

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.8595 of 2020

P.Ganapathi,
S/o.Palaniyappan,
No.2/6, 15th Street,
Jai Nagar, Arumbakkam,
Chennai - 600 106. ... Petitioner

vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Chennai.
- 2.Zonal Officer-
Zone III (Madhavaram)
No.1-Thattankulam Street-Bazaar Road,
Madhavaram - Chennai - 600 063.
- 3.The Assistant Revenue Officer,
Zone-III, Madhavaram,
Chennai.
- 4.Licensing Inspector,
Zone-III, Madhavaram,
Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondent to grant permission to run fruit stall PRG International at S.No.805/3, Part 807 in Plot No.CP.16 Madhavaram pursuant to the petitioner's representation dated 20.06.2020.

For Petitioner : Mr.Rajmakesh
for Mr.Muthamizh Selvakumar
For Respondents: Mr.Gopinath
Standing counsel

O R D E R

This writ petition has been filed for the issue of writ of mandamus directing the respondents to grant permission to the petitioner for running a fruit stall based on his representation dated 20.06.2020.

2. The case of the petitioner is that the petitioner is running a wholesale shop selling fruits at Koyambedu Market. According to the petitioner he regularly purchases fruits from other states and the same was stored at Vanagaram in a rental outlet. After the lockdown announced by the Government of Tamil Nadu in view of the Covid situation, all the shops of Koyambedu was closed. The vegetable and fruit vendors were allotted alternate places to do their business. The petitioner also was running a shop on rental basis near Madhavaram bus stand and was selling fruits. Respondents 2 and 3, based on the complaint given by the Assistant Commissioner of Police, Madhavaram, took steps to seal the property which was taken on rent by the petitioner. Aggrieved by the same the present writ petition has been filed before this Court.

3. The first respondent has filed the counter affidavit in this case. It has been stated in the counter affidavit that the petitioner has violated the protocols that have been issued by the Chennai Corporation to contain the spread of Covid-19 and the petitioner has not followed the social distancing and other conditions during the business. The letter in this regard was received from the Assistant Commissioner of Police, Madhavaram. Therefore, the Chennai Corporation had immediately closed and sealed the fruit shop run by the petitioner on the ground that no retail or wholesale business can be allowed in and around Madhavaram bus stand for an extent of two kilometers from the market in order to avoid public gathering.

4. The learned counsel for the petitioner has fairly submitted that the petitioner wants to co-operate with the authorities and he does not want to create any situation which will run against the directives given by the authorities and will expose others to the deadly Covid-19 virus. The learned counsel specifically submitted that the petitioner will not conduct any retail or wholesale business in the property. However the learned counsel added that due to the present situation, it is impossible to continue the storage at Vanagaram and bring it from there to Madhavaram. Therefore the petitioner wants to use the premises which has been rented by him at Madhavaram only for storage purposes.

5. Per contra, the learned Standing counsel appearing on behalf of the Chennai Corporation submitted that no retail or wholesale business will be permitted in the premises taken on rent by the petitioner at Madhavaram. The learned counsel further submitted that for the present the vendors who are doing fruit business have been given alternate place at Madhavaram and therefore no sale of fruits will be permitted, either retail or wholesale, within two kilometers from the alternative market. According to the learned counsel for the Chennai Corporation, gathering of public must be avoided to

take control of the present situation and therefore there is no ground to interfere with the action taken by the respondent. That apart this action was taken on a specific complaint and the letter received from the Assistant Commissioner of Police.

6. This Court finds force in the submission made by the learned counsel appearing for the Chennai Corporation. Authorities are faced with a very difficult situation wherein they must ensure that the gathering of people must be regulated by proper social distancing. The action taken by the Chennai Corporation is in public interest and this position has been fairly conceded by the learned counsel for the petitioner.

7. In a case of this nature, a via media must be struck ensure that the petitioner is not put to undue loss and at the same time the activities of the petitioner does not cause any inconvenience for the authorities to handle the situation. Admittedly the petitioner is dealing with essential commodities and if the fruits are not distributed within time, the entire consignment will go waste and it will neither be in the interest of the petitioner or the consumers. Therefore, undertaking given by the petitioner that the premises at Madhavaram will not be used for retail or wholesale business is hereby recorded. The premises can be used as a place for storage of the fruits in order to move the fruits easily to the alternative market at Madhavaram. This will ensure that a travel from Vanagaram to Madhavaram need not be undertaken every time and the fruits can be easily moved from the premises of the petitioner to the alternative market at Madhavaram. This can be monitored by the officials belonging to the Chennai Corporation. They can also ensure that in the name of storage, the petitioner does not in any way indirectly undertake retail or wholesale business and in which case action can be immediately initiated.

8. In view of the above discussion, there shall be a direction to the first respondent to consider the representation made by the petitioner on 20.06.2020 and take a decision in line with the indications given in this order and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.

9. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

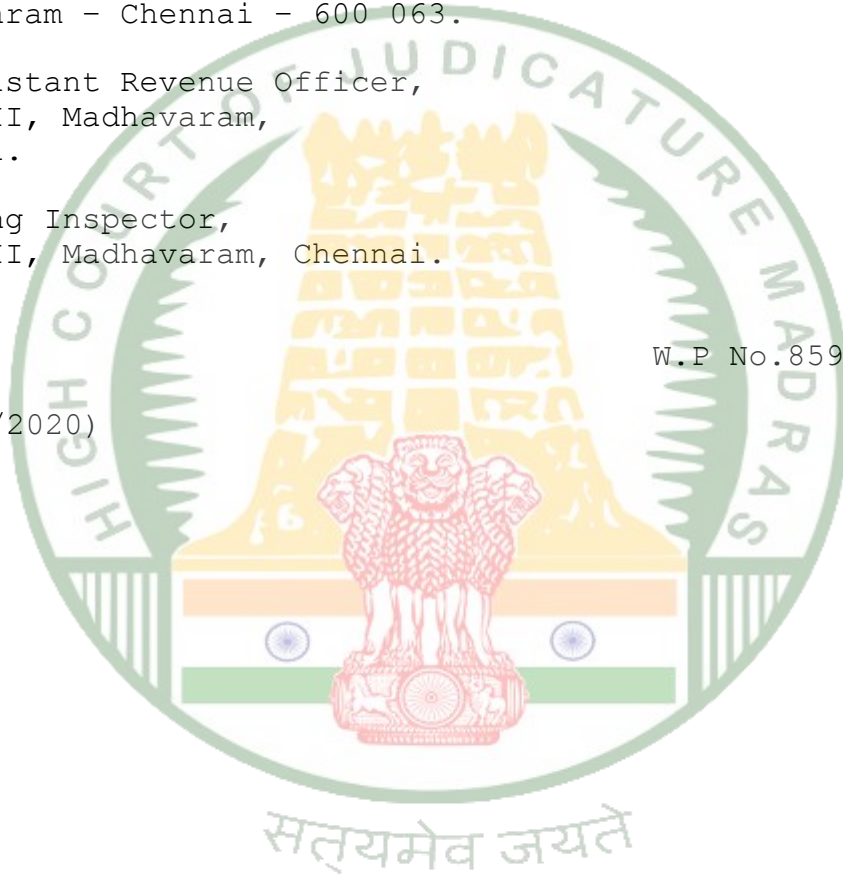
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To:

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RLD (CO)
RMP (17/07/2020)



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