

In the High Court of Judicature at Madras

Dated : 04.3.2020

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.12654 of 2010 & 13428 to 13430 of 2012
& all connected pending MPs

V.Nalini, Proprietrix : M/s.Visual
Experanto, Chennai-37.

...Petitioner in
all the WPs

Vs

1. The Tamil Nadu Slum Clearance Board,
rep.by its Managing Director, No.5,
Kamarajar Salai, Chepauk, Chennai-5. R1 in all the
WPs
2. The Estate Officer, Estate Office No.4,
Tamil Nadu Slum Clearance Board,
Chennai-18.
3. The Executive Engineer (Division V),
Tamil Nadu Slum Clearance Board,
Chennai-18. ...R2 & R3 in
in WP.No.12654
of 2010
4. The Commissioner, Chennai Corporation,
Ripon Buildings, Chennai-3. ...R2 in WP.Nos.
13428 to 13430
of 2012

PETITIONS under Article 226 of The Constitution of India
praying for the issuance of

(i) a Writ of Certiorarified Mandamus to call for the
records of the 1st respondent's proceedings in Na.Ka.P4/1679/09
dated 22.3.2010 on the file of the Managing Director, Tamilnadu
Slum Clearance Board, No.5, Kamarajar Salai, Chepauk, Chennai-5,
quash the same and direct the 1st respondent to renew the lease
granted in petitioner's favour in proceedings No.Che.Mu.Ka.
P3/1679/09 dated 11.6.2009 by enhancement of 5% of lease rent
and relating to the space of an extent of 400 sq.ft. at Block
II, Pushpa Nagar Slum Clearance Board Scheme, Chennai-34 for
wall advertisement/painting (WP.No.12654 of 2010);

(ii) a Writ of Mandamus restraining the second respondent, their men, agents or any other persons claiming right under them from removing the advertisement put up by the petitioner in the space of an extent of 400 sq.ft. at Block II, Pushpa Nagar Slum Clearance Board Scheme, Chennai-34 for wall advertisement/painting pending disposal of this writ petition and WP.No. 12654 of 2010 (WP.No.13428 of 2012);

(iii) a Writ of Mandamus restraining the second respondent, their men, agents or any other persons claiming right under them from removing the advertisement put up by the petitioner in the space of an extent of 372 sq.ft. at Block A, West Canal Bank Slum Clearance Board Scheme, Chennai-85 for wall advertisement/painting pending disposal of this writ petition and WP.No. 12530 of 2010 (WP.No.13429 of 2012); and

(iv) a Writ of Mandamus restraining the second respondent, their men, agents or any other persons claiming right under them from removing the advertisement put up by the petitioner in the space of an extent of 400 sq.ft. at Overhead Tank/Water tank at Thirumangalam Slum Clearance Board for wall advertisement/painting pending disposal of this writ petition and WP.No. 7666 of 2010 (WP.No.13430 of 2012).

For Petitioner in all Wps: Mr.Haja Mohideen Gisthi
For TNSCB : Mr.M.Rajasekar
For Chennai Corporation : Ms.Karthika Ashok

COMMON ORDER

I have heard the learned counsel for the parties.

2. W.P.Nos.13428 to 13430 of 2012 have been filed by the same person - an advertising enterprise, which is engaged in erecting banners and other advertisements/paintings and wall paintings. The petitioner approached the first respondent requesting them to have a wall painting in the tenements constructed by the Tamil Nadu Slum Clearance Board (TNSCB). Pursuant to the resolution passed by the TNSCB, the petitioner was directed to pay a sum of Rs.15/- per sq.ft., for an extent of 400 sq.ft., in W.P.No.13428 of 2012 and on payment of Rs.6,000/-, permission was granted to put up a wall painting for a period of one year. Similar permissions were granted in the other two writ petitions as well namely W.P.Nos.13429 and 13430 of 2012.

3. The petitioner approached this Court on the earlier

occasion by filing W.P.No.12654 of 2010, in which, the petitioner sought for an order of interim injunction restraining the TNSCB from in any manner interfering with the petitioner's right to use the space of an extent of 400 sq.ft., for wall advertisement/painting pending disposal of the writ petition. By order dated 17.6.2010, an order of interim injunction was granted till 01.7.2010 and the matter was pending. It appears that the said interim order was not extended subsequently. Thereafter, the petitioner approached this Court by filing W.P. Nos.13428 to 13430 of 2012 alleging that in spite of an order of interim injunction granted in the earlier writ petition, there was an attempt to disturb the petitioner's wall paintings.

4. In W.P.Nos.13428 to 13430 of 2012, on 13.7.2012, the Corporation of Chennai undertook not to disturb the existing display till 20.7.2012, on which date, the undertaking given on 13.7.2012 was extended till 31.7.2012 and the matters were directed to be posted on 31.7.2012. Thereafter, the matters are pending.

5. The learned counsel for the petitioner would vehemently contend that the Corporation of Chennai filed a counter in utter disregard to what was stated before this Court especially the undertaking given by the officer, based on which, the interim order was granted and in spite of an interim order having been granted, the paintings were removed highhandedly.

6. The learned Standing Counsel for the Corporation of Chennai submits that law on the subject has undergone a sea change and as of now, any person, who seeks to erect holdings, should obtain permission from the concerned District Collector or the Commissioner, Corporation of Chennai. It is further stated that though the petitioner was granted permission for putting up a wall painting, they had, in contravention of the permission granted, erected hoardings, which had been removed. Hence, it is also submitted that the Corporation of Chennai had not violated the undertaking.

7. In the considered view of this Court, it may not be necessary for this Court to examine as to whether the undertaking given in W.P.Nos.13428 to 13430 of 2012 was violated or not on account of subsequent developments and the change of law. In any event, permission was granted for a period of one year and beyond that, the petitioner cannot seek for extension because what was granted to the petitioner was only a licence and not a lease and it is terminable at any time without notice. The licence is also not transferable and the question of renewal of licence is not automatic. Thus, as of now, no relief can be granted to the petitioner.

8. Accordingly, W.P.Nos.13428 to 13430 of 2012 are dismissed. No costs.

9. However, if the petitioner still continues to carry on the very same business, it will be well open to them to approach the District Collector concerned or the Commissioner, Corporation of Chennai seeking permission for erection of hoardings and it will be considered in accordance with law.

10. It is submitted by the learned counsel for the petitioner that though there has been an interim order in force, the respondents removed the advertisements within the licence period.

11. If that is so, the petitioner is at liberty to give a representation to the TNSCB seeking to refund the proportionate licence fee and if the stand taken by the petitioner is correct, the representation can be considered in accordance with law as expeditiously as possible.

12. In the light of the orders passed in W.P.Nos.13428 to 13430 of 2012, nothing survives for consideration in W.P.No.12654 of 2010. Accordingly, W.P.No.12654 of 2010 is also dismissed as no orders are necessary. No costs. Consequently, all connected pending MPs are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

1. The Managing Director, Tamil Nadu Slum Clearance Board, No.5, Kamarajar Salai, Chepauk, Chennai-5.

2.The Estate Officer, Estate Office No.4, Tamil Nadu Slum Clearance Board, Chennai-18.

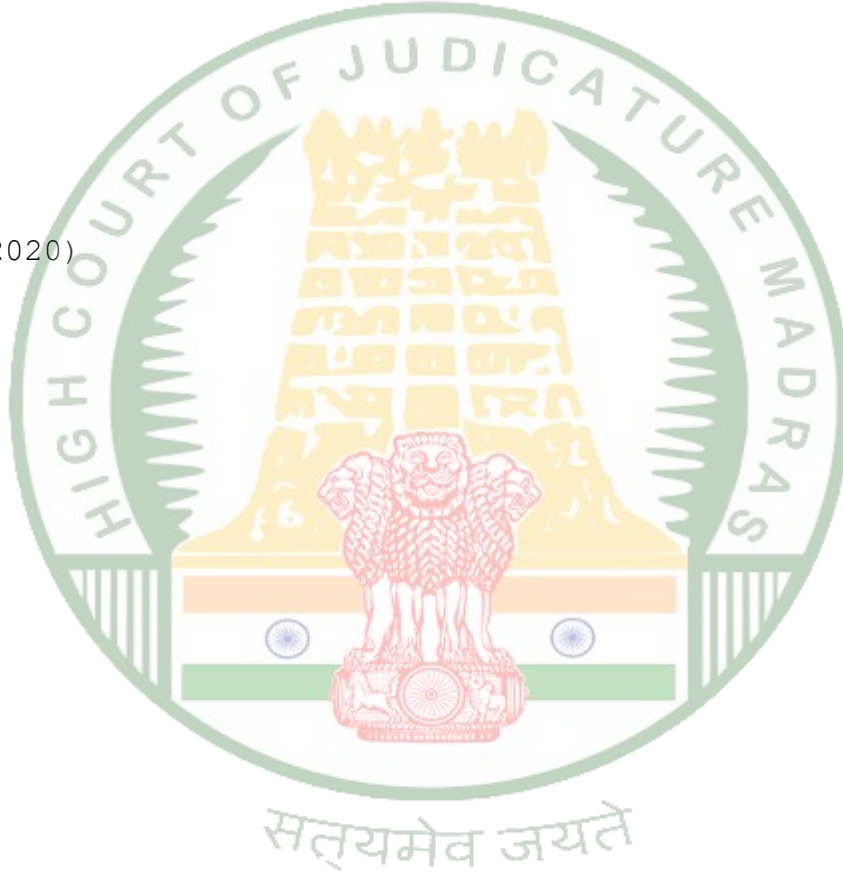
3.The Executive Engineer (Division V), Tamil Nadu Slum Clearance Board, Chennai-18.

4.The Commissioner, Chennai Corporation, Ripon Buildings, Chennai-3.

+2cc to Mr.S.Haja Mohideen Gisthi, Advocate, Sr.No.18983
+1cc to M/s.Karthikaa Ashok, Advocate, Sr.No.19036
+1cc to Mr.M.Rajasekar, Advocate, Sr.No.19893

WP.Nos.12654 of 2010 &
13428 to 13430 of 2012
& all connected pending MPs

SSP (CO)
GS (05/06/2020)



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