESH RAJ ... PETITIONER in WP No.2994 of 2016
S/O.LATE.V.D.KESAVA CHETTIAR V.V.G.RETAIL
FLOWER SHOP NO.30 BADRIAN STREET CHENNAI-1
- 1 G.NARAYANAN ... PETITIONER in WP No.3461 of 2016
PROPRIETOR D.G.N.RETAIL FLOWER MERCHANT NO.
48 BADRAIN STREET CHENNAI-01.
- 1 J.HARIHARAN ... PETITIONER in WP No.3462 of 2016
MANAGING PARTNER S.NAGARATHINAM & SONS
FLOWERS RETAILERS NO.48 BADRIAN ST. CHENNAI-
01.
- 1 R.PANNER SELVAM ... PETITIONER in WP No.3463 of 2016
MANAGING PARTNER ARS RETAILS FLOWER SHOP NO.
23/45 BADRIAN STREET CHENNAI-01.
- 1 R.RAJENDRAN ... PETITIONER in WP No.3476 of 2016
PROPRIETOR K.V.R.RETAIL FLOWER MERCHANT NO.
48 BADRIAN STREET CHENNAI-600 001

- 1 B.SUBASH ... PETITIONER in WP No.3477 of 2016
PARTNER S.L.B.RETAILS FLOWER SHOP NO.48
BADRIAN STREET CHENNAI-600 001
- 1 P.PERUMAL ... PETITIONER in WP No.3712 of 2016
PROP. M/S.K.P.L.RETAIL FLOWER SHOP NO.28
BADRIAN STREET CHENNAI-1.
- 1 R.GOPAL ... PETITIONER in WP No.3713 of 2016
PROP. M/S.GOPAL RETAIL FLOWER SHOP NO.9
BADRIAN STREET CHENNAI-1.
- 1 A.MANIVANNAN ... PETITIONER in WP No.3714 of 2016
PROP. M/S.MANIVANNAN RETAIL FLOWER SHOP NO.
46/30 BADRIAN STREET CHENNAI-1.
- 1 P.SANKAR ... PETITIONER in WP No.3715 of 2016
PROP. M/S.DEVI SANKAR RETAIL FLOWER SHOP NO.
47 BADRIAN STREET CHENNAI-1.
- 1 G.BALAJI ... PETITIONER in WP No.3716 of 2016
PROP. SL.RETAIL FLOWER SHOP NO.48 BADRIAN
STREET CHENNAI-1.
- 1 A.MANI ... PETITIONER in WP No.3717 of 2016
PROP. D.M.K.RETAIL FLOWER SHOP NO.15
GROUND FLOOR BADRIAN STREET CHENNAI-1.
- 1 M/S. J.P.M. RETAIL FLOWER SHOP
REPRESENTED BY ITS SOLE PROPRIETOR MR. A.
JAHAN S/O. AROCKIA SAMY HAVING BUSINESS AT
NO.44 BADRIAN STREET CHENNAI-1.
... PETITIONER in WP No.4632 of 2016
- 1 K.PALPANDY ... PETITIONER in WP No.4662 of 2016
PROP. R.K.P. RETAIL FLOWER SHOP NO.28
BADRIAN STREET CHENNAI 1
- 1 M.SIVAKUMAR ... PETITIONER in WP No.4663 of 2016
PROP. S.J. RETAIL FLOWER SHOP NO.26
BADRIAN STREET CHENNAI 1
- 1 P.ANAIKUTTY ... PETITIONER in WP No.4664 of 2016
PROP. SHAM. RETAIL FLOWER SHOP NO.52
BADRIAN STREET CHENNAI 1
- 1 P.MUTHUKUMAR ... PETITIONER in WP No.4665 of 2016
PROP. S.K.M. RETAIL FLOWER SHOP NO.7/2
BADRIAN STREET CHENNAI 1

- 1 K.MUTHURAMAN ... PETITIONER in WP No.4666 of 2016
PROP. K.M.R. RETAIL FLOWER SHOP NO.7/2
BADRIAN STREET CHENNAI 1
- 1 N.ARUMUGAM ... PETITIONER in WP No.5242 of 2016
PROP N.R.A. RETAIL FLOWER SHOP NO. 6/5
BADRIAN STREET CHENNAI 1
- 1 M.NAGAMANI ... PETITIONER in WP No.5243 of 2016
PROP M/S.RAJU & CO. RETAIL FLOWER SHOP NO.
4/30 BADRIAN STREET CHENNAI 1
- 1 V.MURUGAN ... PETITIONER in WP No.5244 of 2016
PROP V.M. RETAIL FLOWER SHOP NO. 39
BADRIAN STREET CHENNAI 1
- 1 S.RAJAMANI ... PETITIONER in WP No.5245 of 2016
PROP SOWDAMBIGAI RETAIL FLOWER SHOP NO.6/5
BADRIAN STREET CHENNAI 1
- 1 K.RAVI ... PETITIONER in WP No.5246 of 2016
PROP G.R.B. RETAIL FLOWER SHOP NO.29
BADRIAN STREET CHENNAI 1
- 1 S.VENKATESAN ... PETITIONER in WP No.5247 of 2016
PROP G.S.S. RETAIL FLOWER SHOP NO.6/5
BADRIAN STREET CHENNAI 1
- 1 T.ALAGARSAMY ... PETITIONER in WP No.5248 of 2016
PROP T.A.S. RETAIL FLOWER SHOP NO.23/45
BADRIAN STREET CHENNAI 1
- 1 J.THOMAS PETER ... PETITIONER in WP No.5249 of 2016
PROP V.J.R. RETAIL FLOWER SHOP NO.8B
BADRIAN STREET CHENNAI 1
- 1 A.NITHYANANDAM ... PETITIONER in WP No.5250 of 2016
PROP J.A.K. & SON RETAIL FLOWER SHOP NO.29
BADRIAN STREET CHENNAI 1
- 1 K.MURALI MOHAN ... PETITIONER in WP No.5251 of 2016
PROP K.M.S. RETAIL FLOWER SHOP NO.12
BADRIAN STREET CHENNAI 1
- 1 K.A.GOPI ... PETITIONER in WP No.5252 of 2016
PROP. K.A.G.RETAIL FLOWER SHOP NO.6
BADRIAN STREET CHENNAI-1

- 1 R.VELMURUGAN ... PETITIONER in WP No.5253 of 2016
PROP. R.V.G.M.RETAIL FLOWER SHOP NO.7/3
BADRIAN STREET CHENNAI-1
- 1 R.MURUGAVEL ... PETITIONER in WP No.5254 of 2016
PROP. ALAGU RETAIL FLOWER SHOP NO.37/59
BADRIAN STREET CHENNAI-1
- 1 S.DHARMARAJ ... PETITIONER in WP No.6080 of 2016
PROP.S.D.R.S.RETAIL FLOWER SHOP NO.6
BADRIAN STREET CHENNAI-600 001.
- 1 S.SELVAKUMAR ... PETITIONER in WP No.6081 of 2016
PROP.S.S.K.RETAIL FLOWER SHOP NO.11
BADRIAN STREET CHENNAI-600 001.
- 1 C.SETTU ... PETITIONER in WP No.6082 of 2016
PROP.M.C.S.RETAIL FLOWER SHOP NO.7/2
BADRIAN STREET CHENNAI-600 001
- 1 S.M.LOGANATHAN ... PETITIONER in WP No.6083 of 2016
PROP.S.M.L.RETAIL FLOWER SHOP NO.25 GROUND
FLOOR BADRIAN STREET CHENNAI-600 001.
- 1 P.THANASEKAR ... PETITIONER in WP No.6084 of 2016
PROP.D.P.M.RETAIL FLOWER SHOP NO.51
BADRIAN STREET CHENNAI-600 001.
- 1 V.KANNIYAPPAN ... PETITIONER in WP No.6085 of 2016
PROP.S.B.RETAIL FLOWER SHOP NO.42/39
BADRIAN STREET CHENNAI-600 001.
- 1 S.SELVAM ... PETITIONER in WP No.6086 of 2016
PROP.S.P.R.RETAIL FLOWER SHOP NO.6/5
BADRIAN STREET CHENNAI-600 001.
- 1 A.VARADARAJ ... PETITIONER in WP No.6213 of 2016
PROP. T.S.P. RETAIL FLOWER SHOP NO.6/4-C
BADRIAN STREET CHENNAI-600 001
- 1 D.DESILVA DANIEL RAJ ... PETITIONER in WP No.6839 of 2016
PROP.P.D.RETAIL FLOWER SHOP NO.6/1 BADRIAN
STREET CHENNAI-600 001.
- 1 CHENNAI PUSHPA VIYABARGIAL AND
COMMISSION AGENTUGAL SANGAM REP.PRESIDENT
MR.UTHAPPAN NO.18/2 GANGAIAMMAN KOIL ST.
CH-17. & ALSO AT FA-11 KOYAMBEDU CH-92.
... PETITIONER in WP No.10113 of 2016

vs.

1. THE GOVERNMENT OF TAMIL NADU,
REP. BY ITS SECRETARY, HOUSING AND URBAN
DEVELOPMENT DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9.

1st Respondent in W.P.No.2822, 1135,
2002, 2117, 2137 to 2140; 2144, 2226, 2385
to 2399, 2994, 3461 to 3463, 3476, 3477, 3712
to 3715, 3716, 3717, 45632, 4662 to 4666, 5242
to 5251, 5252 to 5254, 6080 to 6086,
6213, 6839/2016.

2. THE MEMBER SECRETARY,
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
NO.1, GANDHI IRWIN ROAD,
EGMORE, CHENNAI - 8.

..2nd Respondent in W.P.No.2822,
1135, 2002, 2117, 2137 to
2140, 2144, 2226, 2385 to 2399, 2994, 3461
to 3463, 3476, 3477, 3712 to 3715, 3716,
3717, 4632, 4662 to 4666, 5242 to 5251,
5252 to 5254, 6080 to 6086,
6213, 6839/2016.

..R1 in W.P.No.2711/2016, 10113/16

3. THE CHIEF EXECUTIVE OFFICER,
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
NO.1, GANDHI IRWIN ROAD, EGMORE, CHENNAI - 8.

..3rd Respondent in W.P.No. 2822,
1135, 2002, 2117, 2137 to 2140,
2144, 2226, 2385 to 2399, 2994, 3461
to 3463, 3476, 3477, 3712 to
3715, 3716, 3717, 4632, 4662 to 4666,
5242 to 5251, 5252 to 5254, 6080
to 6086, 6213, 6839/2016.

THE CHIEF ADMINISTRATIVE
OFFICER MARKET MANAGEMENT COMMITTEE
KOYEMBEDU WHOLESALE MARKET COMPLEX
CHENNAI-600 092.

..R2 in W.P.No.10113/2016

THE COMMISSIONER OF POLICE
VEPERY CHENNAI-600 007.

..R3 in W.P.No.10113/2016.

CHENNAI PUSHPA VIYABARGIAL AND
COMMISSION AGENTUGAL SANGAM
REP BY ITS PRESIDENT MR. UTHAPPAN

..4TH Respondent in
W.P.No.2822,1135,2002, 2137 to
2140,2144,2226,2385 to 2399,3461 to
3463,3476,3477,3712 to
3715,3716,3717,4632,4662 to 4666, 5242
to 5251,5252 to 5254, 6080 to 6086,
6213/2016.

THE COMMISSIONER
CORPORATION OF CHENNAI RIBBON BUILDING
CHENNAI-600 003 ..R2 in W.P.No.2711/2016
..R4 in W.P.No.10113/2016.

W.P.No.2822/2016: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
forbearing the respondents or their men or agents from
preventing the petitioners from doing retail vending flower
business at Shop.No.17/35, Badrian Street, Chennai - 1.

WP No.1135 of 2016
Calling for the records in Letter No.K2/6035/14 dated 6.10.2015
on the file of the 3rd respondent herein and quash the same

WP No.2002 of 2016
calling for the records of the 3rd respondent pertaining to the
proceedings in letter No.K2/6035/14 dated 06.10.2015 & quash and
consequently direct the respondents to remove the seal at the
petitioners shop situate at No.18/A, Bathirian Street, Parrys,
Chennai-600001

WP No.2117 of 2016
Forbearing the respondents or their men or agents from
preventing the petitioner doing Retail Vending Flower business
at Shop No.21, Badrian Street, Chennai-1

WP No.2137 of 2016
Forbearing the respondents or their men or agents from doing
retail vending flower business at Shop No.6/4 Badrian Street,
Chennai-1 in presume the Letter No.K2/6035/14 order dated
06.10.15.

WP No.2138 of 2016
Forbearing the respondents or their men or agents from doing
retail vending flower business at Shop No.6/1 Badrian Street,

Chennai-1 in presume the Letter No.K2/6035/14 order dated 06.10.15.

WP No.2139 of 2016

Forbearing the respondents or their men or agents from doing retail vending flower business at Shop No.6/4 Badrian Street, Chennai-1 in presume the Letter No.K2/6035/14 order dated 06.10.15

WP No.2140 of 2016

calling for the records with respect of the impugned notice dated 6.10.2015 passed in Letter No.K2/6035/14 on the file of the 3rd respondent herein and quash the same

WP No.2144 of 2016

Forbearing the respondents or their men or agents from preventing the petitioner doing Retail Vending Flower business at Shop No.36, Badrian Street, Chennai-1

WP No.2226 of 2016

calling for the records with respect of the impugned notice dated 6.10.2015 passed in Letter No.K2/6035/14 on the file of the 3rd respondent herein and quash the same

WP No.2385 of 2016 to 2399/16, and WPs.3712 to 3717/16

Calling for the records in Letter No.K2/6035/14 dated 06.10.2015 on the file of the 3rd respondent herein and quash the same.

WP No.2711 of 2016

Declaring the lock and seal carried out by the respondents at premises No. 18/B, Badriyan Street, Chennai- 600 001 against the petitioner from carrying on his retail flower business as illegal, null and void and restrain the respondents, their men, servants, agents in any manner interfering with or preventing the petitioner from carrying on retail trade in flowers

WP No.2994 of 2016

calling for the records of the 3rd respondent pertaining to the proceedings in Letter No.K2/6035/14, dated 6.10.2015 and quash the same and consequently direct the respondents herein to permit the petitioner to run the retail flower vending shop at No.30, Badrian Street, Chennai 600 001

WP No.3461 & 3462 of 2016

Calling for the records of the 3rd Respondent pertaining to the proceedings in letter No.K2/6035/14 dated 06.10.2015 and quash and consequently direct the Respondents to remove the seal to the petitioners shop situated at Door No.48 Badrian Street, Parrys, Chennai-01

WP No.3463 of 2016

Calling for the records of the 3rd Respondent pertaining to the proceedings in letter No.K2/6035/14 dated 06.10.2015 and quash and consequently direct the Respondents to remove the seal affixed to the petitioners shop situated at Door No.23/45 Badrian Street, Parrys, Chennai-01

WP No.3476 of 2016 & 3477/2016.

Direct the respondents to remove the seal affixed to the petitioner shop situated at No.48 and consequently forbear the respondents from in any manner interfering with the running of the petitioners business

WP No.4632 of 2016

To call for the records pertaining to impugned order passed by 2nd respondent vide proceedings in Letter No.K2/6035/14 dated 06/10/2015 and quash the same as illegal, arbitrary, violative of audi alteram partem and Article 14, 19(1)(g) and 21 of the Constitution of India and further forbear the respondents from in any manner interfering with the petitioner retail business in flower vending at No.44, Badrian Street, Chennai-1

WP No.4662 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.28, Badrian Street, Chennai 1 under the occupation of the petitioner

WP No.4663 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.26, Badrian Street, Chennai 1 under the occupation of the petitioner

WP No.4664 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.52, Badrian Street, Chennai 1 under the occupation of the petitioner

WP No.4665 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.7/2, Badrian Street, Chennai 1 under the occupation of the petitioner

WP No.4666 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.7/2, Badrian Street, Chennai 1 under the occupation of the petitioner

WP No.5242 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 6/5, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5243 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 4/30, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5244 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.39, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5245 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 6/5, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5246 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 29, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5247 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 6/5, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5248 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 23/45, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5249 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 8B, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5250 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 29, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5251 of 2016

Forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 12, Badrian Street, Chennai 1 under the occupation of the petitioner till the disposal of Suit

WP No.5252 of 2016

forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing NO.6, Badrian Street, Chennai 600 001, under the occupation of the petitioner till the disposal of suit

WP No.5253 of 2016

forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.7/3, Badrian Street, Chennai 600 001, under the occupation of the petitioner, till the disposal of suit

WP No.5254 of 2016

forbearing the respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.37/59, Badrian Street, Chennai 600 001, under the occupation of the petitioner, till the disposal of suit

WP No.6080 of 2016

For bearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.6, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit.

WP No.6081 of 2016

Forbearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.11, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit.

WP No.6082 of 2016

For bearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.7/2, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit.

WP No.6083 of 2016

Forbearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.25, Ground Floor, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit

WP No.6084 of 2016

For bearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.51, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit.

WP No.6085 of 2016

Forbearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.42/39, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit.

WP No.6086 of 2016

For bearing the Respondents more particularly the 3rd Respondent from initiating any eviction proceedings in respect of premises bearing No.6/5, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit.

WP No.6213 of 2016

forbearing the Respondents more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No. 6/4-C, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit

WP No.6839 of 2016

Forbearing the Respondents, more particularly the 3rd respondent from initiating any eviction proceedings in respect of premises bearing No.6/1, Badrian Street, Chennai-600 001 under the occupation of the petitioner till the disposal of suit No.898/16 on the file of the learned V Assistant Judge, City Civil Court at Chennai.

WP No.10113 of 2016

Directing the Respondents herein to implement the G.O.Ms.No.10, Housing and Urban (UD 3-1) Department, dated 6.1.2012 and consequently to initiate action under Section 379-A of the Chennai City Municipal Corporation Act to evict the said Retailers Badriyan Street, Chennai-1 within a time frame as may be fixed by this Honble Court.

For Petitioners:

Mr.R. Nalliyappan : Petitioner in W.P.No.2822/2016, W.P.2117/2016, W.P. 2137 to 2140/2016, W.P.2144/2016,2226/2016.

Mr.K. Sivakumar: Petitioner in W.P.1135/2016, W.P.2385 to 2399/2016, W.P.6080 to 6086/2016, W.P.6213/2016,6839/2016, W.P.3712 to 3715/2016, W.P.5252 to 5254/2016.

Mr.P. Valliappan : Petitioner in W.P.2002/2016.

Mr.R. Subramanian : Petitioner in W.P.2711/2016.

Mr.S.S. Swaminathan : Petitioner in W.P.2994/2016.
for SPM Associates

Mr.V. Karthick Senior Counsel
for Mr. Adthiya Varadarajan :Petitioner in W.P.3641
to 3643/2016, 3477/2016.

M/s.C. Harini : Petitioner in W.P.10113/2016.

Mr.R. Veeramani : Petitioner in W.P.4632/2016.

For Respondent:

P.K. Aravinth Pandian AAG
Assisted by
P.S. Ganesh R2,R3 all W.Ps
for CMDA.

M/s.A. Srijayanthi Spl. Govt. Pleader
for R1 W.P. 2822/2016, W.P. 1135/2016, 2022/2016, 2117/2016,
2137 to 2140/2016, W.P.2144/2016, W.P. 2385 to 2399/2016.

Mr.R.S. Selvam AGP

R1 W.P. 3476,3477/2016, W.P. 3712 to 3715/2016, W.P.
3716,3717/2016, W.P. 4662 to 4666/2016,. W.P.5242 to 5251/2016,
W.P. 5252 to 5254/2016, W.P.6080 to 6086/2016, W.P.6213/2016,
W.P.6839/2016.

Mr.V. Seshachari:

4th Respondent in W.P.2622/2016, 1135/2016, 2002/2016,2117/2016, 2137 to 2140/2016, 2144/2016, 2385 to 2399/2016, W.P. 3476/2016, 3477/2016, 3712/2016 to 3715/2016, 3716/2016,3717/2016, W.P. 4662 to 4666/2016, W.P. 5242 to 5251/2016, W.P.5252 to 5254/2016.

Mr.G. Anantharangan: 4th Respondent in W.P.10113/2016,
W.P.2711/2016, 4632/2016.

C O M M O N O R D E R

Initiation of action for eviction of the writ petitioners from doing their vending flower business in Badrian Street, Chennai 1, provided cause for filing of the present writ petitions.

2.The writ petitioners claim that they are doing retail vending flower business at Badrian Street, Chennai - 1 and it is contended that they are not doing wholesale business and they are continuing only the retail vending flower business in Badrian Street, Chennai - 1, for the benefit of the people of that locality. In Badrian Street, there are more than 130 small retail flower vendors doing their business. All the retail flower vendors are running business in private buildings and it is located in the heart of the city and it is called as Flower Bazaar Bus Stand, Flower Bazaar Police Station etc.,. Thus, the people can easily approach the retail flower shop for purchase of flowers for their usage. Hereditary retail flower vendors are also doing business in that locality without any interruption from any Government officials for long years. All of a sudden, on 05.02.2012, the 2nd respondent / Chennai Metropolitan Development Authority along with their officials, approached the retail vendors and directed them to close down the retail vending flower business in that area by stating that all the vendors are doing wholesale flower vending business in that area. However, the writ petitioners informed them that they are running the retail vending flower business only and there is no wholesale business is done in that locality. The allegation of the writ petitioners are that the officials are continuously disturbing them. The officials are causing such disturbances at the instigation of the Koyembedu Whole Sale Flower vendors and some politicians. The petitioners state that they are doing retail vending business in the said shop in accordance with the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996. The retail flower vendors / writ petitioners of that area has already filed Civil Suits before the City Civil Court, to declare that their business as retail flower vending business and accordingly, grant permanent Injunction. The 2nd respondent entered appearance in the Civil Suits, an Advocate Commissioner was appointed to note down the

physical features of the said properties and filed a report, holding that all the vendors are doing retail flower vending business in that locality. Now, the Suits are pending and posted for Trial. Under these circumstances, the 3rd respondent issued a notice on 06.10.2015, directing the retail flower vendors of the entire Badrian Street to stop the unauthorized whole sale flower business and vacate the business within seven days from the date of receipt of the notice, failing which action will be initiated against all the writ petitioners. In the said notice, the 3rd respondent mentioned the order of this Court dated 15.04.2015 in W.P.No.10852 of 2015. The petitioners state that they are not aware of any such order of the High Court. Under these circumstances, the present writ petitions are filed, seeking the relief to forbear the respondents from preventing the writ petitioners to carry out their retail vending flower business at Badrian Street, Chennai - 1.

3.The respondents 2 and 3 filed a counter affidavit. As per the counter affidavit, on 26.08.1996, the Tamil Nadu Specified Commodities Market (Regulation of Location) Act, 1996 came into force and Wholesale trade has been prohibited in areas other than Koyembedu Market. On 17.12.1996, Koyembedu Whole sale Market(KWMC) was notified and started functioning as wholesale market area. CMDA gave opportunity for change of shops (Wholesale perishable goods, fruits, and flowers) by issuing paper publication also. Most of the whole sale traders in flowers continued to carry on business in Badrian Street, which caused heavy vehicular problems to the road users. Traffic congestion increased, CMDA was forced to initiate action to prohibit the wholesale flower business at Badrian Street. Complaint was also given by the whole sale market owners Association, against business being carried on it Badrian Street.

4.The request of Chennai Malar Vyabarigal Sangam, for carrying on business at Badrian Street was rejected by CMDA on 14.11.2003. Thus, Chennai Malar Vyabarigal Sangam filed a writ petition in W.P.No.1272/2002, against the proceedings dated 18.01.2002 of CMDA (restriction imposed in selling at Badrian Street). CMDA was directed to pass fresh orders. On 13.09.2004, a writ petition was filed W.P.No.26053 of 2004 by Chennai Pushpa Vyabarigal and Commission Agentugal Sangam against CMDA, aggrieved by unauthorized business being carried on at Badrian Street and a direction was issued to consider the representation after giving opportunity. Thereafter, two writ petitions were filed in W.P.Nos.29809/2004 and W.P.No.12909 of 2009 dated 27.11.2009 by the Chennai Retail Flower Merchants Association and another Vyabarigal Sangam against CMDA with regard to the restriction of carrying on Business at Badrian Street. Finally,

CMDA was directed to issue notice to Chennai Retail Flower Merchants Association represented by its President within 1 week and the president in turn shall inform its members and thereafter, enquiry is to be conducted by CMDA apart from issuing public Notice. On 12.01.2010, W.P.No.4150/2010(Batch) in which CMDA was directed to give notice and conduct enquiry and on 04.02.2010, a writ petition was filed by the Chennai Retail Flower Merchants Association in W.P.No.2069/2010, seeking direction against the respondent to not to proceed further in closing down the retail flower vending business at Badrian Street.

5. Therefore, a Writ Appeal was filed by the Chennai Koyembedu Malar Motha Vyabarigal Sangam in W.A.No.693/2011(DB) dated 07.07.2011, against the order in W.P.No.28909/2004 and W.P.No.12909/2009. The writ appeal was closed after recording in para 7 of the order that a detailed order has been passed by CMDA on 06.07.2011, after issuing individual notices to the traders. And further, the Division Bench held that "we are satisfied that the respondent have totally complied with the directions given by the learned Single Judge". On 06.01.2012, aggrieved by eviction order of CMDA, an appeal was preferred to the Government. After enquiry, the Appeals were rejected and G.O.Ms.No.10 of Housing and Urban Development Department was passed instructing CMDA to take further action along with Chennai Corporation and Police Department for eviction. On 23.04.2012, Chennai Retail Flower Merchants Association filed a writ petition in W.P.No.1589/2012, to quash the G.O.Ms.No.10 of Housing and Urban Development Department and also to recognize the members of the petitioner as Retail Flower vendors. After elaborately going into the genesis and merits of this case, the learned single Judge dismissed the writ petition. Thereafter, on 04.02.2016, CMDA issued a final notice dated 06.10.2015 to vacate the wholesale flower business within 7 days to all the 62 traders carrying on wholesale business in Badrian Street out of the 130 traders. Joint Committee meeting with Police officials and Revenue authorities were conducted by CMDA to evict the unauthorized wholesale flower merchants and on 18.01.2016, eviction was completed by locking and sealing the premises. As most of the shops were unauthorizedly opened, Compliant was given by CMDA with regard to break open of Lock & Seal at Badrian Street. On 15.04.2015, Chennai Pushpa Vyabarigal and Commission Agentugal Sangam filed a writ petition in W.P.No.10852/2015, seeking for a Mandamus, to direct the CMDA to implement G.O.Ms.No.10, and this Court directed to consider the representation of the petitioner within a period of eight weeks and on 20.01.2016, Chennai Pushpa Vyabarigal and Commission Agentugal Sangam filed Contempt Petition No.2406/2015 in W.P.No.10852/2015. In this regard, Action taken Report was filed

by CMDA, setting out the facts regarding the eviction drive and also the unauthorized break open of shops by merchants. The Contempt Petition No.2406/2015 was closed on 21.01.2016.

6. On 25.11.2016, few writ petitioners claiming to be retail flower vendors filed suit before City Civil Court Order praying for a decree of declaration that they are retail flower vendors doing business at Badrian Street and for permanent injunction, restraining CMDA from interfering with their peaceful conduct of business. In the said suit, interim applications were filed, seeking for appointment of Advocate Commissioner for the purpose of reporting about the possession of the shop by the respective plaintiffs were allowed against which, CRP.No.1031/2016 to 1036/2016 were filed by CMDA. By the common order, the revision petitions were allowed and the Interlocutory Applications filed for appointment to Advocate Commissioner were dismissed. On 17.04.2017, Chennai Pushpa Vyabarigal and Commission Agentugal Sangam filed a writ petition in W.P.No.10113/2016, against CMDA, in which, a detailed counter setting out all the facts have been filed.

7. The learned Senior Counsel appearing on behalf of the writ petitioners submitted an order passed by this Court in W.P.No.2259 of 2016 dated 25.04.2017. The learned counsel informed this Court that even in two, three other writ petitions, the very same order has been passed. This Court has categorically observed in the said order as follows:

"2.3 Thereafter, Chennai Retail Flower Merchants Welfare Association filed a writ petition in W.P.No.1589 of 2012 challenging the proceedings dated 06.01.2012 and to direct the respondents to recognize the members of the petitioner as the Retail Flower vendors. This court, by order dated 23.04.2012, dismissed the writ petition and also observed as follows in paragraph No.24 of the order:-

"24. One more aspect that has to be seen is that the petitioner association has come up with the present writ petition alleging that all its members are Retail flower vendors. But, however, it has been found by the officials of the CMDA that they are only wholesale vendors. In my considered view, the said finding arrived at by the authorities of CMDA need not be doubted. The first respondent has considered the entire aspect in issue and passed the impugned order, which does not require any interference by this court in this writ petition."

2.4 From the above, it is clear that this court accepted the finding arrived at by the authorities of CMDA to the effect that the members of the association are not retail flower vendors and that they are wholesale vendors.

4. When this court had given a specific finding that the members of the association are not doing retail business and that they are only doing wholesale business and the said order has become final for the reason that the respondents have not challenged the said order, I do not find any reason to give a contrary finding in this writ petition.

7. Since this court had already found that the petitioner is a whole seller, I do not find any reason to interfere with the impugned order passed by the second respondent.

8. For the reasons stated above, the writ petition is dismissed. However, it is open to the petitioner to give a representation to the respondents 1 and 2 to the effect that he would carry on only retail business and not wholesale business in the said place along with an affidavit of undertaking and in the event of the petitioner giving the representation along with the undertaking, the respondents 1 and 2 may consider the same and pass appropriate orders, after conducting proper enquiry, within a period of three weeks from the date of submission of the representation. No costs. consequently, connected miscellaneous petitions are closed."

8. The facts are adjudicated and concluded through various orders of this Court. The fact remains that the writ petitioners are running flower vending business in Badrian Street, Chennai - 1. Even as per the Court orders and as per the inspections conducted by the respondents, it is found that the writ petitioners are doing wholesale flower vending business in that locality. By stating that they are doing retail vending business, the writ petitioners are unnecessarily attempting to take undue advantage and continue their wholesale business in that area.

9. The learned Senior Counsel appearing on behalf of the writ petitioners informed this Court that the writ petitioners are selling very less quantity of flowers and therefore, the same

cannot be construed as wholesale business. In other words, it is contended that the writ petitioners are selling 2 or 3 Kgs of flowers, cannot be taken as a wholesale business. Thus, for all purposes, the writ petitioners ought to have been considered as retail flower vendors.

10. On account of the submission made by the learned Senior Counsel, this Court has to go into the provisions of the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996. (hereinafter referred to as the Act)

11. The very purpose and object of the said Act enumerated as follows:

"An Act to regulate the location of market areas and wholesale markets in respect of specified commodities in the Chennai Metropolitan Planning Area and in other local areas and to establish market committees to manage and control different markets established in different market areas for different specified commodities and also to provide for matters connected therewith or incidental thereto.

WHEREAS with the fast growth of population and commercial activities, the congestion and consequential traffic, accommodation and other problems in the Chennai Metropolitan Planning Area and in other local areas have been increasing enormously.

AND WHEREAS in view of such congestion and consequent traffic, it is necessary in the public interest to decongest certain parts of such areas and to shift as many commercial activities as possible to places outside such parts; thereby paving way for, planned development of such areas and better public health;

AND WHEREAS in order to achieve the aforesaid objective, it is necessary to declare market areas and to establish market committees and markets thereon at suitable locations in the local areas for the wholesale trade of the specified commodities."

12. The very purpose and object of the Act categorically states that the Legislative Assembly of the State of Tamil Nadu enacted the law, taking into consideration, the fast growth of population and commercial activities, the congestion and consequential traffic, accommodation and other problems in the Chennai Metropolitan Planning Area and further, with a view to de-congest such areas and to shift as many as commercial activities as possible to outside such parts; thereby paving way for, planned development of such areas and better public health.

13. The very objects of the enactment unambiguously portrays that the State had enacted the law in the interests of the public at large and in consonance with the constitutional principles, as providing health to the citizen is an integral part of Article 21 of the Constitution of India. The Constitutional Courts across the Country, time and again reiterated that the State has duty to protect Environment, Ecology and better living condition to the citizen. In the event of allowing such wholesale business in congested area, the same will certainly cause not only health issues, but also cause inconvenience to the free flow of traffic and all other related issues. Thus, the object of the Act is unambiguously to provide a planned development city, so as to create a healthy, calm and good atmosphere to the people at large.

14. Section 2 of the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996 provides definitions. Section 2 (14) of the said Act defines "wholesale trade", means "sale or purchase of any specified commodity for purpose other than direct consumption or use by the purchaser, and shall include holding of stocks or warehousing of such specified commodity at any place in the market area (but does not include any sale or purchase by any primary producer or retail trader, as the case may be, if such specified commodity) and any such seller, buyer, holder of stock or warehouse-keeper shall be deemed to be a "wholesale trader".

15. Chapter II deals with Declaration of Market Area and Establishment of Market Committee and Market and Section 4 of the Act deals with Declaration of Market Area. Chapter III of the Act deals with Registration of Wholesale Traders and Wholesale Trading in Specified Commodity in Market Area under Licence.

16. When there is a specific provision for Registration of Wholesale Traders, this Court is of an opinion that no such licence was provided to the writ petitioners for doing wholesale business in Badrian Street, Chennai - 1. Thus, it is to be declared that they are continuing wholesale business in Badrian Street, Chennai - 1 in violation of the provisions of the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996. When the said Act came into force and the Government declared that the particular area cannot be utilized for the purpose of wholesale business, then it is the duty of the authorities to ensure that all such wholesale business activities are suitably dispossessed, so as to ensure the implementation of the Act in its real letter and spirit. It is

repeatedly observed by this Court in various orders that the Badrian Street, Chennai - 1 is being used by the vendors for wholesale business of flowers. When such a finding is consistently made by the Courts based on the field inspections conducted by the officials of the Chennai Metropolitan Development Authority, there is no reason to continue these writ petitioners in that locality to carry on their wholesale flower vending business.

17. The learned counsel for the writ petitioner states that the writ petitioners have already filed Civil Suits before the City Civil Court, Chennai and the same are pending. It is further informed that in most of the Civil Suits, the officials of the CMDA have not entered appearance and not appearing before the City Civil Court and defending the case of the Department. Thus, the petitioners must be allowed to continue their business in Badrian Street. With reference to the above submission, regarding the pendency of the Civil Suits before the City Civil Court, Chennai, this Court is of an opinion that there is an express bar to entertain a Civil suit under the provisions of the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996. Section 53 of the Act deals with bar of certain proceedings. Section 58 of the Act stipulates injunction not to be granted in certain proceedings. Thus, no suit or other proceedings shall lie against the market committee for any act done or purporting to be done under the Act. It is further stated in Section 58 of the Act, that no Court shall grant any permanent or temporary injunction or make any interim order in any manner in relation to nomination or appointment under this Act including the preparation or publication of any list of persons licensed under Section 21 for the purposes of nomination. Section 21 of the Act stipulates that wholesale trading in specific commodity in the market area to be regulated by licence. Thus, the filing of the Civil Suit itself is in violation of the express bar provided under the Act. The Act being the Special Act, the same will prevail over the general provision of law. This apart, Section 9 of the Code of Civil Procedure contemplates in the event of any express or implied bar, no suit can be entertained. Thus, the suits filed by the writ petitioners for permanent injunction is not at all maintainable and the appeal examiners of the City Civil Court, who have numbered the Civil Suits and the judicial officers, who are proceeding the Civil suits for several months without even looking into the very provisions of the Act and the maintainability is to be deprecated. These all are the preliminary requirements, which is to be scrutinized when the Civil suit are processed by the Registry of the City Civil Court. If these minimum requirement of maintainability has not been noticed, then this Court is of an opinion that the

Registrar, City Civil Court has to look into these aspects and appoint appropriate appeal examiners for the purpose of scrutinizing the Civil Suits. The judicial officers concerned should also be careful in dealing with such matters when there are specific provisions under the Special Act.

18. In respect of the order referred by the learned Senior Counsel dated 24.05.2017 in W.P.No.2259 of 2016, it is open to the writ petitioner to give a representation to the respondents 1 and 2 to the effect that he would carry on only retail business and not wholesale business in the said place along with an affidavit of undertaking and such an application to be considered and appropriate orders to be passed.

19. This Court is of an opinion that the leniency shown by this Court cannot be misused by the writ petitioners for the purpose of continuing their wholesale business in Badrian Street, Chennai - 1. In the event of allowing such representations to be filed, the same will prolong and protract the issues and the writ petitioner will further continue their wholesale business for long years only under the guise of pending litigations and the disputes.

20. It is a new concept developed by the litigants all over the Country that they can continue the litigation by keeping the litigations and the appeals pending, for unspecified period and continue the illegality perpetually. Understanding the delay caused in the legal issues and the Appellate authorities, the litigants are developing a mindset that one way or other, they can continue their litigations for many years, so as to continue their activities, which is otherwise in violation of the provisions of the Act. Such an attitude of the litigants can never be encouraged at all. Courts in such circumstances cannot be carried away with the sympathy. The Constitutional Courts are bound to uphold the rule of law. When such actions of the litigants are found in violation of the statutory provisions and the authorities are able to establish that the business are conducted illegally, then there cannot be any leniency in this regard and the provisions of the Act should be complied in its strict sense, so as to ensure upholding the constitutional principles and the public interest.

21. The learned counsel for the respondent brought to the notice of this Court that the Hon'ble Division Bench dealt with the very same issues in the appeal filed by the Chennai Koyambedu Malar Motha Vyabarigal Sangam, represented by its

President in W.A.No.693 of 2011 dated 07.07.2011. The Hon'ble Division Bench passed the following orders:

"5.At the time of admission of the writ appeal on 09.06.2011, learned Special Government Pleader appearing for the respondents submits that in view of the direction given by the learned Single Judge in a batch of writ petitions in the impugned order dated 12.1.2011, though individuals notices well served to attend the public hearing on 16.05.2011 at 11.30 a.m., Subsequently, due to non-service of notice on all the traders, once again notices were served and hearing dates were fixed as 10.6.2011 and 13.6.2011 and accordingly requested time to proceed with the matter after completion of the public hearing. Subsequently, the matter was adjourned. Finally, when the writ appeal came up for final disposal, a status report was filed by the second respondent / CMDA stating that apart from other grounds, notices were served to all the 130 traders in batches, so attend a personal hearing and out of 130 traders, 53 traders attended the personal hearing and given their contentions in writing, stating that they were doing retail business and requested CMDA not to vacate them from Badrian Street, George Town and permit them to continue their retail business.

6.It is also stated in the status report that the contentions of the traders have been examined and it has been concluded that the traders are doing wholesale business in the Badrian Street. Further, it is observed that the individual is not purchasing flower from Koyambedu Wholesale Market complex, instead they are procuring from other places and transporting the flowers by train, bus, mini vans to Badrian Street, George Town area.

7.Therefore, a detailed order was passed on 6.7.2011 after issuing individual notices. In view of the said individual order passed by the respondents in accordance with the directions given by the learned Single Judge, the above writ appeal is closed. In view of the order passed by the respondents, we hope that the respondents will strictly follow the order in the interest of the public. We are satisfied that the respondents have totally complied with the directions given by the learned Single Judge, while quashing the order passed by the respondents impugned in the writ petition. Consequently, the connected M.P. is closed. However, there shall be no order to costs."

22. Consequently, the Government also issued G.O.(Ms).No.10, Housing and Urban Development(UD3-1) Department dated 06.01.2012, rejecting the appeal filed by the vendors of the Badrian Street, Chennai - 1, under Section 45 of the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996. The said appeal was filed, challenging the eviction of wholesale traders of Member Secretary, Chennai Metropolitan Development Authority. The Government dealt with the appeal and elaborately passed an order, wherein the order of the Hon'ble Division Bench also had been considered in clause xxii, which reads as under:

"In W.A.No.693 of 2011 and M.P.No.1 of 2011 dated 07.07.2011 filed by Koyembedu Malar Motha Viyabarigal Sangam, the Hon'ble High Court issued orders that "A detailed order was passed on 06.07.2011, after issuing individual notices. In view of the said individual order passed by the respondents in accordance with the directions given by the learned Single Judge, the above writ appeal is closed. In view of the order passed by the respondents, we hope that the respondents will strictly follow the order in the interest of the public. We are satisfied that the respondents have totally complied with the directions given by the learned Single Judge, while quashing the order passed by the respondents impugned in the writ petition. Consequently, the connected M.P.is closed."

7.The Government after careful examination of the appeals and the report of Member-Secretary, Chennai Metropolitan Development Authority on the public hearing made with the appellants have decided to reject the appeals preferred by the appellants Tvl.P.Vasudevan, R. Maran and others. Accordingly, the Government reject the appeals preferred by Tvl.P.Vasudevan, R.Maran and others under Section 45 of the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996 against the eviction order of Chennai Metropolitan Development Authority dated 12.02.2010 banning wholesale trade in flower goods at George Town area, Chennai -1.

8.The Government instruct the Member-Secretary, Chennai Metropolitan Development Authority to take further action along with Chennai Corporation and Police Department for eviction of wholesale flower traders at Badrian Street, George Town, Chennai - 1."

23.The Government instructed the Member-Secretary, Chennai Metropolitan Development Authority to take further action along with Chennai Corporation and Police Department for eviction of wholesale flower traders at Badrian Street, George Town, Chennai - 1. In this regard, the learned counsel for the respondents informed this Court that actions were initiated and accordingly, number of shops were locked and sealed by the authorities. However, the petitioners and some other persons removed the lock and seal and again occupied the premises and continuing their wholesale business. In this regard, the Police complaint given by the respondents are registered and an FIR is filed. Thereafter, the Chennai retail flower merchants filed a writ petition in W.P.No.1589 of 2012 and this Court passed an order dated 23.04.2012, which reads as follows:

"23.In view of the pronouncement made by the Division Bench of this Court, it cannot be heard to say from the side of the petitioner association that no individual notice was given to its members.

24.One more aspect that has to be seen is that the petitioner association has come up with the present writ petition alleging that all its members are Retail flower vendors. But, however, it has been found by the officials of the CMDA, that they are only wholesale vendors. In my considered view, the said finding arrived at by the authorities of CMDA need not be doubted. The first respondent has considered the entire aspect in issue and passed the impugned order, which does not require any interference by this Court in this writ petition.

25.In fine, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed."

24.The Police complaint in respect of break open the lock and seal was filed before the Assistant Commissioner of Police, Flower Bazaar Police Station on 04.02.2016. However, no action has been taken by the Police in respect of the complaint filed by the respondents.

25.On a perusal of various orders of this Court as well as the orders of the Hon'ble Division Bench of this Court, consistently held that all these vendors in Badrian Street, Chennai - 1 is doing wholesale flower business as per the inspection report of the officials of CMDA. When it is repeatedly recorded by the Courts and the Government also

ordered for eviction of these wholesale traders and even after locking and sealing of the premises, they have break open the lock and seal and the F.I.R. registered by the Police is also ineffective, this Court is of an opinion that a serious taught over such factual sequences are certainly warranted.

26. Considering the sequences of events, this Court is of the considered opinion that authorities also have not initiated adequate steps to implement the Act and rules in its real spirit. When the provisions of the Act enumerates that the continuance of the wholesale business in the area notified cannot be allowed, more specifically, in Badrian Street, Chennai - 1, the authorities ought to have initiated effective steps not only by defending the case, but also to prevent and the continuance of wholesale business in that locality as the locality is already congested and the traffic congestions are affecting the commuters. The continuance of the writ petitioners as wholesale vendors for the past so many years, in spite of the enactment of law and in spite of various orders of this Court, this Court is of an opinion that the writ petitioners have not shown any obedience to the law of the land. The petitioners have developed a mindset that they can escape from the clutches of law in one way or other either by continuing the litigations by filing various cases before different Courts and by tackling the officials on extraneous considerations. Such an attitude of the litigants can never be encouraged by this Court. The development and planning activities of the State in respect of such congested and unhealthy areas can never be stalled on account of few such individuals, who all are not only acting in violation of the Act and abusing the judicial process. The eviction orders were issued long back. Some shops were locked and sealed. Some of the petitioners had break open the official seal and lock and continuing the wholesale business. The petitioners have filed Civil suits before the City Civil Court, Chennai and not allowing the authorities to act in accordance with law. The traffic congestion inconvenience to the people at large and free flow of vehicular traffic, all are affected in spite of the efforts taken by the officials and various orders passed by this Court were also flouted. The petitioners have escaped from the clutches of law for about 22 years and repeated Court orders and the orders of the Government as well as the officials concerned went in vain and could not be implemented. In the event of providing any further scope for the petitioners as well as the other wholesale business vendors, this Court is of a strong opinion that the people at large will not only loose confidence in upholding the rule of law and also in the judicial system and its duty to ensure the implementation of the Constitutional mandates by the executives concerned. The writ petitioners have abused the judicial process as well as flouted the orders passed

by the competent authorities.

27.This being the factum of the case, this Court has no hesitation in passing the following orders:

(i) The relief as such sought for in all these writ petitions stand rejected.

(ii) The respondents are directed to lock and seal the premises of the whole sale traders including the premises of the writ petitioners in Badrian Street, George Town, Chennai - 1 within a period of 48 hours from the date and time of the receipt of the copy of this order through the official website of the Hon'ble High Court of Madras.

(iii) The respondents are directed to take videograph of the implementation of the above directions.

(iv) The Commissioner of Police, Greater Chennai Corporation is directed to provide adequate Police Protection for the competent officials for lock and seal the premises of the wholesale traders in Badrian Street, George Town, Chennai - 1.

(v) The Commissioner of Police, Greater Chennai Police, Chennai - 7, is directed to install a Police booth in the vicinity of Badrian Street to ensure that no further wholesale trade business is allowed either by the writ petitioners or by any other vendors.

(vi) The Commissioner of Police, Greater Chennai Police, Chennai - 7, is directed to intensify the Police Patrolling in that locality till the normalcy arrived in that locality.

(vii) The Inspector of Police, C-1, Flower Bazaar Police Station, Chennai, is directed to continue the investigation in respect of the FIR registered and proceed with the prosecution by following the procedures as contemplated.

(viii) In the event of any such further continuance of wholesale business by breaking open the official lock and seal in that locality, the Inspector of Police shall register complaints and prosecute the offenders by following the procedures as contemplated under law.

28. With these directions, all the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Post this matter for reporting compliance on 22.10.2018

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

kak

To

1. THE SECRETARY,
THE GOVERNMENT OF TAMIL NADU,
HOUSING AND URBAN
DEVELOPMENT DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9.
2. THE MEMBER SECRETARY,
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
NO. 1, GANDHI IRWIN ROAD,
EGMORE, CHENNAI - 8.
3. THE CHIEF EXECUTIVE OFFICER,
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
NO. 1, GANDHI IRWIN ROAD, EGMORE, CHENNAI - 8.
4. THE COMMISSIONER OF POLICE,
GREATER CHENNAI POLICE,
CHENNAI - 7.
5. THE INSPECTOR OF POLICE,
C-1, FLOWER BAZAAR POLICE STATION,
GEORGE TOWN,
CHENNAI - 1.
6. THE CHIEF ADMINISTRATIVE
OFFICER MARKET MANAGEMENT COMMITTEE
KOYEMBEDU WHOLESALE MARKET COMPLEX
CHENNAI-600 092.
7. THE COMMISSIONER
THE CORPORATION OF CHENNAI
RIPPON BUILDING CHENNAI 3.

8. THE SECTION OFFICER

WRIT SECTION, HIGH COURT , MADRAS 104
and others.

+1 CC to Mr.R. Veeramani, Advocate sr 69539.

+10 CCs to Mr. Adithya Varadarajan, Advocate sr
69447, 69448, 69449, 69743, 69446, 70232.

+1 CC to M/s.SPM Associates sr 70057.

+1 CC to Mr.P.S. Ganesh, Advocate sr 69380.

+2 CCs to Mr.P. Valliappan, Advocate sr 69600.

+3 CCs to Mr.R. Nalliyappan, Advocate sr 69641(12/11/2018)

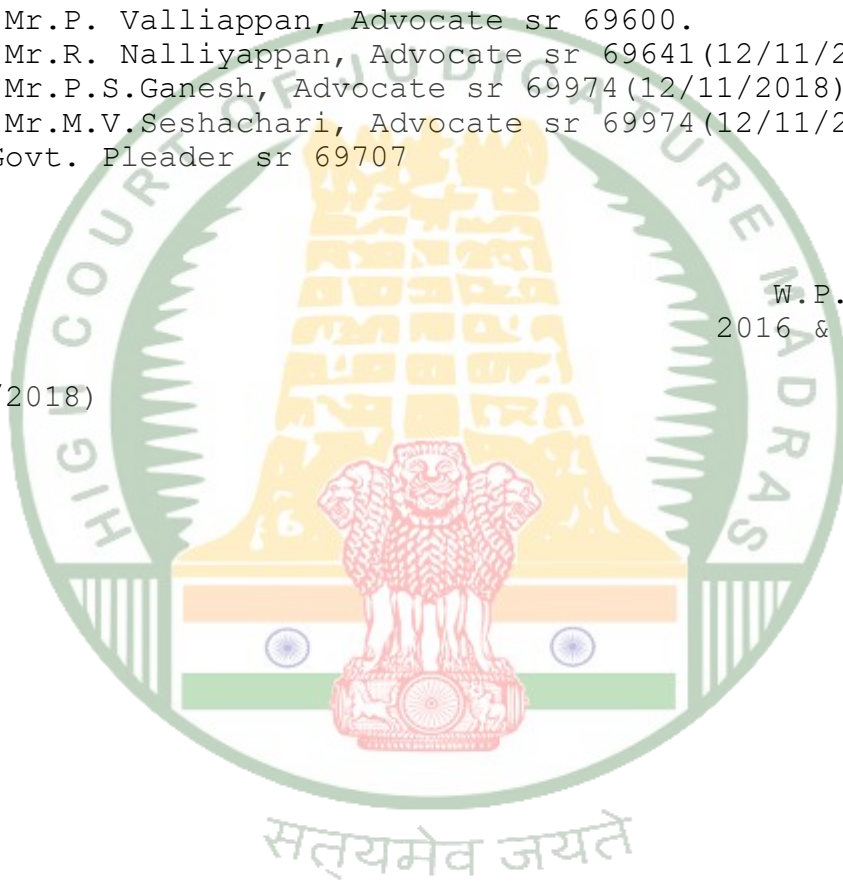
+1 CCs to Mr.P.S.Ganesh, Advocate sr 69974(12/11/2018)

+2 CCs to Mr.M.V.Seshachari, Advocate sr 69974(12/11/2018)

+1 CC to Govt. Pleader sr 69707

W.P.Nos.2822 of
2016 & etc., batch

GSP(16/10/2018)



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