

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.6594 of 2019
and
W.M.P.Nos.7423 & 7426 of 2019

T.Balaji

... Petitioner

vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.
2. The Zonal Officer,
Zone IX,
(Chairman, Township Vending Committee)
Corporation of Chennai,
Nungambakkam,
Chennai 600 034.
3. The Assistant Engineer,
Corporation of Chennai,
Division No.126, Sirungeri Mutt Road,
Mandaveli,
Chennai 600 028.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings under Z.O.IX.C.No.9863/2018, dated 08.09.2018 and quash the same and direct the 2nd respondent to place the petitioner's representation dated 26.05.2018 before the Township Vending Committee and decide the same for the grant of permission/ Certificate of Vending to the petitioner's bunk shop at South Kalvaikarai Road, Near Corporation Ground, Opposite to Tholkappiya park, Mandaveli, Chennai 600 028, wherein selling tea, coffee, snacks and other food items.

For Petitioner : Ms.Jasmine for
Mr.L.Chandrakumar.

For Respondents : Mrs.Karthika Ashok

O R D E R

The petitioner has been running a bunk shop at South Kalvaikarai road, near Corporation Ground, Opposite to Tholkappiya park, Mandaveli, Chennai for the past several years by selling tea, coffee and food items in a hygienic manner.

2. The Government of Tamil Nadu has been giving bunk shops freely to the disabled persons for erecting the same in the unobjectionable places and run the business, so as to enable them to earn independently without depending on others.

3. The petitioner has filed W.P.No.15457 of 2018 before this Court praying to consider his representation dated 26.05.2018 and the petitioner's bunk shop shall not be disturbed by the respondents, till final orders passed in the above said Writ Petition. In the order dated 27.06.2018, passed in W.P.No.15457 of 2018, this Court recorded that the petitioner has encroached the street and put up a shop only a week ago, despite the objection from the officials. Therefore, the petitioner is not entitled for any interim order. However, this Court directed the respondents therein to consider the representation of the petitioner dated 26.05.2018 and pass orders on merits and in accordance with law. Pursuant to the above order, the second respondent therein has passed an impugned order rejecting the claim of the petitioner.

4. Challenging the above impugned order, the petitioner has filed the present Writ Petition before this Court.

5. The learned counsel appearing for the petitioner would submit that as per the provisions of "the Street Vendors (Protection of Livelihood and Regulation) Act, 2014", the Greater Chennai Corporation is not the competent authority and only the 'Township Vending Committee' is the competent authority.

6. The learned Standing Counsel appearing for the respondents would submit that the averments in the affidavit filed by the petitioner are totally wrong and the same are denied. The petitioner has filed WP.No.15457 of 2018 and this Court has directed the respondents therein to consider the representation of the petitioner dated 26.05.2018. In the aforesaid order, this Court had clearly recorded the reason, as to why, the petitioner is not entitled for any interim order.

The reason is that the petitioner has encroached the street and put up a shop only recently.

7. According to the respondents the Town Vending Committee was constituted in this particular zone on 16.01.2019. Till such constitution of the Committee, as an enforcing Authority, the Greater Chennai Corporation is competent to pass orders. The learned Standing Counsel appearing for the respondents would further submit that the petitioner has put up a shop recently only. From the averments in the counter affidavit, it is clear that the petitioner has already approached this Court and sought for protection to continue and run the business in the aforesaid place. This Court was not inclined to grant such a relief and the same was negative as could be evident from the order.

8. In the aforesaid order, this Court has directed the respondents therein to consider the petitioner's representation dated 26.05.2018 and pass orders on merits and in accordance with law, after providing an opportunity of hearing to the petitioner, within a period of twelve weeks from the date of receipt of a copy of that order.

9. The counter affidavit filed by the second respondent stated that the committee has been constituted as per the Township Vending Committee Act on 16.01.2019 and therefore, there is no merits on the contention of the petitioner and the Writ Petition is liable to be rejected. This order will not stand in the way of the petitioner to make his request before the vending committee, if so advised.

10. In view of the facts and circumstances of the present case, this writ petition fails and consequently stands dismissed with the above liberty to the petitioner. No costs. Consequently, the connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-

Deputy Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

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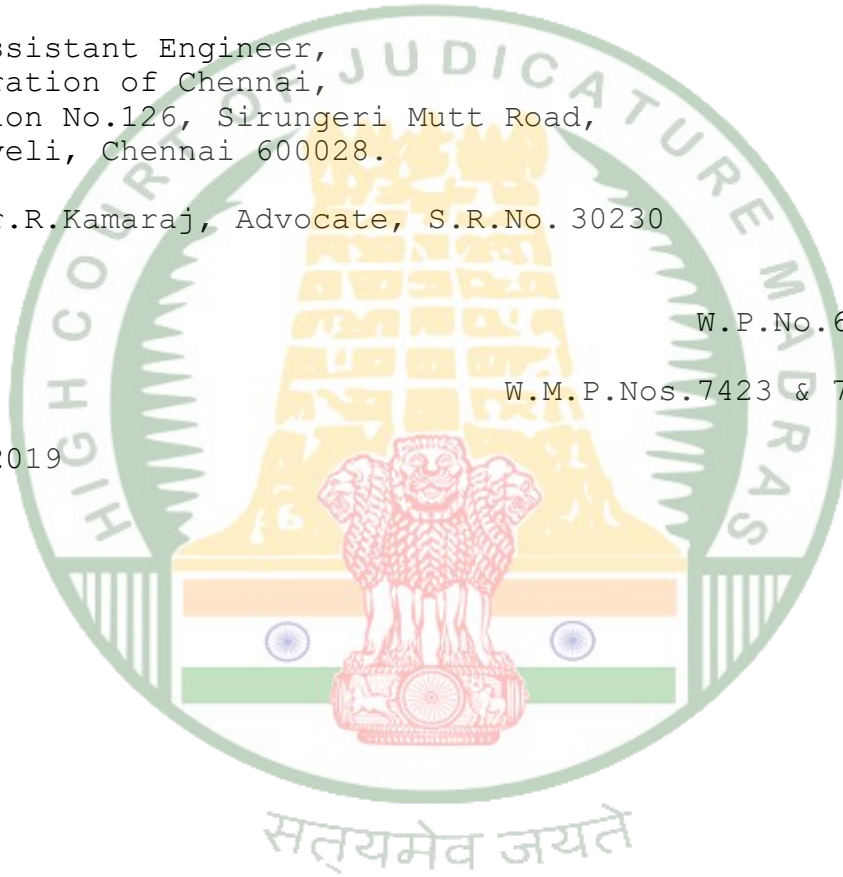
To

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+1cc to Mr.R.Kamaraj, Advocate, S.R.No. 30230

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CS/21/05/2019



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