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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 7105 of 2016
and
W.M.P. No. 6306 of 2016

C.Balaji

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Represented by Secretary,
Housing and Urban Development,
Department, Fort St. George,
Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
3. The Chief Executive Officer i/c
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, forbearing the respondents more particularly the third respondent from initiating any eviction proceedings in respect of premises bearing No.14, Badrian Street, Chennai - 600 001 under the occupation of the petitioner till the disposal of suit.



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For Petitioner : Mr.K.Shivakumar

For Respondents : Mr.K.M.D.Muhilan
Government Advocate for R1
Mr.P.S.Ganesh for R2 and R3

O R D E R

The relief sought for in the present Writ Petition is to forbear the respondents more particularly the third respondent from initiating any eviction proceedings in respect of premises bearing No.14, Badrian Street, Chennai under the occupation of the petitioner.

2. The petitioner states that he is doing Retail Flower Vending in the name and style of C.K.B. Retail Flower Shop at No.14, Badrian Street, Flower Bazaar, George Town, Chennai for about six years. In view of the fact that the respondents initiated action for eviction on the ground that the Flower Vending business has been shifted from George Town to Koyambedu wherein the market place is constructed. The petitioner filed a Civil Suit in O.S. No. 6475 of 2012 on the file of the learned V Assistant Judge, City Civil Court, Madras for declaration and permanent injunction against the second respondent / Chennai Metropolitan Development Authority. When a suit is filed before the competent Civil Court of law, the relief in the nature of injunction cannot be entertained in a writ proceedings under Article 226 of the Constitution of India.

3. The issues raised in the Writ Petition are already decided by the Hon'ble Full Bench of this Court in W.A. Nos. 2295 of 2018 etc., dated 19.01.2021. Based on the Judgment of the Hon'ble Full Bench in the case of S.Sasikumar v. Government of Tamil Nadu, the competent authority is bound to conduct an enquiry ascertaining the facts and accordingly, initiate appropriate action in the manner known to law. Pursuant to the Judgment of the Hon'ble Full Bench, the factual position is to be ascertained in respect of the Flower Vending Business in Badrian Street, Flower Bazaar, George Town, Chennai and accordingly the second respondent / Chennai Metropolitan Development Authority is competent to initiate action under the provisions of the statute and rules in force. The second respondent is directed to complete the said exercise as expeditiously as possible.



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4. With these directions, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

vji / nti

To

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development,
Department, Fort St. George, Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Chief Executive Officer i/c,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1CC to Mr.P.S.Ganesh, Advocate, SR.No. 49232

+1CC to The Government Pleader, SR.No. 49416

W.P. No. 7105 of 2016

and

W.M.P. No. 6306 of 2016

PCH(CO)

B.VC (25/10/2021)