



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 29935 of 2024

And

W.M.P.No. 32639 of 2024

C.Sudhaaher Reddi

... Petitioner

..Vs..

1. Chennai Metropolitan Development Authority
Rep. by Member Secretary
No.1, Gandhi Erwin Road
Egmore, Chennai -08
2. The Market Management Committee
Rep. By Chief Administrative Officer
Koyambedu Wholesale Market Complex
Koyambedu, Chennai -107.
3. Inspector of Police
K-10 Koyambedu Police Station
Koyambedu
4. Sangeeth
5. John Peter

... Respondents



PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus forbearing the second respondent or their men, agents, servants and any other persons acting on behalf of them from interfering with the petitioner's possession over the shop No. J-105 situated at Periyar Vegetable Market, Koyambedu wholesale market complex, Koyambedu Chennai – 600 092 in pursuant to the communication of the second respondent dated 28.09.2024.

For Petitioners	:: Mr. M.Raja Sekhar
For 1 st Respondent	:: Mrs. K.Mageswari Standing Counsel
For 2 nd Respondent	:: Mrs. P. Veena Suresh
For 3 rd Respondent	:: Mr.R.Kishore Kumar Government Advocate
For 4 th Respondent	:: Mr. V.J.Arul Raj
For 5 th Respondent	:: Mr. K.M.Ramesh (Sr.C) for Mr. J.Selvaraja

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a restraint against the second respondent / the Market Management Committee represented by the Chief Administrative



Officer at Koyambedu from interfering with the possession of the petitioner over Shop No. J-105 at Periyar Vegetable Market, Koyambedu. The petitioner is deeply aggrieved by a communication of the second respondent dated 28.09.2024.

2. By the said communication dated 28.09.2024, the second respondent had addressed the third respondent Inspector of Police, Koyambedu Police Station, seeking assistance to take action against the writ petitioner by categorising the writ petitioner as an individual, who had not obtained any license under the TamilNadu Specified Commodities Markets (Regulation of Location) Act 1996, but still continuing to do business in the aforementioned shop.

3. Contending that the second respondent is taking the assistance of the third respondent to the disadvantage of the petitioner, the Writ Petition has been filed in the nature of a Mandamus seeking a direction that the second respondent should not initiate any action.

4. The second respondent as controlling authority over the shops at Periyar Vegetable Market, Koyambedu is the sole authority to regulate and determine who can run the shops and who cannot run



the shops in the market.

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5. The learned counsel for the petitioner argued that the second respondent had categorised the petitioner as a tenant and that there is no clarification of a tenant in the said enactment and that therefore, the communication will have to be interfered with and it has to be declared that the second respondent has no right or authority to interfere with the petitioner's business.

6. However, the provisions of the Act are clear. It permits persons who have a license to be categorised as 'Wholesale Trader' and only a person, who is categorised as a wholesale trader and has a license, can run the shop. The petitioner has admitted that he has no license. The petitioner had entered into possession of the shop by permission granted by the erstwhile owner. The erstwhile owner however then sold the shop. It had changed hands and is now in the possession of the fifth respondent. The fifth respondent has been recognised as the license holder by the second respondent. It is only the fifth respondent, who therefore has a right to run the shop.

7. The learned counsel for the petitioner claims that the petitioner's possession is strengthened by an order in O.S.No. 5484 of



2024 by the 21st Assistant City Civil Court, Chennai, wherein, in an Interlocutory Application, injunction protecting the possession of the petitioner as against the fifth respondent had been passed by the learned Judge. It is contended by the learned counsel for the petitioner that therefore, the petitioner's possession should not be interfered with.

8. The petitioner is not the license holder. He is in possession and claims right only owing to such possession granted to him. Let me not express any opinion about the injunction order granted but since the second respondent is not a party to the suit, the second respondent is not bound by any of the observations in the order of the said Court. The second respondent as a duty to protect the sanctity of every license holder and can permit only such license holders to conduct the business. The petitioner has no license. Then the petitioner has no right to conduct business in that place. The fifth respondent has license. He alone has a right to conduct the business.

9. As a matter of fact, under Section 53 of the TamilNadu Specified Commodities Markets (Regulation of Location) Act 1996, the jurisdiction of a Civil Court to enter into any discussion relating to issues arising under the said Act is ousted.



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10. Section 53 of the Act is as follows:-

“Section 53. Bar of certain proceedings.- (1) No suit or other proceeding shall lie against the market committee for any act done or purporting to be done under this Act.

(2) (a) No suit, prosecution or other proceeding shall lie against the Chairman or Vice-Chairman or Chief Administrative Officer or any officer or servant of the market committee for anything which is in good faith done or intended to be done under this Act or any rule, by-law or notification issued under this Act.

(b) No Chairman or Vice-Chairman or Chief Administrative Officer or other officer or servant of the market committee shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties or the discharge of the functions assigned to him by or under this Act.”

11. In O.S.No. 5484 of 2024, the second respondent herein,namely, the Market Management Committee had not been impleaded as party to the suit. But however, a reading of the plaint shows that the entire issue relates to possession of the shop in Periyar



Vegetable Market under the control of the Market Committee.

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12. The order in the civil suit would not come to the assistance of the petitioner so far as the second or third respondents are concerned. If the second respondent is of the opinion that it is through the assistance of the third respondent they could evict the petitioner herein, they may take necessary steps in accordance with law and through the third respondent.

13. The Mandamus as sought cannot be issued by this Court. The locus of the petitioner itself is questionable.

14. In this connection, reference must also be made to Sections 20 and 21 of the aforementioned Act which are as follows:-

“Section 20. Registration of wholesale traders.-

(1) The Chief Administrative Officer of every market committee shall maintain a register, for every specified commodity for registering the wholesale traders, in such form and in such manner as may be prescribed.

(2) As soon as may be, after any area is declared to be a market area for any specified commodity, the Chief Administrative Officer shall



issue a notice in such form and publish it in such manner as may be prescribed, inviting all the wholesale traders actively engaged in the wholesale trade of such specified commodity in the local area, to apply in writing to him for registering themselves with the market committee. Such applications shall be invited within such period as may be prescribed, calling upon the applicants to adduce evidence that the applicants have been actively engaged in the wholesale trade of such specified commodity in the local area immediately before the date of publication of the notification under sub-section (1) of section 4.

(3) Every person other than the persons referred to in sub-section (2) intending to carry on the wholesale trade of such specified commodity market area shall also apply to the Chief Administrative Officer for registering his name with the market committee.

(4) The application for such registration shall be made in such form and shall be accompanied by such fees and documents as may be Prescribed.

(5) The Chief Administrative Officer shall consider all applications received by him and if he is satisfied on making such further inquiry, if intending to carry on, the wholesale trade, he shall include his name in any, as he may deem fit that an applicant was actively engaged in, or applicant accordingly. Every such registered wholesale trader shall be the



register maintained by him under sub-section (1) and inform the applicant accordingly. Every such registered eligible to get a licence as provided in section 21.

(6) If the Chief Administrative Officer refuses to register the name of any person who has applied for the same, he shall communicate his decision in writing with reasons therefor to such person :

Provided that no order under this sub-section shall be passed unless the person concerned is given a reasonable opportunity of being heard

(7) If the Chief Administrative Officer, on application made to him or information received by him or on his own motion, is satisfied after such inquiry as he deems fit, that any entry in the register is erroneous or defective in any particular or should be omitted on the ground that the person concerned has ceased to carry on the wholesale trade in such specified commodity, he may, after giving the affected person a reasonable opportunity of being heard, amend or omit the entry in the register.

(8) Any person aggrieved by any decision of the Chief Administrative Officer in regard to the refusal of registration or amendment or omission of any entry of his name in the register, may make an appeal in writing to the local authority within such period as may be prescribed.

(9) The decision of the Chief Administrative



Officer in regard to such registration, and where an appeal is made against such decision, the decision of the local authority, shall be final.

Section 21. Wholesale trading in specified commodity in market area to be regulated by

licenceregulated by licence.-(1) On and after the date specified by the local authority, by notification (hereafter in this section referred to as to be the notified date), no person shall, within a market area, (a) set up, establish or use, or continue or allow to be continued, any place for the wholesale trade of any specified commodity; or

(b) operate as weighman, measurer, trader, warehouseman or in any other capacity in relation to the wholesale trading of any specified commodity; or

(c) carry on any wholesale trade of any specified commodity in any place in the market area other than in the market or special market, as the case may be, except under, and in accordance with the conditions of, a licence granted to him in that behalf by the market committee under this Act: Provided that-

(i) All orders granting, renewing, refusing to grant or refusing to renew, cancelling or suspending any licence shall be in writing and no order refusing to grant or renew or cancelling or suspending a licence shall be made without giving the person



concerned a reasonable opportunity of stating his case;

(ii) The reasons for any such refusal, cancellation or suspension of a licence shall be recorded in writing;

(iii) the market committee shall not refuse to grant an initial licence to any registered wholesale trader.

(2) Nothing contained in sub-section (1) shall apply to a Warehousing Corporation established or maintained by the State or Central Government or a warehouseman licensed under the Tamil Nadu Warehouses Act, 1951 (Tamil Nadu Act XV of 1951) in respect of storage, weighing or measurement of any specified commodity accepted for warehousing.

(3) A licence under sub-section (1) may be refused to a person,-

(a) whose licence was cancelled, and a period of three years has not elapsed since the date of the cancellation; or

(b) who has been convicted of an offence where such offence relates to his business or his integrity as a man of business; or

© in regard to whom the market committee is satisfied, after such enquiry as it considers adequate, that he is a benamidar for, or a partner with, any other person to whom a licence may be refused under clause (a) or clause (b).

(4) If a market committee is satisfied, either on a



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reference made to it in this behalf, or otherwise, that-

(a) a licence granted under sub-section (1) has been obtained by misrepresentation or fraud, or

(b) the holder of a licence has contravened, or failed to comply with, any of the provisions of this Act or the rules or by-laws made under this Act or any of the conditions of the licence,

Then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the market committee may, subject to such rules as may be made in this behalf, cancel or suspend the licence, after giving the holder of the licence a reasonable opportunity of showing cause against such cancellation or suspension.

(5) Any person aggrieved by the decision of the market committee-a licence may, within such time as may be prescribed, appeal to the local authority and the local authority may make such order in the case as it may think fit.

(6) A licence granted under sub-section (1) shall be valid for a period of three years and may be renewed, from time to time, and the provisions of this Act shall, so far as may be, apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(7) Every person to whom a licence is granted under sub-section (1) shall comply with the provisions of



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this Act, the rules and by-laws made under this Act and the conditions specified in the licence.

(8) (a) Notwithstanding anything contained in any law for the time being in force, no local authority, including the [Chennai] City Municipal Corporation constituted under the '[Chennai] City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) having jurisdiction over the market area, shall, on and after the notified date, establish, authorise or continue, or allow to be established, authorised or continued, any place in the local area including the market area as a market or a place to carry on the wholesale trade in respect of any specified commodity and any permission or licence already granted by such local authority shall stand cancelled on the notified date.

(b) Upon such cancellation of any permission or licence, if the holder of such permission or licence refuses to discontinue his wholesale trade in respect of any specified commodity in the place referred to in clause (a), the market committee may, by notice in writing, direct such person, within a period of one month or such further period as may be specified therein, to stop carrying on the wholesale trade in such place.

(c) If any direction given under clause (b) is not complied with, within the time specified in the notice, the market committee may, without prejudice to any penalty that may be imposed for



any contravention of the provisions of this section, have such direction carried into effect at its cost and have the amount thereof recovered from the defaulter in the same manner as arrears of land revenue.

(d) Upon such cancellation of any permission or licence, the holder of such permission or licence shall not be entitled to claim and receive any compensation, but shall be entitled to claim and receive such amount towards refund of the fees paid by him as is proportional to the unexpired period of such permission or licence.”

15. The Act is comprehensive in nature. Only a license holder can run a shop. The petitioner is not a license holder. He has not right to continue to be in possession.

16. Further, the definition of a wholesale trader under Section 2(14) and the definition of a wholesale registered trader as given under Section 2(10) are also relevant. They are as follows:-

“2(10) “registered wholesale trader” means a wholesale trader whose name is, for the time being, registered in the register under Section 20;

2(14) “wholesale trade” means sale or



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purchase of any specified commodity for purposes other than direct consumption or use by the purchaser, and shall include holding of stocks or warehousing of such specified commodity at any place in teh market area (but does not include any sale or purchase by any primary producer or retail trader, as the case may be, of such specified commodity); and any such seller, buyer, holder of stock or warehouse-keeper shall be deemed to be a "wholesale trader." "

17. It is clear that a person can be categorised as wholesale traders only if has a license and is recognised by the second respondent.

18. The petitioner has no license. He cannot be considered as a wholesale trader. The petitioner cannot be considered even as authorised to do wholesale trade. The locus of the petitioner is questionable. I am not inclined to grant the relief sought for by the petitioner. The Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

06.01.2025

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Index: Yes/No
Internet: Yes/No



Speaking / Non Speaking Order

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C.V.KARTHIKEYAN, J.,

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To

1. Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Erwin Road
Egmore, Chennai -08
2. Administrative Officer
The Market Management Committee
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