



W.P. No. 20698 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

CORAM

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.20698 of 2018

&

W.M.P. No. 24326 of 2018

N. Jayalakshmi

..Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Chennai – 600 003.
2. The Regional Deputy Commissioner
(Central),
Greater Chennai Corporation,
Zonal Office – 9,
T.Nagar, Chennai – 600 017.



W.P. No. 20698 of 2018

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3. The Executive Engineer,
Greater Chennai Corporation,
Zone -9, T. Nagar,
Chennai – 600 017.

4. The Assistant Executive Engineer,
Unit – 26,
Greater Chennai Corporation,
Zonal Office -9,
T.Nagar, Chennai – 600 017.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying
for issue of a Writ of Certiorari to call for the records relating to the notice in
Z.O.IX.C.No.E3/SPL/2018 dated 24.07.2018 on the file of respondents 2 to
4 herein and to quash the same.

For Petitioner	::	Ms. Supriya for Ms.P. Raja
For Respondents	::	Mr.G.T. Subramanian Standing Counsel

O R D E R

(Order of the Court was made by **S. Vaidyanathan,J.**)

The present writ petition has been filed challenging the notice dated
24.07.2018 issued under Section 222 of Chennai City Municipal
Corporation Act, 1919 by the respondent Corporation.



W.P. No. 20698 of 2018

2. From a perusal of the impugned notice, it is seen that the petitioner had unauthorisedly encroached upon the property belonging to the respondent Corporation and that the said act is in violation of Section 220 of Chennai City Municipal Corporation Act, 1919 and the petitioner had been directed to remove the shop put up on the property belonging to the respondent Corporation.

3. When the matter is taken up for hearing, it is represented by the learned counsel for the petitioner that the petitioner's father-in-law was running the business in the place in question, after obtaining licence and after his demise, her mother-in-law continued the business. Now, after the demise of petitioner's mother-in-law, the petitioner is continuing the business in the said shop. That being so, the impugned notice has been issued asking the petitioner to vacate the premises terming it as an illegal encroachment.

4. Learned Standing Counsel for the respondent Corporation would submit that the property belongs to the Corporation and that the



W.P. No. 20698 of 2018

petitioner cannot run the shop in the property belonging to the respondent Corporation.

5. Heard both sides.

6. A cursory glance at the licence issued by the then Corporation of Madras, now Corporation of Chennai, dated 22.09.1976 would make it very clear that the licence had been granted in terms of Section 279 and 349(11) By-laws of Act IV of 1929. It had been stated that the petitioner's father-in-law by name Sadagopan was permitted to use the premises and certain other conditions numbering 29 have been stipulated.

7. A reading of Section 279 of Chennai City Municipal Corporation Act, 1919 would make it very clear that the licence can be given to run a shop in a private place. In the present case on hand, the respondent Corporation had given permission to run the business in their land. It is very unfortunate that licences are issued even without prior inspection. The respondent Corporation had also allowed the construction to go on.



W.P. No. 20698 of 2018

8. This is a very serious issue. Once an encroachment is made, it takes years to remove the same. It was also not correct on the part of the respondent Corporation to have granted licence to run the business in the land belonging to them. Now, the area has been taken over by Chennai Metro Rail Limited for development. When the property belongs to the respondent Corporation, the petitioner has no right over the same. Therefore, while dismissing the writ petition, which is of the year 2018, we expect the respondent Corporation to conduct proper inspection of the site when licenses are granted for the first time and after following due process of law, issue licences. Of course, such licences should be granted to genuine persons, without any underhand dealings.

9. With the above observations, the writ petition stands dismissed.
No costs. Connected miscellaneous petition is closed.

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(S.V.N.J.) (K.R.S.J.)
10.07.2023



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W.P. No. 20698 of 2018

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To

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W.P. No. 20698 of 2018

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