

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:05.05.2020

CORAM:

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.7571 of 2020

S.Srinivasan

...Petitioner

v.

1. The Chief Administrative Officer,
Market Managing Committee,
Koyambedu Wholesale Market Complex,
Chennai 600 107.

2. Mr. J. Vincent

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the order dated 13.03.2020 passed by the Chief Administrative Officer, Market Managing Committee, 1st respondent herein and to quash the same.

For Petitioner : Mr.G. Senthil Kumar

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari to call for the records pertaining to the order dated 13.03.2020 passed by the 1st respondent, viz., Chief Administrative Officer, Market Managing Committee and to quash the same.

2.1 It is the case of the petitioner that he was allotted a shop bearing F.C.No. 28 in the Flower Market, Koyambedu vide proceedings dated 25.10.1993 by the Chennai Metropolitan Development Authority and thereafter, in the year 2007, he entered into a lease cum sale agreement pertaining to the said shop and that he was running business in the name of Thirumalai Thiru Annamalai.

2.2 According to the petitioner, the entire sale transaction was paid to Chennai Metropolitan Development Authority and the sale deed dated 13.10.2009 was also executed in his favour. Further according to the petitioner, the 2nd respondent in connivance with the petitioner's son-in-law, had fabricated the document by executing a sale agreement in respect of the shop in dispute. Based on the sale agreement dated 17.5.2009, the 2nd respondent filed a Civil Suit in C.S.No.413 of 2011 before this Court for specific performance and the suit was dismissed on 01.10.2015.

Subsequently, the 2nd respondent filed an appeal in O.S.A.No.247 of 2015, and the same was dismissed with a direction to the petitioner to repay a sum of Rs.30.00 lakhs with interest at 9% from 2009 to October 2015 and @ 6% from October 2015 till the date of payment.

2.3 Aggrieved over the same, the petitioner preferred an appeal before the Hon'ble Supreme Court and the Supreme Court dismissed the Special Leave Petition and confirmed the order passed in O.S.A.No.247 of 2015. It is brought to the notice of this Court that challenging the order passed in O.S.No.247 of 2015, the 2nd respondent also filed an appeal before the Hon'ble Supreme Court and the said S.L.P. is pending.

2.4 Admittedly, the shop is in occupation of the 2nd respondent. The 1st respondent, by its letter dated 06.05.2019, granted licence to the petitioner for a period of three years i.e. till 31.03.2021. The 2nd respondent filed a Review Petition before the Principal Secretary to the Government, Housing and Urban Development Department, challenging the proceedings dated 06.05.2019, passed by the 1st respondent. By the order dated 14.01.2020, the Principal Secretary, observing that the 2nd respondent was not given an opportunity of hearing, set aside the order dated 06.05.2019

and remanded the matter back to the 1st respondent to conduct fresh enquiry.

3. Challenging the order passed by the Principal Secretary, the petitioner preferred a Writ Petition in W.P.No.4661 of 2020 and according to the learned counsel appearing for the petitioner, the same is pending without any interim order.

4. After remand, the 1st respondent, by the impugned order dated 13.03.2020, granted temporary permission to the 2nd respondent to do the flower business till the disposal of the S.L.P. filed by the 2nd respondent and Writ Petition in W.P.No.4661 of 2020 filed by the petitioner. Challenging this order, the petitioner has filed the above Writ Petition.

5. On a perusal of the order dated 13.03.2020 passed by the 1st respondent, it could be seen that the petitioner has got remedy by way of an appeal before the Member Secretary, Chennai Metropolitan Development Authority. The petitioner, without exhausting the appeal remedy, has filed the Writ Petition directly. Since the Writ petition has been filed under Article 226 of Constitution of India, without exhausting the alternate

remedy, this Court is not inclined to entertain the same. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to challenge the impugned order dated 13.03.2020 before the Member Secretary, Chennai Metropolitan Development Authority in accordance with law. No costs.

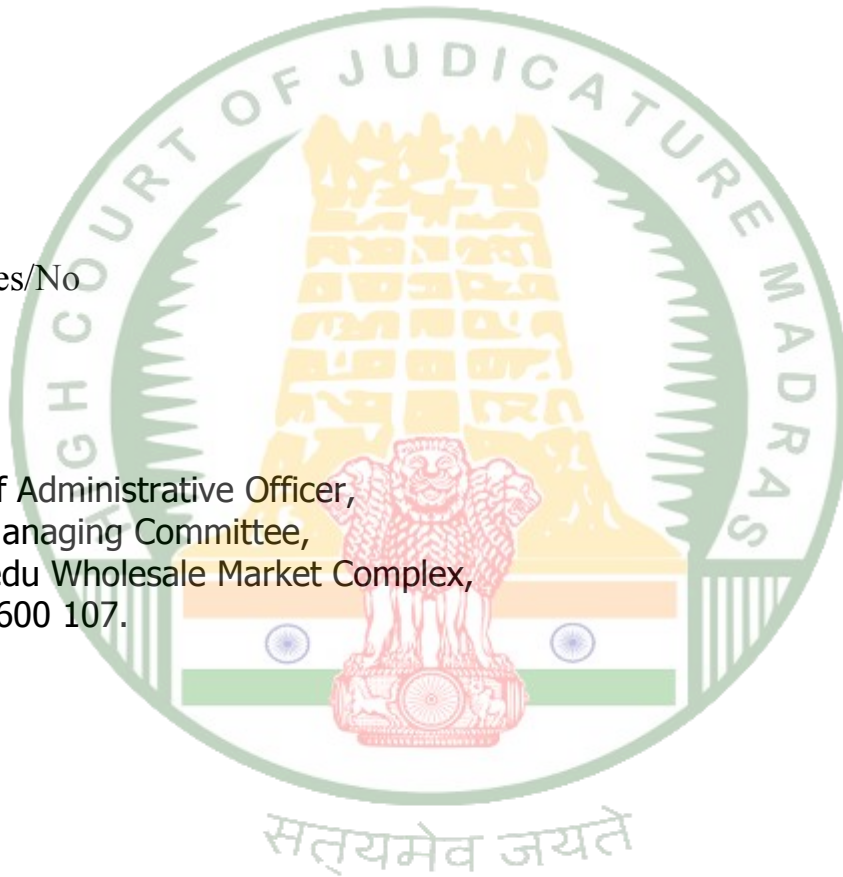
05.05.2020

Index: Yes/No

Rj

To

The Chief Administrative Officer,
Market Managing Committee,
Koyambedu Wholesale Market Complex,
Chennai 600 107.

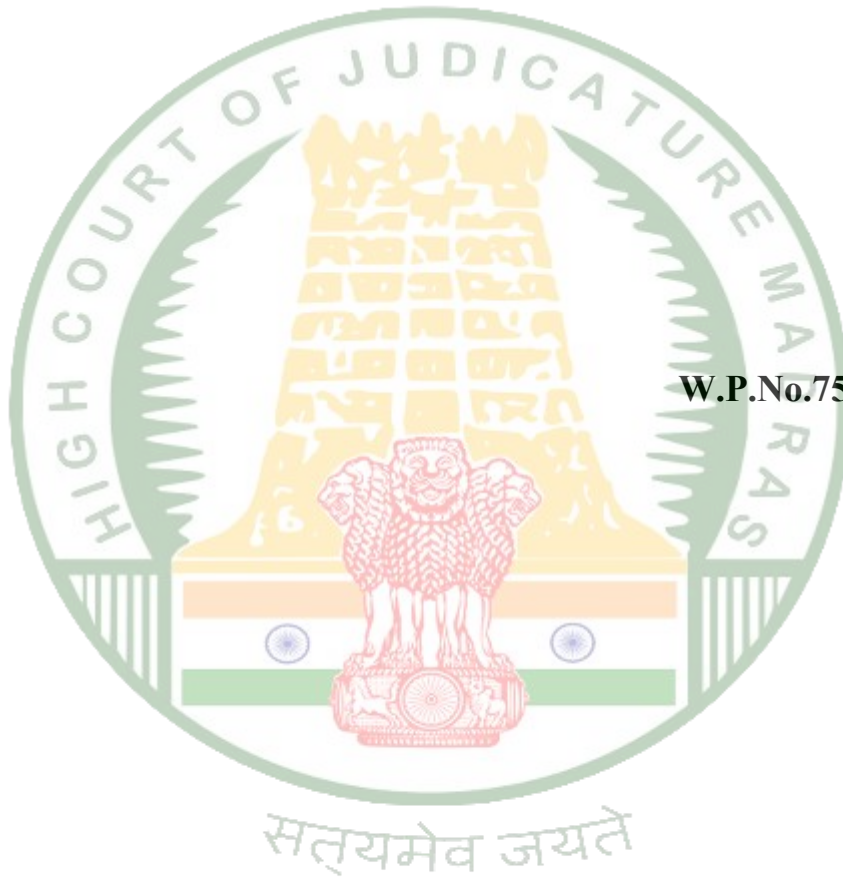


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W.P.No.7571 of 2020

M.DURAI SWAMY, J.

Rj



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