

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.216 of 2016
and C.M.P.No.3206 of 2016

1.Government of Tamil Nadu
Represented by its Secretary
Municipal Administration Department
Fort St.George, Chennai 600 009.

2.The District Collector
Villupuram District, Villupuram.

...Appellants

Vs

1.Villupuram Salai Ora Viyabarigal Pothu
Nala Sanam (Regn.No.31/2015)
Rep. by its President
No.131, M.G.Road, Villupuram.

2.The Commissioner
Villupuram Municipality, Villupuram.

...Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order passed by this Court in W.P.No.33942 of
2015 dated 20.10.2015.

Prayer in WP.33942 of 2015: Writ Petition filed under Article
226 of the Constitution of India for issuance of a Writ of
Mandamus directing the respondents to consider the
representation made by the petitioner association dated
16.10.2015 by regulating the street vending / hawking trade in
M.G.Road Badhusha Street and Nheru Street at Villupuram Town
and further direct the respondents to constitute Town vending
committee as per the Street Venders (Protection of Livelihood &
Regulation) Act 2014.

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

This intra court appeal is directed against the order dated 20 October, 2015 in W.P.No.33942 of 2015, whereby and where under, the learned Single Judge directed the Commissioner, Villupuram Municipality to constitute a Committee, pursuant to the Street Vendors (Protection of Livelihood and Regulation) Act, 2014 [for short "Street Vendors Act"] and till such constitution, the members of the respondent Sangam were permitted to carry on hawking. Feeling aggrieved by the said order, the appellants are before us.

2. When this appeal came up for hearing on 03 January, 2018, we have directed the learned Special Government Pleader to take instructions as to whether the Municipality has already constituted the Committee under the Street Vendors Act.

3. When the Writ Appeal is taken up for hearing today, learned Special Government Pleader produced a copy of the proceedings dated 04 May 2017, constituting a Committee by the Villupuram Municipality.

4. Heard the learned Special Government Pleader on behalf of the appellants. None appears on behalf of the first respondent.

5. The respondent filed a Writ Petition before the Writ Court in W.P.No.33942 of 2015 for issuance of a writ of mandamus to consider its representation dated 16 October, 2015 by regulating the street vending/hawking trade in M.G.Road, Badhusha Street and Nehru Street at Villupuram and constitute a Town Vending Committee as per the Street Vendors Act. The learned Single Judge, while issuing the mandamus to the Local Body, permitted the hawkers to continue the street vending at the very same place in which they were doing their business earlier.

6. It is the contention of the appellants that the mandamus issued by the learned Single Judge violated the earlier order passed by a Division Bench of this Court dated 20 August, 2014 in W.A.No.6977 of 2013. The Division Bench, in the case of Villupuram Chamber of Commerce vs. The District Collector, Villupuram District and others (W.P.No.6977 of 2013 dated 20 August, 2014) directed the Local Body to remove all the encroachments in and around Villupuram Town and more particularly, in M.G.Road, Bagarsha Street, K.K.Road, Trichy Main Road and Pandit Jawaharlal Nehru Road, forthwith.

7. The Local Body appears to have removed the encroachments and a report to that effect was filed before the Division Bench. The Division Bench directed the authorities not to permit any new encroachments. The authorities were directed to monitor the situation meaning thereby, no street vending should be permitted in those streets. The learned Single Judge notwithstanding the direction given by the Division Bench and the follow up action

taken by the Local Body, issued a mandamus to restrain the authorities from evicting the encroachers.

8. The learned Single Judge was correct in directing the authorities to form a Committee under the Street Vendors Act. It is also a matter of record that along with such a direction, the learned Single Judge permitted the hawkers to do business as before. Such a direction could not have been granted in a writ petition filed for constitution of a Committee under the Street Vendors Act and that too when a direction was given by the Division Bench calling upon the Local Body to remove the encroachments. In any case, now that the Local Body has constituted a Committee as per the statute, it would not be permissible to allow the traders to do hawking as before, pursuant to the direction given by the learned Single Judge. We therefore, modify the order passed by the learned Single Judge by directing the appellants not to permit hawking in the streets mentioned in the order dated 20 August, 2014 in W.P.No.6977 of 2013.

The intra court appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

gms

To

1.Government of Tamil Nadu
Represented by its Secretary
Municipal Administration Department
Fort St.George, Chennai 600 009.

2.The District Collector
Villupuram District
Villupuram.

+1cc to Government Pleader SR.No.1832

W.A.No.216 of 2016

RR(CO)
GN(14/02/2018)