



WEB COPY

W.A. No.3060 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 18.10.2024

DELIVERED ON:19.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.3060 of 2024

and CMP. No.23138 of 2024

Mr.N.Raja Mohammed

.. Appellant

Vs

1.The Chief Administrative Officer/DRO,
Market Management Committee,
C.M.D.A. Koyambedu Wholesale Market,
Koyambedu, Chennai – 600 107.

2.Mr.M.Gowri Shankar

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 20.09.2024 made in W.P. No.12482 of 2024.

For Appellant : Mr.T.Thiageswaran for
M/s.Waraon & Sai Rams

For Respondents : Mrs.P.Veena Suresh,
Standing Counsel for R1
Mrs.Chitra Sampath,
Senior Counsel for
Mr.R.Subramanian.



J U D G M E N T

WEB COPY (Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The appellant/writ petitioner aggrieved by dismissal of W.P. No.12482 of 2024 has preferred the present Writ Appeal.

2. We have heard Mr.T.Thyageswaran for M/s.Waraon & Sai Rams, learned counsel for the Appellant and Mrs.P.Veena Suresh, learned Standing Counsel for the first respondent and Mrs.Chitra Sampath, learned Senior Counsel for Mr.R.Subramaniam, learned counsel for the second respondent.

3. The appellant/writ petitioner claiming to be a tenant under the second respondent on a monthly rent of Rs.90,000/- in respect of a fruit shop situated at Door No.T/A-1, Anna Fruit Market, Koyambedu, Chennai – 600 107 filed the Writ Petition claiming that his father was a tenant under one Mr.Nabi Khan, the original allottee of the shop from the first respondent, Chennai Metropolitan Development Authority (C.M.D.A). According to the petitioner, the second respondent attorned the tenancy in



favour of the petitioner's father and after the demise of his father in the year 2010, the petitioner has been carrying on business and he has been paying electricity charges from the year 2008. Since the second respondent attempted to dispossess the petitioner, the petitioner filed a suit in O.S. No.7291 of 2014 before the XI Assistant City Civil Court, Chennai seeking permanent injunction and the said suit was also decreed in favour of the petitioner on 04.01.2022. He has further contended that the Civil Court has also directed the petitioner to deposit the rents in the Court and he has been promptly paying the rents as directed by the Civil Court.

4. He has further stated that he moved this Court by way of the writ petition, challenging the order of first respondent dated 17.08.2023, directing the petitioner to hand over possession to the second respondent and in and by order dated 21.11.2023 in W.P. No.24972 of 2023, this Court directed the first respondent to pass a reasoned order in accordance with law.

5. According to the learned counsel for the Appellant, the first respondent has mechanically passed the very same order, over and again,



without considering the judgment and decree passed in O.S. No.7291 of 2019. He has further stated that in the light of the judgment and decree in his favour, the first respondent Authority cannot pass an order of eviction and unfortunately, the Writ Court also has failed to consider the import of the findings of the Civil Court and erroneously proceeded to confirm the order of eviction passed by the first respondent and he therefore, prayed for the Writ Appeal being allowed.

6. Per contra, the learned counsel for the first respondent would submit that the impugned order of the Writ Court deserves no interference as it is a well reasoned order, factoring all relevant circumstances and materials available on record. The learned Senior Counsel appearing for the second respondent would also state that the Writ Court has rightly found that the appellant/petitioner has not been able to produce any license in his favour, recognising his occupation of the shop and the judgment and decree passed by the Civil Court would not bind the first respondent. The learned counsel for the respondents would pray that the Writ Appeal be dismissed.

7. We have carefully considered the submissions advanced by the



learned counsel on either side. We have also gone through the records including the order of the Writ Court.

WEB COPY

8. The appellant admits to the fact that the original allottee was one Mr.Nabi Khan, from whom the second respondent had purchased the portion measuring 1140.50 sq.ft. in the year 2006. A valid licence has been issued to the second respondent recognising his purchase and occupation of the shop originally allotted to the Nabi Khan. The appellant's specific contention is that even under Nabi Khan, the appellant's father was carrying on business of wholesale fruit vending and after the demise of his father in the year 2010, the appellant's tenancy has been attorning in favour of the second respondent. The appellant has admittedly filed a suit before the City Civil Court seeking for an injunction to restrain the second respondent from interfering with the peaceful possession and enjoyment of the appellant/Writ Petitioner. The first respondent is not a party to the said suit and therefore, as rightly held by the Writ Court, the said judgment and decree would not bind the first respondent.

9. As far as the first respondent is concerned, any person without a



licence issued by the licensing Authority viz., the first respondent cannot run any shop in the wholesale Anna Fruit Market. Excepting for producing the receipts for payment of Electricity and the judgment and decree obtained by the petitioner against the second respondent, the appellant has not been able to show that he has a valid licence to be in occupation of the shop in question.

10. The Writ Court has rightly found that the appellant/Writ Petitioner has no locus to run the shop based on the judgment and decree obtained against the second respondent and that in the absence of licence issued in the name of the appellant, the appellant cannot seek any relief. We do not find any infirmity in the findings arrived at by the Writ Court. In fact, the Writ Court has elaborately discussed the contentions raised by the appellant which have merely been repeated in the present Writ Appeal by way of memorandum of grounds of Writ Appeal and the Writ Court has rightly found that in the absence of a valid license issued by the first respondent, the appellant cannot claim to be in occupation of the shop in question to run the wholesale fruit vending business. We do not find any grounds to interfere with the well reasoned and well merited order of the



Writ Court.

W.A. No.3060 of 2



WEB COPY

11. For all the above reasons, the Writ Appeal is dismissed.

Consequently, connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.

(D.K.K.J.,) (P.B.B.J.,)

19.11.2024

Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order
rkp

To

The Chief Administrative Officer/DRO,
Market Management Committee,
C.M.D.A. Koyambedu Wholesale Market,
Koyambedu, Chennai – 600 107.



WEB COPY

W.A. No.3060 of 2



D. KRISHNAKUMAR. J.,
and
P.B.BALAJI, J.

rkp

Pre-delivery Judgment in
W.A.No.3060 of 2024
and CMP. No.23138 of 2024

19.11.2024