

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.08.2019

PRONOUNCED ON : 16.08.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition Nos.30640 of 2014 and 31047 of 2018 and
M.P.No.1 of 2014 in W.P.No.30640 of 2014 and
W.M.P.No.36229 of 2018 in W.P.No.31047 of 2018

The Chennai Koyambedu
Wholesale Anna Fruit Market,
Guava Fruits Vendors Welfare Association,
Through its President, A.S.Thaseen,
(Reg. No.T/A145), Anna Fruit Market,
Koyambedu,
Chennai 600 092. ... Petitioner in W.P.No.30640 of 2014

1.P.A.Shashinsa
2.P.Desingurajan
3.M.V.Kumar
4.K.Khadeer Basha
5.C.perumal
6.Y.George
7.A.Fathima
8.K.B.Sendurpandian
9.A.Sundarapandian
10.G.S.Venkatalakshmi
11.C.Jeeva
12.T.E.Raheem
13.T.E.Shaheed
14.N.Sayeed Ahemed
15.C.Pushpa
16.M.V.Krishnarajan
17.V.Jayanthi
18.S.Sekar
19.A.M.Najumudeen
20.C.Angalan
21.M.Prabakaran
22.R.Anandhi
23.P.Natarajan
24.B.Jinna

... Petitioners in W.P.No.31047
of 2018

Vs

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore,
Chennai - 600 008.
2. The Chief Executive Officer,
Market Management Committee,
Koyambedu Market,
Chennai - 600 092.

... Respondents in
W.P.No.30640 of 2014

1. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Market Managing Committee,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

... Respondents in
W.P.No.31047 of 2014

Prayer in W.P.No.30640 of 2014:- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus prohibiting the respondents from fixing any kind of obstructions or barriers at Gate No.4, the Chennai Koyambedu Wholesale Anna Fruit Market Complex.

Prayer in W.P.No.30147 of 2018:- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus to direct the respondents to allow the petitioners vehicles through Gate No.4 at Anna Fruit Market Complex to load/unload their goods in front of their respective shops.

In W.P.No.30640 of 2014

For Petitioner	:Mr.P.B.Ramanujam
For 1 st Respondent	:Mr.P.S.Ganesh, Standing Counsel
For 2 nd Respondent	:Mr.M.Velmurugan, Standing Counsel

In W.P.No.31047 of 2018

For Petitioner	:Mr.V.Govardhanan for M/s.Row & Reddy
For 1 st Respondent	:Mr.P.S.Ganesh, Standing Counsel
For 2 nd Respondent	:Mr.M.Velmurugan, Standing Counsel

COMMON ORDER

The gist of the affidavit filed in support of W.P.No.30640 of 2014:

The petitioner Association consists of its members carrying on fruit vending at Koyambedu Wholesale Market Complex. The members of the petitioner Association was allotted shops at the market complex in the year 1996, near gate No.4. They were allowed to bring their vehicles on load and off load fruits through gate No.4, as it is the nearest point for their shops. The said gate No.4 abuts the main road connecting the Western part of the Chennai and with Koyambedu Bus Terminus. Hence, gate no.4 is the easily accessible entry point from the main road to their respective shops. Anticipating proposal of the respondents restricting the entry of heavy carrier vehicle through gate No.4 by fixing barriers, the present writ petition is filed on the ground that if such restriction is imposed, the members of the petitioner Association will be badly affected and it will violate the fundamental right enshrined under Articles 14 and 16 of the Constitution of India. The other entry points to their shops are circuitous and if entry through gate No.4 is restricted, they have to engage labourers to unload the fruits and carry them all along from the main road to their respective shops which will be expensive and also will cause conjunction in the main road. Hence, representation dated 12.11.2014 was given to the respondents to re-consider their proposal. Since the respondents have not passed any order, the writ of mandamus prohibiting the respondents from fixing any kind of obstructions or barriers at Gate No.4, the Chennai Koyambedu Wholesale Anna Fruit Market Complex.

2.The gist of the affidavit filed in support of W.P.No.31047 of 2018: he petitioners 24 in numbers are fruit vendors at Koyambedu Wholesale Fruit Market Complex. The respondents have provided space for parking lorries to unload the goods in front of their respective shops and collecting parking charges and entry fees for every vehicle with load. All of a sudden, the respondents have prevented lorries entering through gate No.4 which is very close to their shops. Restriction of entry through gate no.4 is unconstitutional and violative of Articles 14 and 16 of the Constitution of India. The illegal restriction of entry through Gate No.4 will directly distress the traders and increase the cost of the fruits. Since, they are forced to unload their goods in the main road itself and transfer it from the main road to their shops engaging vehicles and to spend extra money for unloading goods. The delay in loading and unloading the fruits will damage the quality and quantity of the fruits and also cause heavy loss to the petitioners and therefore, the petitioners will be allowed to unload the fruits in front of their shops.

3. In the counter, the second respondent has stated that the Koyembedu Wholesale Market Complex provides accommodation for 1889 vegetable vendors and 828 fruit vendors. The members of the petitioner association nearly 30 in numbers are trying to stall the overall improvement of the market premises. Without considering the broader requirement for smooth transportation of the material in and around the market area they want to enter and park vehicles according to their whims and fancy. The market committee has fixed different tariff/charges according to the size of the vehicle entering into the premises. For parking different charges levied. In the W.P.No.26149 of 2009 the Hon'ble High Court directed the Advocate Commissioner to inspect the market and file a report with regarding to various impending issues affecting the daily routine and administration of the market. The Advocate commissioners have suggested various measure to have an effective management of the market area and utmost utilisation of the market area through standard and regulated activity of the vendors and other people utilising the facility in and around the market area.

4. In order to regulate the vehicle entering the market area for un loading, token system has been suggested by the Advocate Commissioner. Accordingly, after trial and joint meeting of traders and management each license vendors are given two tokens to permit the loaded vehicle to enter into market area through gates No. 14 for the vegetable vendors and 18 for the fruits vendors to reach the truck bay situated in the respective area earmarked for loading and unloading. After unloading of the materials the vehicle were to exit through gate No 7 and 3 respectively. This system has been introduced from 11/10/2018. The said regulation was effected as per the order of the High Court passed in W.P. 26149/2009, dated 23/09/2016. After the introduction of the token system and regulation of entry and exist through specified gates, the traffic congestion has drastically reduced. Parking and movement of vehicle unnecessarily within market area is restricted. Gate Number 4 is restricted for entry of large vehicle, namely lorries and trucks loaded with materials. The restriction in Gate 4 was to facilitate smooth movement of other smaller vehicle of the general public entering and exiting the fruit and vegetable market. Public transport and private buses are plying through the road abutting the Gate number 4 and 5 and enroute to reach Poonamallee High Road from CMBT. Hence permitting entry of heavy vehicle through gate No. 4 or 5 will cause heavy traffic congestion. The said arrangement of restricting entry of heavy vehicles through Gate No. 4 and 5 are greatly appreciated by the shop owners and general public.

5.The respondents have filed the sketch layout of the Koyembedu whole sale market along with the order of the Division Bench in W.P.No.26149 of 2009 dated 23/09/2016. In the writ petition in W.P.No.26149/2009, the Division Bench of this Court has passed a detailed order how to regulate the market area. Pursuant to the High Court direction, the committee has regulated the entry and exit of the vehicles and it is also reported that the present arrangement is accepted by all except these 30 odd petitioners for flimsy reasons. Further, it is also stated by the counsel for the respondent that the other traders have given representation that the petitioners who were allotted shops constructed on the ramp earmarked as unloading space are causing hindrance to the free flow of the vehicular traffic.

6.The writ petitioners request is based on their personal convenience. Whereas the respondents have taken decision to restrict entry of heavy vehicle through gate number 4 taking note of the public convenience. The petitioners cannot have better right than the general public. The regulatory measures taken by the respondents pursuant to the court direction is to be upheld and need not be interfered at the instance of few vested interest persons.

7.The learned counsel for the petitioners alleges that the respondents are not uniformly following the regulation. For chosen few they allow heavy vehicles through Gate No. 4. In this regard, it is necessary to direct the respondents that,

'No heavy vehicle should be permitted to enter Gate No. 4. The heavy vehicles permitted to enter into the market area through Gate 14 and 18 has to be parked in the truck bay for unloading without causing any hindrance to the vehicular traffic flow. The vehicle has to be unloaded immediately and leave the market area through Gate Nos.7 and 3 respectively within a reasonable time prescribed. The time of entry and exit of the vehicle has to be monitored by the time keeper and recorded in CCTV camera. Any shop owner park the vehicle beyond the time prescribed or cause hindrance to traffic flow, stringent action has to be taken which shall include cancellation of token'.

8.For the aforesaid reasons, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Market Managing Committee,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+2cc to Mr.P.S.Ganesh, Advocate, S.R.No.69911 & 69912
+1cc to Mr.M.Velmurugan, Advocate, S.R.No.70012
+1cc to Mr.P.B.Ramanujam, Advocate, S.R.No.70058
+1cc to M/s.Row & Reddy, Advocate, S.R.No.69887

W.P.Nos.Nos.30640 of 2014 and
31047 of 2018

MR (CO)
CS/30/09/2019

सत्यमेव जयते

WEB COPY