

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.2983 of 2020

VGN Projects Estates Pvt. Ltd.,
(formerly known as VGN Property
Developers Pvt. Ltd.)

Represented by its Authorised Signatory
Mr.A.Rangappan

..Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
2. Zonal Officer, Zone-9,
Greater Chennai Corporation,
No.1, 4th Cross Street,
Nungambakkam, Chennai-600 034.
3. Kasthuri,
Mobile Bunk Shop,
Located near the entrance gate of
No.153, Wallace Garden, 2nd Street,
Nungambakkam, Chennai-600 006.
4. Ramu,
Bunk Shop,
Located near the entrance gate of
No.153, Wallace Garden, 2nd Street,
Nungambakkam, Chennai-600 006.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 herein to take immediate action under Chennai City Municipal Corporation Act, 1919 and remove the illegal/unauthorised bunk shops put up by the third and fourth respondents at the entrance of the petitioner's Company situated at No.153, Wallace Garden, 2nd Street, Nungambakkam, Chennai-600

006, based on the petitioner's representations, dated 21.12.2019 and 26.12.2019.

For petitioner : Mr.P.S.Raman,
Senior Counsel for M/s.C.Seethapathy

For respondents : Mr.K.Raja Shrinivas for RR-1 & 2
Mr.L.Chandrakumar for R-3
No appearance for R-4

ORDER

(The Order of the Court was made by R.Subbiah, J)

The petitioner-Company has filed the present Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 herein to take immediate action under the Chennai City Municipal Corporation Act, 1919 and remove the illegal/unauthorised bunk shops put up by the third and fourth respondents at the entrance of the petitioner's Company situated at No.153, Wallace Garden, 2nd Street, Nungambakkam, Chennai-600 006, based on the petitioner's representations, dated 21.12.2019 and 26.12.2019.

2. It is the case of the petitioner-Company that they are doing real estate business for the past several years, by developing building/commercial plots in India and had established various residential projects in and around Chennai. They are having administrative office at No.153, Wallace Garden, 2nd Street, Nungambakkam, Chennai-600 006 and are having about 200 employees working in their concern. It is further stated by the petitioner-Company that they are having two entrances in their building, facing Nungambakkam High Road. A bunk shop was erected by one Ramu (fourth respondent herein) near one of the entrances which is blocking access to the petitioner-Company. He erected the bunk shop without any licence from the respondents 1 and 2 and selling all prohibited items like cigarettes, gutka, pan masala, etc. Due to such intake of prohibited substances, many road-side stalkers are using those substances and assembling in a group in the campus of the petitioner-Company, thereby creating nuisance to the employees and valid customers of the petitioner-Company who are visiting the petitioner's office regularly.

3. It is the further stand of the petitioner-Company in the affidavit filed in support of the Writ Petition that the employees of the Company are facing threat daily due to the running of the said unauthorised bunk shop. Though the respondents 1 and 2 have been complained of the same several times by the petitioner, no action had been taken against the unauthorised bunk shop so far. While so, the third respondent

(Kasthuri) was allowed by the respondents-authorities to put up another bunk shop near the exit gate of the petitioner-Company and she is also selling all prohibited substances and keeping the hazardous substances like gas cylinders, kerosene and inflammable substances without having any safety measures. Due to the existence of such unauthorised shops, the employees of the petitioner-Company are getting panic daily, particularly the female employees going in and out of the Company and they were teased by the persons gathering or assembling near the said two shops, apart from the regular customers being afraid of to get into the Company due to such hazardous and unsafe substances.

4. At this juncture, it is stated that the petitioner gave a detailed representation on 28.12.2018 to all the authorities concerned including the second respondent herein, but the Corporation authorities did not take any action against the owners of the said bunk shops. Hence, the petitioner filed a Writ Petition in W.P.No.4342 of 2019 against the authorities of the Corporation of Chennai for a direction to the respondents therein to take immediate action under the Chennai City Municipal Corporation Act, 1919 and remove the illegal/unauthorised shops put up by the said Ramu (fourth respondent herein) at the entrance and exit gate of the petitioner-Company, based on the petitioner's representation, dated 28.12.2018. On 15.02.2019, a learned Single Judge of this Court, in the said W.P., directed the second respondent herein (third respondent therein) to consider the representation of the petitioner, dated 28.12.2018 on merits and in accordance with law and pass appropriate orders, after giving opportunity of personal hearing to the petitioner, within a period of 12 weeks from the date of receipt of the order.

5. Further, by letter dated 01.04.2019, the petitioner sent another representation to the second respondent enclosing a copy of the said order of this Court, dated 15.02.2019, requesting the second respondent to comply with the said direction of this Court, despite which, no enquiry was conducted, and hence, the petitioner sent reminder to the second respondent on 09.07.2019, for which also, there was no action. Hence, the petitioner-Company sent a legal notice dated 03.08.2019, and inspite of the same, no enquiry was conducted. Hence, the petitioner filed Contempt Petition in Cont.P.No.1595 of 2019 against the second respondent herein for violating the order of this Court dated 15.02.2019 in W.P.No.4342 of 2019. On 17.12.2019, when the above contempt petition was listed after notice to the respondent therein, it was represented by the learned Standing Counsel appearing for the respondent-Corporation of Chennai that despite such several notices have been sent to the bunk shop

owner for conducting enquiry and the bunk shop owner did not respond and that the bunk shop had been removed. Hence, this Court closed the said contempt petition on 17.12.2019 itself.

6. It is the further grievance of the petitioner-Company that suddenly from 19.12.2019 onwards, a mobile bunk shop had been erected again on the same place for selling tea, coffee, cigarettes, food items, etc. The petitioner had received a lawyer's notice dated 21.12.2019 from one Kasthuri, who is the third respondent herein and she had alleged in her notice that she had already obtained an order passed in the Writ Petition filed by her in W.P.No.37085 of 2006, order dated 29.09.2006 for accommodating the alternative place to have the bunk shop and further she said that the authorities concerned did not allot her the alternative place, but the petitioner was not furnished with such order copy of this Court. In fact, as on the date of filing W.P.No.4342 of 2019, there was no one in the name of Kasthuri running the bunk shop in the petitioner-Company's entrance gate. Only recently through the aforesaid lawyer's notice, the petitioner came to know that the said Kasthuri had an order passed by this Court for providing her alternative accommodation, but the respondents-authorities did not take any steps to comply with the order of this Court. Further, without complying with the earlier order of this Court, the respondents-authorities had allowed the other unauthorised person for the past several years to carry on the bunk shop at the public pathway near the entrance gate of the petitioner-Company. The petitioner further sent a detailed representation, dated 21.12.2019 to the second respondent to take necessary action, but no action was taken. Hence, legal notice dated 26.12.2019 by way of detailed representation, was sent to the respondents 1 and 2 requesting them to conduct enquiry as per the order of this Court, dated 15.02.2019 in W.P.No.4342 of 2019. In spite of receipt of the said legal notice, the respondents 1 and 2 neither called for enquiry, nor taken any action against the existing bunk shop. Therefore, another Contempt Petition in Cont.P.No.85 of 2020 was filed, in which this Court directed the petitioner to file a fresh Writ Petition against those illegal occupants as fresh cause of action had arisen and accordingly, the said second contempt petition was closed on 23.01.2020. Hence, the present Writ Petition is filed by the petitioner-Company for the relief stated supra.

7. Heard both sides and perused the materials available on record.

8. Though notice was sent to the fourth respondent, he has not chosen to appear either in person or through a counsel.

9. Considering the above facts and circumstances of the case and also taking into account the above orders passed by this Court both in the earlier Writ Petition(s) and Contempt Petition (s), this Court directs the respondents 1 and 2 to consider the petitioner-Company's representations, dated 21.12.2019 and 26.12.2019 and after affording an opportunity of personal hearing to the respondents 3 and 4 and also the representative (s) of the petitioner-Company and if necessary, any other aggrieved parties, pass appropriate orders, on merits and in accordance with law, with regard to the alleged removal of the said bunk shops, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner-Company and it is for the respondents 1 and 2 to consider the same at the time of disposal of the said representations.

10. With the above observations and direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
2. Zonal Officer, Zone-9,
Greater Chennai Corporation,
No.1, 4th Cross Street,
Nungambakkam, Chennai-600 034.

+1cc to M/s.R.Kamaraj, Advocate, S.R.No.12295

+1cc to M/s.C.Seethapathy, Advocate, S.R.No.12939

W.P.No.2983 of 2020

PPA (CO)
KKV/07/08/2020