



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

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CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

W.P.No.838 of 2023
and W.M.P.No.822 & 1802 of 2023

- 1.S.Thilagam
- 2.J.Divya
- 3.S.Selvi
- 4.P.Palaniammal
- 5.M.Kuppu
- 6.S.Nandhini
- 7.S.Dilshathbegum
- 8.A.Yasmin
- 9.R.Parimala
- 10.A.Saleem
- 11.J.Ishwarya
- 12.P.Poonkodi
- 13.N.Enitha
- 14.S.Dhineshkumar
- 15.S.Shanthi
- 16.V.Lakshmi
- 17.V.Anusuya
- 18.G.Jambulingam
- 19.S.Sumathi
- 20.K.Lakshmi
- 21.D.Sagariya
- 22.R.Kanniammal
- 23.G.Sujatha
- 24.K.Selvakumar
- 25.A.Sakthivel



W.P.No.838 of 20

26.A.Abdul Azeez

... Petitioners

Vs.

1.The Collector,
Chengalpattu District,
GST Road,
Chengalpattu – 603 001.

2.The Commissioner,
Chengalpattu Municipality,
Chengalpattu – 603 001.

3.The Chairman,
Town Vending Committee,
Chengalpattu – 603 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the 2nd and 3rd respondents to restore the possession of the premises to the petitioners who are evicted unlawfully on 26.12.2022 from outside the Government Medical College Hospital, Chengalpattu, by violating the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and without following the due process of law within stipulated time.

For petitioners : Mr.N.G.R.Prasad
assisted by Mr.S.Sivakumar

For Respondents
For R1 : Mr.E.Vijay Anand
Additional Government Pleader

For R2 & R3 : Mr.A.Selvendran

**ORDER**

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(Order of this Court was made by Justice V.M.Velumani, J.)

The writ petition has been filed in the nature of Mandamus, seeking a direction to the 2nd and 3rd respondents to restore the possession of the premises to the petitioners, who were evicted unlawfully on 26.12.2022 from outside the Government Medical College Hospital, Chengalpattu, by violating the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

2. According to the petitioners, they are local hawkers and they were doing business of selling various items including bed sheets, towels, mat, pillows, soap, tooth brush etc., and also food items including Idly, Dosa, variety Rice and Briyani, Tea, Coffee etc., to the patients, attenders and visitors of the Government Medical College Hospital, Chengalpattu. The petitioners have given a representation dated 02.12.2022 to the 1st and 2nd respondents for issuance of Certificate of Vending and Identity Card to do the business outside the Government Medical College Hospital, Chengalpattu.



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3. While that being so, during the 1st week of December 2022, the 2nd respondent threatened the petitioners to vacate the place from doing business outside the Government Medical College Hospital, Chengalpattu. Therefore, the petitioners have given another representation dated 24.12.2022 to the respondents to withdraw their decision of vacating the petitioners from their place of business outside the Government Medical College Hospital, Chengalpattu. While so, without considering the said representations given by the petitioners, the second respondent, with the help of Police officials, evicted the petitioners on 26.12.2022.

4. Mr.N.G.R.Prasad, the learned Counsel appearing for the petitioners submitted that the 2nd respondent is collecting a fee of Rs.10/- per day from the petitioners to carry on their business in the said place. The Government enacted the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, to protect the street vendors. As per the Street Vendors Act, no street vendor can be evicted till survey is conducted and completed and certificate of vending is issued. In the present case, no committee has been formed. The respondents, without considering the representations of the



petitioners and without following the procedures, forcibly evicted the petitioners without any notice and hence, the petitioners have come out with the present writ petition for the above said relief.

5. The second respondent filed counter affidavit. Mr.E.Vijay Anand, the learned Additional Government Pleader submitted that the place where the petitioners were carrying on business is “No Vending Zone”. Due to business carried on by the petitioners, free flow of traffic including Ambulance service was affected and due to the same, the patients were also affected. The petitioners have encroached the Highways Road and carried on their business. The Dean, Chengalpet Medical College Hospital, by his letters dated 24.08.2021 and 28.10.2022, requested the Superintendent of Police, Chengalpet, to take action against the encroachments and to regulate the parking of the vehicles outside the Chengalpet Medical College Hospital. Based on the said complaint from the Dean, Chengalpattu Medical College Hospital, a joint action was taken by the respondents and the area was regulated for the smooth functioning of the said Hospital. The 1st respondent by proceedings in Na.Ka.No.2799/2021/WA4, dated 06.09.2021, directed the 2nd respondent to remove the encroachments before the College and Hospital and further directed them to regulate the traffic in the College and Hospital.



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6. While the petitioners were doing their business in the said premises, they were throwing wastes in the Streets as well as in the drainage, which resulted in over flowing of drainage, which causes health hazards. The copy of the receipts filed in the typed set of papers by the petitioners, do not relate to the place where the petitioners were carrying on their business.

7. The 2nd respondent has already taken steps to regulate the street vendors in their jurisdictional limits, as per the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. The Town Vending Committee was formed and bye-laws were framed and the said bye-laws were implemented as per the Municipal Council Resolution passed in the year 2019. The Committee had identified the vending zones and also vendors and issued licence and identity cards. The place where the petitioners were carrying on their business is now used as open car parking. The 2nd respondent had paid a sum of Rs.5,00,000/- to the Highways Department to run car parking in the said place. After tender, work order was issued in Work order in Na.Ka.No.2524/2016/A2 dated 17.11.2022 to one Ms.Nivetha Agencies, to maintain the said area as open car parking.



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8. The learned Additional Government Pleader relied on Clause 14 of Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015 and submitted that the persons who are carrying on vending business without any certificate or in “No Vending Zone”, can be evicted immediately from the place of his vending and his vending articles and goods can be seized by the local authorities and kept in their custody. He further submitted that the petitioners were not issued any certificate for carrying on their business as per the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. They are liable to be evicted immediately from the place of vending and the vending articles and goods were seized by the local authorities and the same have been kept in their custody. If the petitioners make an application to the 3rd respondent, the same will be considered on merits for carrying on their business in the vending zone and prayed for dismissal of the writ petition.

9. The petitioners filed a rejoinder to the counter affidavit filed by the 2nd respondent, wherein the petitioners denied various averments made in the counter affidavit and submitted that there is large vacant space outside the



Government Medical College Hospital, Chengalpattu. The distance between the Hospital main gate and the G.S.T Road is more than 45 ft. The gate where the petitioners were conducting business is the main gate which is marked as 2nd gate of the hospital. The Ambulance carrying emergency cases will not enter or return through the main gate (i.e. the 2nd gate). The Ambulance for the emergency cases enters and returns only through the 4th gate of the hospital, which is the emergency gate. The emergency ward of the hospital building is situated near the 4th gate of the hospital. The said emergency 4th gate is situated about 500 mts away from the main gate, where the petitioners were conducting business.

10. The respondents, without complying with Sections 3 and 18 of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, had unlawfully evicted the petitioners from the place on 26.12.2022. The respondents, without issuing any notice to the petitioners, evicted them alleging that the place where the petitioners were carrying on business is a protected area. The respondents evicted the petitioners without following due process of law. As per the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, till the Certificate



of Vending is issued to all the street vendors by conducting a survey, no street vendor shall be evicted and prayed for a direction to the respondents 1 and 2 to restore the possession to the petitioners, who are evicted on 26.12.2022 from outside the Government Medical College Hospital, Chengalpattu, by violating the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and prayed for allowing the writ petition.

11. Heard the learned counsel for the petitioner and the learned Additional Government Pleader and perused the materials available on record.

12. From the materials available on record it is seen that the petitioners were carrying on business in “No Vending Zone” near Chengalpattu Medical College Hospital. According to the respondents, due to the said business, free flow of traffic including Ambulance service was also affected. Further, due to the petitioners activities, the drainage system was blocked and caused health hazards. All these allegations are denied by the petitioners.



13. The main contention of the learned counsel for the petitioners is that, without following the procedures contemplated under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, and without issuing notice to the petitioners, they were evicted from the place where they were carrying on the business. The contention of the learned Additional Government Pleader that as per Clause 14 of the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015, the persons who are doing vending business in “No Vending Zone” and without any certificate, can be evicted immediately without any notice. The said Clause reads as follows.

“14. Manner and method of eviction of vendors, seizure and disposal of goods.

(1) A street vendor, whose Certificate of Vending is cancelled under Section 10 of the Act or who vends without a certificate of vending or who vends in a no-vending zone shall be liable to be evicted immediately from his place of vending and his vending articles and goods shall be seized by the local authority and kept in its custody.



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(2). The articles and goods of such street vendors shall be seized under a proper inventory and the signature of the street vendor concerned shall be obtained in the same. In case the vendor refuses to sign the inventory, the sanitary officer or sanitary supervisor or sanitary inspector of the local authority concerned shall attest the inventory in addition to the attestation of the officials seizing the articles.

(3) If a vendor does not apply for the return of the articles and the goods seized by the local authority after the expiry of 24 hours, in case of perishable goods and after the expiry of fifteen days, in case of non-perishable goods, the local authority shall dispose of the same by an open auction. The proceeds of such auction shall be adjusted towards the charges and penalties, if any, that are payable by the vendor under the rules or the Scheme and the cost incurred for conducting the auction. The balance, if any, shall be kept in a separate account and paid to the street vendor on application.

(4) If a vendor or his legal heirs fail to claim the balance amount under sub-clause (3),



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within a period of three months, the same shall be forfeited by the local authority and deposited in its general account.”

Admittedly, the place where the petitioners are carrying on business is declared as “No Vending Zone” and the petitioners were not issued any certificate to carry on their business in the said place. The said place is now used as open car parking. Considering Clause 14 of the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015, and above facts and materials on record, this Court is of the opinion that the petitioners are not entitled to any relief sought for in this writ petition.

14. In the counter affidavit, the 2nd respondent stated that if the petitioners make an application to the 3rd respondent, the same will be considered on merits for carrying on their business in vending zone.

15. In view of the same, it is open to the petitioners to make an application before the 3rd respondent, within a period of three weeks from the date of receipt of a copy of this order. If any such application is received, the



3rd respondents is directed to consider the same on merits and pass orders in accordance with law, within a period of three months thereafter.

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16. With the above directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[V.M.V., J.] [V.L.N., J.]

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Index : Yes
Speaking or Non-speaking



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