



WEB COPY



W.P.No.23806 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.23806 of 2023

and

W.M.P.No.23313 of 2023

Mohammed Ali

... Petitioner

Vs.

1.The District Collector,
Collectorate of Chennai,
Chennai District.

2.The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai – 53.

3.The Zonal Officer,
Ambattur,
Zone-7, Greater Chennai Corporation,
Chennai – 53.

4.The Executive Engineer,
Zone-7, Greater Chennai Corporation,
Chennai – 53.

... Respondents



W.P.No.23806 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 1 and 2 from interfering with the petitioner's lawful vending business in fruits and vegetables at 218/7/1, Railway Station Road, Korattur, Chennai – 80, except by due process of law.

For Petitioner	:	Mr.I.Kowser Nissar
For R1 & R2	:	Mr.M.Bindran Additional Government Pleader
For R3 & R4	:	Mr.E.C.Ramesh Standing Counsel

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus forbearing the respondents 1 and 2 from interfering with the petitioner's lawful vending business in fruits and vegetables at 218/7/1, Railway Station Road, Korattur, Chennai – 80, except by due process of law.



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WEB COPY 2. Brief facts that are necessary for the disposal of this writ petition are as follows :

The petitioner, in the affidavit, has stated that the respondents 3 and 4 have permitted street vending at No.218/7/1, Railway Station Road, Korattur, and that the petitioner is doing fruits and vegetables vending. It is also the case of the petitioner that the said area has been notified as “Street Vending Zone” by respondents 3 and 4. Stating that the petitioner is doing his business in a lawful manner and that the 2nd respondent is trying to interfere with his possession, the petitioner has approached this Court with the above writ petition.

3. Surprisingly, the petitioner has also enclosed in the Typed Set of Papers the representation submitted by the petitioner to the District Collector. From the representation, it is seen that the petitioner has admitted encroachment of the land in S.No.1052 in Korattur Village by the petitioner and 73 persons. It is the case of the petitioner in the representation that 73 plots were allotted by Tamil Nadu Slum Clearance Board in favour of 73



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families and that the allottees had also paid the installments. However, it is also admitted by the petitioner that, at the instance of one Karthikeyan, a writ petition was filed before this Court in W.P.No.8355 of 2014 for removal of encroachment in Poramboke lands by the Revenue officials. Petitioner himself has produced before this Court the final orders in W.P.No.8355 of 2014, wherein, after recording the fact that removal of encroachment was over, this Court had directed the respondents to ensure that there is no re-encroachment. Despite a candid admission by the petitioner that the encroachments made by the petitioner and others had been removed, he states further that, due to poverty, the petitioner has put up vegetables and fruits shop for his livelihood. The petitioner has also produced before this Court the Identity Card issued to the street vendors. Since the Tahsildar has warned the petitioner to vacate the place, the petitioner has approached this Court once again for a direction to forbear the Revenue officials from interfering with the possession.

4.After admitting that the petitioner and other encroachers were removed by due process of law, the petitioner wants to regularise their illegal



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encroachment once again for commercial purposes. This cannot be permitted. This will be against the spirit of earlier order. In the counter affidavit filed by the 2nd respondent, it is stated that, pursuant to the direction of this Court, dated 27.11.2014, in W.P.No.8355 of 2015, several encroachments including the encroachment by petitioner has been removed. It is categorically stated that the land in which the petitioner and others have encroached belongs to the Government. It is in the said circumstances, this Court is of the view that the whole writ petition is misconceived. The petitioner, who is an encroacher and whose encroachment had been removed by due process of law by the Revenue officials who are competent to remove the encroachments in the Government lands, has come forward with a writ petition with a novel prayer to circumvent the earlier order of this Court, as well as to erase the consequences that should follow pursuant to the directions of this Court.

5. Therefore, this writ petition is dismissed with cost of Rs.5,000/- (Rupees Five Thousand only). Consequently, connected miscellaneous petition is closed.



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WEB COPY 6.Post this matter two weeks after issuance of copy of order, under the caption “for reporting compliance”.

(S.S.S.R., J.) (N.S., J.)
23.01.2024

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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