

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WA.No.2601/2018

Chennai Pushpa Viyabarigal and
Commission Agentugal Sangam
rep.by its President Mr.Uthappan
No.18/2, Gangaianman Koil Street
T.Nagar, Chennai 600 017 and also at
FA-11, Kamarajar Malar Angadi
Koyambedu, Chennai 600 092. ..Appellant / Writ Petitioner

Vs

- 1 The Member Secretary
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
- 2 The Chief Administrative Officer
Market Management Committee
Koyambedu Wholesale Market Complex
Chennai 600 092.
- 3 The Commissioner of Police
Vepery, Chennai 600 007.
- 4 The Commissioner
Corporation of Chennai
Chennai 600 003. ..Respondents / Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 09.10.2018 made in WP.No.10113/2016 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 Appellant : Mr.M.V.Seshachari
For RR1 & 2 : Mr.S.Karthikei Rajan
For R3 : Mr.E.Manoharan, AGP
For R4 : Mr.K.Soundararajan

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal and is disposed of by this judgment. Mr.S.Karthikei Rajan, learned Standing counsel accepts notice on behalf of the respondents 1 and 2; Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of the 3rd respondent and Mr.K.Soundararajan, learned Standing Counsel accepts notice on behalf of the 4th respondent.

2 The appellant/writ petitioner filed WP.No.10113/2016 against the respondents herein praying for issuance of a writ or mandamus or order in the nature of direction, directing the respondents to implement G.O.Ms.NO.10, Housing and Urban [UD-III [1]] Department dated 06.01.2012 and consequently to initiate action u/s.379-A of the Chennai City Municipal Corporation Act, 1919, to evict the retailers within a time frame as may be fixed by this Court and pass such orders.

3 The Wholesale Flower Vendors who are said to have carried on flower vending business in Badrian Street, Chennai-1, opposing the move to shift them, also filed other writ petitions and all the writ petitions were taken up together and were disposed of vide impugned common order dated 09.10.2018 made in WP.No.2822/2016 batch etc. It is relevant to extract paragraphs No.27 and 28 of the said impugned order:-

'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 wholesale 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 Honourable 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."

4 The learned counsel for the appellant/writ petitioner by drawing the attention of this Court to the contents of the affidavit filed in support of the writ petition as well as the prayer and paragraph No.27[i] of the above said impugned order, would submit that the appellant/writ petitioner really wanted shifting of the business of wholesale flower vendors in Badrian Street to CMDA Wholesale Market complex at Koyambedu and since the writ petition filed by the other vendors came to be

dismissed, the writ petition filed by the appellant/writ petitioner ought to have been allowed and whereas, in paragraph NO.27[i], it has been recorded that ''the relief as such sought for in all these writ petitions stand rejected'' and therefore, prays for interference / suitable modification.

5 The Court heard the submissions of Mr.S.Karthikei Rajan, learned counsel appearing for the respondents 1 and 2 / Chennai Metropolitan Development Authority ; Mr.E.Manoharan, learned Additional Government Pleader appearing for the 3rd respondent and Mr.K.Soundararajan, learned Standing counsel appearing for the 4th respondent / Corporation of Chennai.

6 As rightly contended by the learned counsel appearing for the appellant/writ petitioner, the writ petition filed by them was only for removal of the wholesale flower vending business from Badrian Street to CMDA Wholesale Market Complex at Koyambedu and the learned Judge, while rejecting the request made by the said flower vendors opposing the said shifting, had inadvertently in paragraph No.27[i] has recorded that the relief sought for in the writ petitions stand rejected and therefore, the said portion of the impugned order warrants interference. Further, it is also brought to the knowledge of this Court that Writ Appeals filed by some of the flower vendors in WA.Nos.2393 to 2399/2018 [WP.Nos.6085, 7105, 6213, 3713, 3717, 5243 and 6083/2016] also came to be dismissed by this Court vide common judgment dated 09.11.2018.

7 In the result, the writ appeal is allowed and paragraph No.27[i] of the impugned order insofar as the appellant/writ petitioner in WP.No.10113/2016 stands set aside and the writ petition is allowed to the extent indicated above No costs.

AP

Sd/-

सत्यमेव जयते
Assistant Registrar

//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 Administrative Officer
Market Management Committee
Koyambedu Wholesale Market Complex
Chennai 600 092.

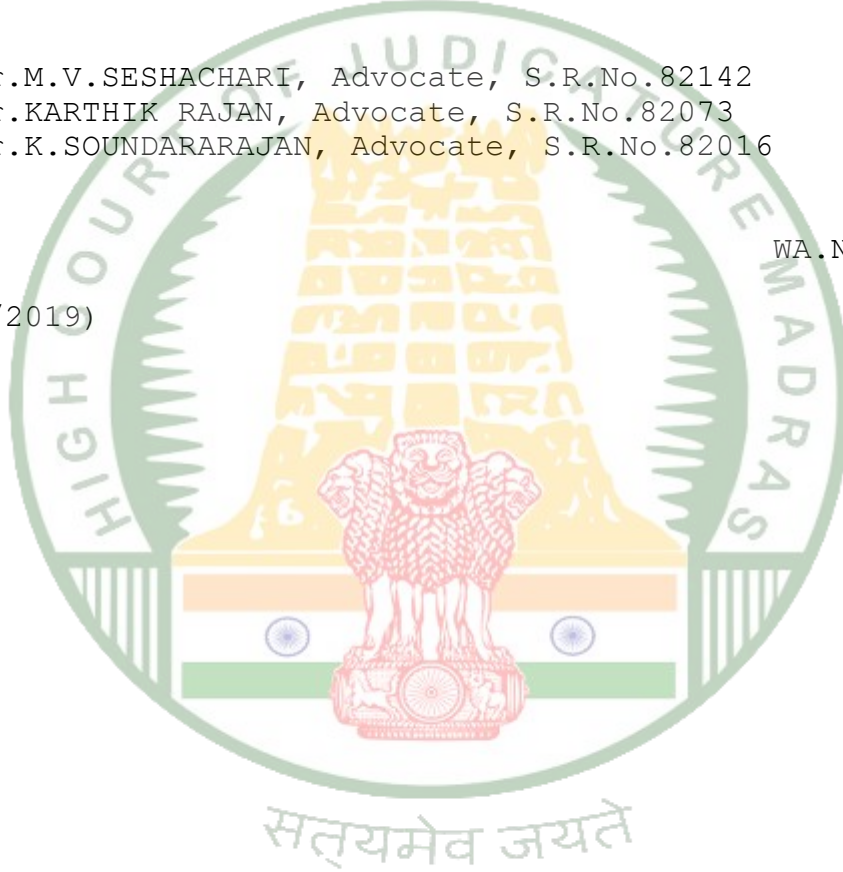
3 The Commissioner of Police
Vepery, Chennai 600 007.

4 The Commissioner
Corporation of Chennai
Chennai 600 003.

+1cc to Mr.M.V.SESHACHARI, Advocate, S.R.No.82142
+1cc to Mr.KARTHIK RAJAN, Advocate, S.R.No.82073
+1cc to Mr.K.SOUNDARARAJAN, Advocate, S.R.No.82016

kan(CO)
kak(22/01/2019)

WA.No.2601/2018



WEB COPY