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W.P.No.9897 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9897 of 2023

Mr.E.Shankar

... Petitioner

Vs.

- 1.The Chairman,
Chennai Metropolitan Development Authority (CMDA)
'Thalamuthu-Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore,
Chennai – 600 008.
- 2.The Principal Secretary to Government,
Housing and Urban Development Department,
'Thalamuthu-Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore,
Chennai – 600 008.
- 3.The Member Secretary,
Chennai Metropolitan Development Authority (CMDA),
'Thalamuthu-Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore,
Chennai – 600 008.
- 4.The Chief Executive Officer,
Chennai Metropolitan Development Authority (CMDA),
'Thalamuthu-Natarajan Maaligai',



No.1, Gandhi Irwin Road,
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Chennai – 600 008.

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5.The Chief Administrative Officer,
Market Management Committee, (MMC)
No.G-84, Periyar Vegetable Market,
Koyambedu,
Chennai – 600 092.

6.Mr.A.Chellasamy

7.The Inspector of Police, (Crime)
K10 Police Station,
Koyambedu,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, direction to the respondents to consider the representation letter dated 06.03.2023 consequently remove the seal and open the shop situated in Shop No.B 111 Vegetable Shop, Thandhai Periyar Market, Koyambedu, Chennai and maintain status quo ante by restoring the shop to the petitioner.

For Petitioner

: Mr.S.Kalaikumar

For R2 & R7

: Mrs.S.Mythreye Chandru
Special Government Pleader



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ORDER

The writ on hand has been filed to direct the respondents to consider the representation letter dated 06.03.2023 and consequently, remove the seal and open the shop situated in Shop No.B 111 Vegetable Shop, Thandhai Periyar Market, Koyambedu, Chennai and maintain status quo ante by restoring the shop to the petitioner.

2. The grievances of the petitioner is that he is doing vegetable wholesale trade / business as vegetable merchant at Shop No.B 111 Vegetable Shop, Thandhai Periyar Market, Koyambedu, Chennai, since 2018 on rental basis under the name and style of E.S.Jayashree vegetables. The 6th respondent / Mr.A.Chellaswamy is the allottee and owner of the said shop. Mr.A.Chellaswamy executed a sale deed in favour of one Mr.R.Sivakumar son of Mr.Ramasamy through a sale deed dated 20.02.2023. However, the petitioner is neither an allottee nor a permissive occupant by the 3rd respondent / the Member Secretary, Chennai Metropolitan Development Authority (CMDA). During inspection, the Authorities found that the petitioner was in unauthorised occupation of the shop premises and evicted the petitioner.



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3. The learned counsel for the petitioner states that no sufficient opportunities were granted to the writ petitioner. That apart, the petitioner is a tenant and paying rent to Mr.A.Chellasamy. The transaction between the original allottee and the petitioner will not have any binding effect as far as the CMDA is concerned. The CMDA has not granted any permission to the petitioner to run the business in the said shop. That apart, the original allottee has committed some irregularities and violated some conditions of the allotment and thus, the actions were initiated against the writ petitioner.

4. The petitioner submitted a representation and the writ petition is filed seeking a direction to consider the representation. Since the petitioner is an alien to the authorities and the authorities have not granted any permission, such representations are of no avail to the petitioner and the authorities cannot consider such representation.

5. High Court can issue a direction to consider a representation only if the person is able to establish his rights. Merely sending a representation would not provide a cause for filing a writ petition or seeking a direction to consider such representation by the competent authorities.



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6. In the present case, the petitioner could not establish that he is an allottee or a permissive occupant. He is an alien to allotment and he says that he is paying rent to the 6th respondent, who is the original allottee. If at all the petitioner is aggrieved, he has to sue the 6th respondent, who permitted the petitioner to occupy the shop in violation of the allotment conditions. Contrarily, the petitioner cannot set out any claim against the authorities as there is no contract or relationship existing between CMDA and the petitioner. The oral understanding between the 6th respondent and the petitioner will not have any binding effect as far as the CMDA is concerned. Therefore, the petitioner is at liberty to initiate all appropriate actions against the 6th respondent / allottee, who has committed certain illegalities and violations of allotment conditions.

7. With these observations, the writ petition stands dismissed. No costs.

30.03.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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