

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P. No.12217 of 2022
and
W.M.P.Nos.11664, 11665, 11666 and 11667 of 2022

1.K.Kulasekaran

2.M.Sairaj

3.Annadurai Kannadasan

4.N.Venkateshwaran

5.Chetan Jhawar

6.Gandhi Kannadasan

.. Petitioners

-vs-

1. The Government of Tamil Nadu,
Department of Municipal Administration
and Water Supply, rep. by its Secretary,
Fort St. George, Rajaji Salai,
Chennai - 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
3. The Commissioner of Municipal Administration,
Urban Administrative Building,
78, DGS Dinakaran Salai - Santhome High Road,
Chennai - 600 028.
4. The Zonal Officer,
Zone X, No.117, Jawaharlal Nehru Road,
NGO Colony, Kodambakkam,
Chennai - 600 026.

.. Respondents

2.Learned counsel appearing for the petitioners submitted that the petitioners herein are the residents of Kannadasan Street, T.Nagar, Chennai, which is a peripheral road abutting Natesan park at T.Nagar and the T.Nagar layout was formed as a residential layout in the year 1920. Learned counsel for the petitioners further submitted that the area now known as Dr.Natesan Park was initially shown as an Open Space Reservation Land and subsequently in the year 1950, the 4 acre land was converted as Dr.Natesan Park, which is a well known park located on Venkatanarayana Road. However, the same was maintained by the Corporation and it has a separate kids play area, badminton Court and kids skating track, which is used for coaching children. Learned counsel for the petitioners further submitted

that the above Kannadasan Street is predominantly a residential area including about 30 residential houses and many of them including the petitioners herein have been residing in the area for more than 50 years throughout their lives and the said area did not have any commercial entity except a few petty shops to cater the needs and demands of the residents of Kannadasan Street, such as tea shop, Stationery shop etc. While so, certain unscrupulous persons had started to put up a road side eatery at the entrance of the Kannadasan Street abutting Venkatanarayana Road on both the Northern and Southern Side. Since the said road eatery is causing huge hardship to the residents of Kannadasan Street and other residents, who are using Kannadasan Street for entering their respective streets, the residents of Kannadasan Street, Mylai Ranganathan Street and some other nearby residents had opposed the existence of eatery. While so, all of a sudden, the area has been notified as 'vending zone' under the provisions of the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme and Rules, 2015. Therefore, the petitioners, left with no other alternate efficacious remedy, have come before this Court with this petition.

3. Concluding his argument, learned counsel for the petitioners submitted that the First Bench of this Court vide order dated 27.04.2022 passed in W.P. No.6799 of 2022 in the case of S.Singaram vs. the Government of Tamil Nadu and others, finding fault with the Constitution of the Town Vending Committee, holding that the Constitution of the Town Vending Committee was illegal, has struck down the order/notification issued by the respondents, keeping the issues open in reference to the principle of de jure/de facto in regard to the decisions taken by the Town Vending Committee not constituted as per law. When this Court has struck down the order/notification issued by the respondents holding that the constitution of the Town Vending Committee was illegal, a direction may be given to the respondents to treat or declare the Kannadasan Street, T.Nagar, Chennai area as 'non vending zone'.

4. In reply, learned Standing Counsel appearing for respondents 2, 4 and 5, drawing our notice to the counter affidavit filed by the Zonal Officer, Zone-X, the fourth respondent herein, submitted that when this Court has already declared that the constitution of the town Vending Committee was illegal and struck down the order/notification issued by the Greater Chennai Corporation, notifying the areas as Street Vending Zone, the prayer made by the petitioners that there must be a direction to declare the said area as a 'non vending zone' cannot be entertained.

5.Learned Additional Government Pleader appearing for respondents 1 and 3, supporting the stand taken by the Corporation in the counter, submitted that since all the zones including the petitioners' street, which are notified as 'Street Vending Zones', have become de-notified, nothing survives in this writ petition.

6.We also find merits on the submission made by the learned Standing Counsel appearing for respondents 2, 4 and 5. In this regard, it is relevant to extract paragraphs 5 to 7 of the counter affidavit filed by the fourth respondent as under:

'5.I submit that the Hon'ble High Court in W.P. No.6799 of 2022 in the case of S.Singaram vs The Government of Tamil Nadu & 4 others dated 27.04.2022 has declared the constitution of the Town Vending Committee to be illegal and has struck down the order/notification issued by Greater Chennai Corporation, notifying the area as Street Vending Zone.

6.I submit that at present there is no Street Vending Committee in existence and the respondent Corporation needs to form Vending Committee once again in accordance with the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and at present there is no Street Vending Committee and all the zones which are notified as Street Vending Zones have become de-notified ipso facto in consequence to the order passed by the Hon'ble Madras High Court as stated above.

7.I further submit that the respondent would form Town Vending Committee afresh and after verifying the vending and non-vending zones in view of Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Schemes and Rules, 2015, appropriate Zones would be notified as Vending Zones.'

7.A perusal of the above counter affidavit would show that there is no Street Vending Committee in existence at present and the respondents Corporation needs to form Vending Committee once again in accordance with the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and all the zones, which are notified as Street Vending Zones, have become de-notified and that the respondents would form Town Vending Committee afresh and after verifying the vending and non-vending zones, in view of Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Schemes and Rules, 2015, appropriate zones would be notified as Vending Zones.

8.Since the Corporation has taken a stand that all the zones, which are notified as 'Street Vending Zones', have become de-notified and that the respondents would form Town Vending Committee afresh and after verifying the vending and non-vending zones, in view of Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Schemes and Rules, 2015, appropriate zones would be notified as 'Vending Zones' and that the petitioners' street has also been de-notified, the prayer made by the petitioners cannot be entertained.

9.It is always open to the petitioners to work out their remedy in the manner known to law.

10.Accordingly, this writ petition stands dismissed. Consequently, connected W.M.Ps are closed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of Tamil Nadu,
Department of Municipal Administration
and Water Supply, rep. by its Secretary,
Fort St. George, Rajaji Salai,
Chennai - 600 009.
2. The Commissioner,
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Rippon Buildings, Chennai - 600 003.
3. The Commissioner of Municipal Administration,
Urban Administrative Building,
78, DGS Dinakaran Salai - Santhome High Road,
Chennai - 600 028.
4. The Zonal Officer,
Zone X, No.117, Jawaharlal Nehru Road,
NGO Colony, Kodambakkam,
Chennai - 600 026.

5. The Chairman,
Town Vending Committee, Zone X,
No.117, Jawaharlal Nehru Road,
NGO Colony, Kodambakkam,
Chennai - 600 026.

+1cc to Ms.S.Vaitheeswari, Advocate, S.R.No.41908

+1cc to the Government Pleader, S.R.No.41963

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NSK/22/07/2022