



WEB COPY

Cont.P.No.1498 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cont.P.No.1498 of 2021

D.Manivannan,
No.TD – 83, Anna Fruit Market,
Koyambedu Wholesale Market Complex,
Chennai 600 092

... Petitioner

Versus

1. Anushal Mishra
Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008

2. M.Lakshmi
Chief Executive Officer (KWMC)
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008

3. S.Shanthi
Chief Administrative Officer,
Market Management Committee
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008

... Respondents



PRAYER: Contempt Petition filed under Section 10 of the Contempt of Courts Act to punish the respondents for willful disobedience of the order passed this Court dated 27.10.2021 in W.P.No.23162 of 2021

For Petitioner : Mrs.AL.Gandhimathi
For Respondents : Mrs.Malarvizhi Udayakumar
Standing Counsel for R1 and R2
Mr.P.Velmurugan for R3
Standing Counsel

O R D E R

This Contempt Petition has been filed on the ground that the Interim Orders passed by this Court on 27.10.2021 has been violated.

2. The petitioner had approached this Court seeking for issuance of Writ of Mandamus forbearing the CMDA from evicting the petitioner from the shop. Pending Writ Petition, interim order was passed by this Court on 27.10.2021 to the effect that status quo should be maintained.

3. The grievance of the petitioner is that inspite of the interim order passed by this Court, on 30.10.2021, the officials of CMDA came to the shop and sealed the shop. Therefore, according to the petitioner, the act of the officials of CMDA is in violation of the Interim Orders passed by this Court.

4. On notice being issued to the respondents, the 1st respondent has filed a counter affidavit along with typed set of papers. The stand taken by



the CMDA is extracted herein :-

WEB COPY

“5. I submit that with regard to para-2 & 3, these are the details of the writ petition filed by the petitioner in W.P.No.23162/2021 and Hon'ble High Court direction in WMP No.24448/2021 dated 27.10.2021 to maintain status quo for a period of 4 weeks. Whereas, the Assistant Engineer after getting instructions from the Chief Administrative Officer, MMC, KWMC to verify the veracity of the complaint received from Tmt.Thilaka dated 31.08.2021 caused an inspection on 18.10.2021 and subsequent verification of the original entries relating to permanent license register of market management committee maintained under Section 10 of the Tamilnadu Specified Commodities (Regulation of Market Places) Rules 1996 found that Mr.D.Manivannan was doing business in shop TD-83 without valid license issued under Sec.21(1)(a) of the Tamilnadu Specified Commodities Act 1996, Hence the Assistant Engineer along with her team locked and sealed the shop TD-83 with immediate effect after removing the perishables from the shop on 21.10.2021. While the shop is in lock and seal condition Mr.D.Manivannan broke open one of the doors and started doing business and in parallel filed a writ petition in WP 23162/2021. Hence, as on date the lock and seal condition of the shop from 21.10.2021 as mentioned above is maintained as per the order of the Hon'ble Court dated 27.10.2021, till date.

6. I submit that with regard to para no.4, it is stoutly

denied that from 21.10.2021 the shop TD-83 is in Lock & Seal



WEB COPY

condition only.

7. I submit that with regard to para-5, while the shop is in lock and seal condition Mr.D.Manivannan broke open one of the doors and started doing business and in parallel filed a writ petition in WP 23162/2021. Hence, the officials of MMC, KWMC have to carry out the Lock & seal the broke open portion once again on 30.10.2021. Hence, the officials of MMC, KWMC had to lock and seal the broken portion one again on 30.10.2021. So as to stop the petitioner from entering the shop without valid licence.

8. I submit that with regard to para-6, there is no illegality in Locking & Sealing the shop TD-83 and MMC, KWMC followed the due process of law and after removing all the perishables from the said shop. The entire exercise of locking & sealing of Shop TD-83 is as per the Tamilnadu Specified Commodities (Re-location of market places) Act 1996.”

5. The learned counsel for the petitioner submitted that the petitioner was running the shop till 30.10.2021 and it is only on the said date, the officials illegally evicted the petitioner and sealed the shop. The specific stand taken by the respondents is to the effect that the CMDA had locked and sealed the shop, even as early as on 21.10.2021. Thereafter, the petitioner by taking advantage of the interim orders passed by this Court on 27.10.2021 had illegally entered the shop and therefore, the respondents had



to necessarily once again evict the petitioner and lock and seal the shop on 30.10.2021.

6. The learned standing counsel appearing on behalf of the CMDA submitted that the interim orders passed by this Court cannot be taken advantage for committing illegality and the CMDA cannot permit any one to occupy the shop, who does not possess proper license.

7. In the considered view of this Court, this Court had only passed the Interim Order to maintain status quo as on 27.10.2021. A specific stand has been taken by CMDA to the effect that the shop was locked and sealed as early as on 21.10.2021. Photographs have also been filed evidencing the locking and sealing of the shop. Therefore, according to CMDA, the status as on 27.10.2021 was that the shop had already been locked and sealed and the petitioner was not in possession of the shop. It must also be borne in mind that the CMDA has taken a very specific stand that the petitioner does not possess a license to occupy the shop. If the petitioner had taken advantage of the interim order passed by this Court and forcibly entered into the shop thereafter, the CMDA cannot express helplessness because of the interim order passed by this Court. The interim order passed by this Court cannot be a premium for committing illegality.



8. In view of the above discussion, this Court does not find any contumacious conduct on the part of the CMDA and the petitioner has to necessarily agitate his rights only in the pending writ petition.

In the result, the Contempt Petition is closed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

ssd

//Certified to be true copy//

Dated at Madras this the day of 2021.
COURT OFFICER(O.S.)
from 25th day of September 2008 the Registry is issuing Certified copies of
the Orders/Judgments/Decrees in this format.
GS/22/12/2021
To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008
2. The Chief Executive Officer (KWMC)
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008
3. The Chief Administrative Officer,
Market Management Committee
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008