

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.14282/2020 & WMP.No.17756/2020

K.Jothi .. Petitioner

Versus

- 1.The Secretary to Government
Municipal Administration & Water
Supply Department, St George Fort,
Secretariat, Chennai-600 009.
- 2.The Commissioner
Corporation of Chennai
Ripon Buildings, Chennai 600 003.
- 3.The Chairperson/Zonal Executive Engineer
[Zone 13], [The Township Vending Committee]
Corporation of Chennai, No.115,
Dr.Muthulakshmi Street, Adyar,
Chennai 600 020. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the proceedings of the 3rd respondent in M.A.13 Na.Ka.No.A4/37024/2020 dated 23.09.2020 and quash the same and consequently forbear the respondents 2 and 3, its officials, servants, agents or anybody under them from interfering with the running of the petitioner's bunk shop at No.174, Sathiya Dev Avenue, near open Part, opposite to Cee Bros, Chennai 600 028, wherein selling Tea, Coffee, Snacks, food and other items.

For Petitioner : Mr.L.Chandrakumar
For R1 : Mr.R.Vijayakumar, AGP
For RR2&3 : Mr.K.Raja Srinivas
Standing counsel

ORDER

(1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.

- (2) Mr. R. Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr. K. Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 2 and 3.
- (3) The petitioner is running a permanent bunk stall at door No. 174, Sathiya Dev Avenue, Near Open Park, Opposite to Cee Bros, Chennai 600 028 for several years and he is selling Coffee, Tea, Snacks and food items prepared and dispensed with in a hygienic manner and in strict compliance of FSSAI Standards and out of the meager income earned, he is maintaining his family.
- (4) Mr. L. Chandrakumar, learned counsel for the petitioner submitted that in the light of the benevolent nature of the Statute, viz., the Street Vendors [Protection of Livelihood and Regulation of Street Vending] Act, 2014 and the Rules framed thereunder, his possession is to be regularised and on an earlier occasion, he filed WP.No.33975 of 2017 along with one C. Nithyanandham - petitioner in WP.No.33974 of 2017 and a Single Bench of this Court directed the Town Vending Committee constituted vide G.O.[4D] No.5, Municipal Administration and Water Supply [MCI] Department dated 05.10.2016, to consider the petitioner's representation dated 01.12.2017 along with the representation of Nithyanandham dated 09.12.2017 and pass appropriate orders within the stipulated time frame.
- (5) One Abdul Hameed, aggrieved by the said order, filed an Appeal in WA.No.1773 of 2018 and a Division Bench of this Court, vide judgment dated 14.08.2019, was not inclined to interfere with the order passed by the learned Single Judge and left it open to the appellant, viz., Abdul Hameed, to get the matter decided by the Town Vending Committee and disposed of the Writ Appeal accordingly. The Advocate of the petitioner has also sent a Legal Notice dated 22.09.2020 as a follow-up of the above said judgment in WA.No.1773 of 2018 to the Chairman [Town Vending Committee] / 3rd respondent herein, pointing out that no Appeal Committee has been constituted in terms of section 20 of the said Act and till such time, requested the 3rd respondent from interfering with the running of the petitioner's bunk shop.
- (6) The learned counsel appearing for the petitioner has drawn the attention of this Court to the impugned Notice of the Zonal Officer, Zone-13, Adyar, Chennai-600 020, dated 23.09.2020 and would submit that despite receipt of the said Legal Notice, Notice has been issued calling upon the petitioner to vacate the place and clear the bunk shop within three days from the date of receipt of the notice and the same is against the benevolent provisions of the above cited Act and prays for appropriate orders.

appearing for respondents 2 and 3 would submit that in pursuant to the liberty granted vide order dated 02.01.2018 in WP.Nos.33974 & 33975 of 2017, the petitioner did not submit any representation and by drawing the attention of this Court to the impugned proceedings of the Zonal Officer, Zone-13, Adyar, Chennai-600 020, dated 23.09.2020, submitted that since decision has been taken to treat the said area as non-vending zone, the petitioner as a matter of right, cannot run the bunk shop and that too, by causing encroachment and prays for dismissal of this writ petition.

(8) This Court has considered the rival submissions and also perused the materials placed before it.

(9) It is relevant to extract Section 18 of the Street Vendors [Protection of Livelihood and Regulation of Street Vending] Act, 2014:-

'18. Relocation or eviction of Street vendors:-

(1) The Local Authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner, as may be specified in the scheme.

(2) The local authority shall evict such street vendor whose Certificate of Vending has been cancelled under Section 10 or who does not have a Certificate of Vending and vends without such certificate, in such manner as may be specified in the scheme.

(3) No street vendor shall be relocated or evicted by the local authority from the place specified in the Certificate of Vending unless he has been given thirty days notice for the same in such manner as may be specified in the scheme.

(4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the Certificate of Vending after the expiry of the period specified in the notice.

(5) Every street vendor who fails to relocate or vacate the place specified in the Certificate of Vending after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend upto two hundred and fifty rupees, as may

be determined by the local authority but shall not be more than the value of the goods seized.''

(10) Sub-section [3] of Section 18 mandates the issuance of 30 days notice for relocation or eviction. In the case on hand, the petitioner is sought to be evicted and therefore, it is obligatory on the part of the Zonal Officer, Zone-13, Adyar, Chennai-600 020, to give thirty days notice and whereas, the impugned Notice would disclose that it is only a three days notice. The learned counsel for the petitioner would submit that the petitioner received the impugned Notice on 25.09.2020 and till such time, his possession may be protected and in the meanwhile, the 3rd respondent may also take a call in respect of the Legal Notice dated 22.09.2020 submitted by the petitioner.

(11) This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the Zonal Officer, Zone-13, No.115, Dr.Muthulakshmi Road, Adyar, Chennai-600 020, to desist action for a period of thirty days from 25.09.2020 and thereafter, proceed strictly in accordance with law.

(12) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government
Municipal Administration & Water
Supply Department, St George Fort,
Secretariat, Chennai-600 009.

2.The Commissioner
Corporation of Chennai, Ripon Buildings,
Chennai 600 003.

3.The Chairperson/Zonal Executive Engineer
[Zone 13], [The Township Vending Committee]
Corporation of Chennai, No.115,
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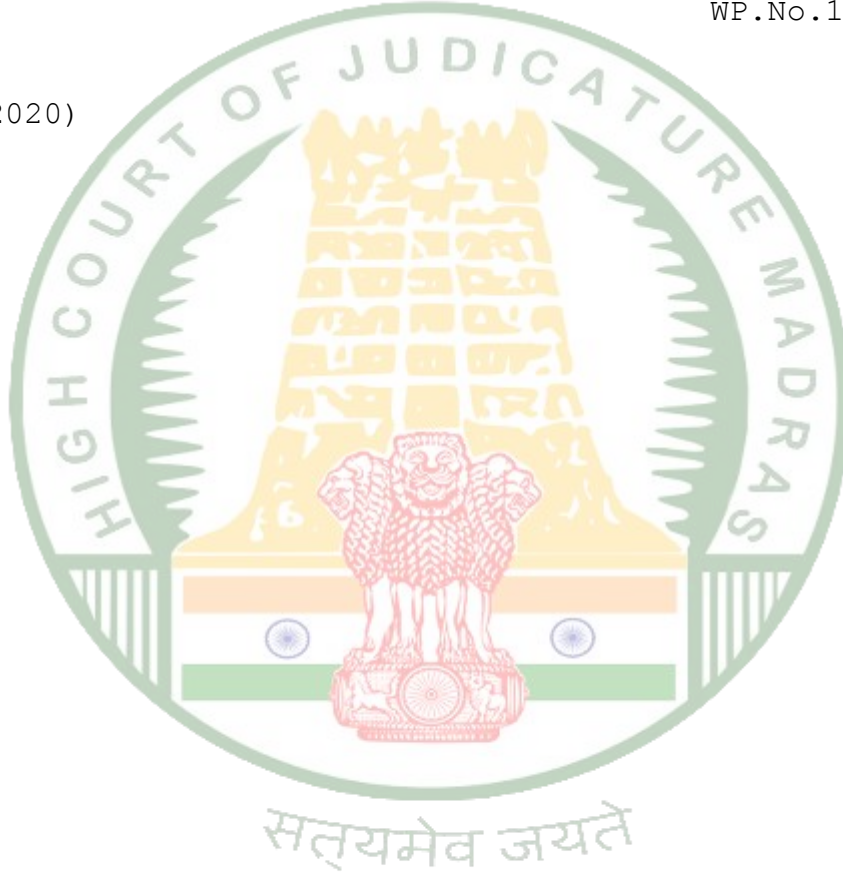
COPY TO:

The Zonal Officer,
Zone-13, No.115, Dr.Muthulakshmi Road,
Adyar, Chennai-600 020.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.33723
+1cc to Mr.K.Raja Srinivas, Senior Counsel for Chennai
Corporation, Advocate, S.R.No. 33609
+1cc to the Government Pleader, S.R.No. 33701

WP.No.14282/2020

SPD(CO)
GN(02/11/2020)



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