



WEB COPY



W.P.No.35256 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.35256 of 2015

Suraj and Chaand Towers Residents
Welfare Association represented by its President
Mr.N.C.Kannan
No.128, L.B.Road, Thiruvannamiyur
Chennai 600 041

..

Petitioner

v.

1. The Corporation of Chennai
rep by its Commissioner
Ripon Building
Chennai 600 003
2. The Assistant Commissioner-Zone XIII
Corporation of Chennai
115, Dr.Muthulakshmi Salai
Adyar, Chennai 600 020
3. The Hawkers Zone Implementation
Committee represented by its Chairman
Corporation Buildings
R.A.Puram, Chennai



W.P.No.35256 of 2015

WEB COPY

4. South Chennai District Siruvyabharigal
Pothunala Sangam rep by its President
Natarajan, Thiruvanmiyur

5. S.S.Annamalai Enterprise
rep by its Partner A.Thirunavukkarasan
123-A, Kalki Krishnamurthy Salai
L.B.Road, Thiruvanmiyur, Chennai-41
(R5 impleaded as per order dated 18.12.2015
in M.P.No.2/2015 in W.P.No.35256/2015) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 19.10.2015 of the 3rd respondent herein in the matter of Suraj and Chaand Towers Residents Welfare Association Vs. Chennai Corporation and 2 others and quash the same and forbear the respondents 1 to 3 herein from in any manner using any portion of the road for the purpose of erecting shops or as Hawkers zone.

For Petitioner	::	Mr.R.Kannan
For Respondents	::	Mr.D.B.R.Prabhu Standing Counsel for R1 & R2 Mr.K.J.Parthasarathy for R5 No appearance for R3 Tapal returned unclaimed for R4

ORDER

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

This writ petition has been filed by the Suraj and Chaand Towers Residents Welfare Association challenging the order dated 19.10.2015 of



W.P.No.35256 of 2015

the third respondent Committee, Hawkers Zone.

WEB COPY

2. Pursuant to the direction of this Court in W.P.No.1046 of 2006 appointing Justice A.Ramamurthi (Retd.) to deal with the hawkers' encroachment in streets and other places, the Committee, by order dated 19.10.2015, on the complaint of the petitioner, passed an order holding that the petitioner Association is not entitled to exclusive use of the gifted land, which was registered vide gift deed dated 14.05.93. The Committee also expressed its view that the petitioner Association is estopped from claiming any right in the gifted land, in view of the orders passed by this Court earlier in W.P.Nos.9694 & 19282 of 2011. Since the property which was gifted to the Corporation, confers title in favour of the Corporation, the Committee also observed that the property vest with the Corporation and it is for the Corporation to allot the road margin for the use of hawkers based upon the policy that was taken for allotment to hawkers. Considering the space available with reference to length and breadth, further direction was issued by the Committee after approving the proposal suggested by the Corporation to accommodate the hawkers. A direction was therefore issued



W.P.No.35256 of 2015

to the Corporation to mark 5' x 4' on either side of the road margin for the purpose of allotment to the genuine hawkers and to provide a barricade/iron rod to prevent the hawkers from encroaching the road portion. All the objections raised by the petitioner Association were rejected.

3. This order is under challenge in the writ petition mainly on the ground that pursuant to the enactment of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 to protect genuine hawkers, the issue should be decided only by the Committee appointed for a specific purpose under the Act. It is stated that the third respondent, who passed the impugned order, has no authority to decide such issues after coming into force of the Central Act. The impugned order is therefore primarily challenged only on the ground of want of jurisdiction based on the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

4. The learned Standing Counsel appearing for the respondent Corporation submitted that following the direction of this Court, the



W.P.No.35256 of 2015

Committee has been constituted by the Corporation for all the 15 zones and therefore the issue can be decided by the Committee. He has no objection for referring this matter for an adjudication by the Committee.

5. This Court is unable to accept the argument of the learned counsel for petitioner as to the title of the petitioner in respect of a piece of land, which was already gifted in favour of the Corporation. Since the finding of the Committee that the petitioner cannot claim any exclusive right over the land is in tune with the documents that were produced, this Court also holds that the petitioner Association is not entitled to exclusive use of the vacant land which was bequeathed in favour of the Corporation by document dated 14.05.93.

6. After holding that the petitioner Association is not entitled to claim any exclusive right in view of the execution of the gift deed as well as the earlier orders passed by this Court, this Court refers the matter to the Vending Committee constituted as per the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and



W.P.No.35256 of 2015

the Committee is directed to pass appropriate orders within a reasonable time after giving an opportunity of hearing to the petitioner, the fifth respondent and the hawkers either through association and/or by causing publication of the notice of hearing, so that the interested hawkers may also be heard by the Vending Committee. The first respondent is directed to maintain status quo as on date, till the decision is taken by the Vending Committee in accordance with the provisions of the Act as well by considering the grievance of the stakeholders after giving full opportunity of being heard. With this observation, the writ petition stands disposed of.

No order as to costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
05.01.2024

ss

To

1. The Commissioner
Greater Chennai Corporation
Ripon Building, Chennai 600 003



W.P.No.35256 of 2015

2. The Assistant Commissioner-Zone XIII
Greater Chennai Corporation
No.115, Dr.Muthulakshmi Salai
Adyar, Chennai 600 020

WEB COPY



WEB COPY



W.P.No.35256 of 2015

S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

W.P.No.35256 of 2015

05.01.2024