

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2017

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THE HON'BLE MR.JUSTICE M.S.RAMESH
AND
THE HON'BLE MR. JUSTICE G.R.SWAMINATHAN

W.P.No.34078 of 2017 and
WMP.No.37823 of 2017

Chinnadurai

.. Petitioner

Vs.

1. The Secretary to Government, Municipal Administration and Water Supply (M.C.1) Department, Government of Tamil Nadu, Fort St. George,Chennai-9.
2. The Commissioner, Maraimalai Nagar Municipality, Maraimalai Nagar 603 209, Kanchipuram District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents to consider and pass orders on the petitioner's representation dated 28.11.2017 as per the provisions of the Street Vendors [Protection of Livelihood Regulation] Act, 2014, made for granting permission/certificate of vending and till such time not to disturb with the running of the petitioner's Bunk Shop near Door Nos.140 and 151, Estanic Park, Vallanchery, GST Road, Potheri, Kanchipuram District, wherein selling tea, coffee, snacks and food items by using LPG stove.

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For Petitioner : Mr.L.Chandrasekaran

For 1st respondent : Mr.T.M.Pappiah

For 2nd respondent : Mr.A.N.Thambidurai

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

By consent, the writ petition itself is taken up for final disposal. Mr.T.M.Pappiah, learned Counsel accepts notice on behalf of the 1st respondents and Mr.A.N.Thambidurai, learned Counsel accepts notice on behalf of the 2nd respondent.

2. The petitioner, who is a differently abled person and running a Bunk Shop near Door Nos.140 and 151, Estanic Park, Vallanchery, GST Road, Potheri, Kanchipuram District, apprehends that the respondents evict him from that place. In this regard, the petitioner has given a representation dated 28.11.2017 to the respondents. Since, the same has not been disposed of by the respondents, the petitioner has approached this Court by way of filing the present Writ Petition.

3. In an identical situation, a Division Bench of this Court in W.P.No.27049/2017 dated 23.10.2017 (Shahul Hameed vs. The Commissioner, Corporation of Chennai9, Rippon Buildings, Chennai-3 and another) has held as follows in paragraphs Nos.2 to 6 :

''2. The petitioner claims that he is a differently-abled person having Locomotor Disability of 80% and he is running a Bunk shop at Haddows Road, Opposite to Standard Chartered Bank, Nungambakkam, Chennai 600 034, and he claims that he is selling tea, coffee and food items in an hygienic manner by using LPG stove and out of the meager income earned, he is maintaining himself as well as his family. The petitioner would further state that he is entitled to the benefits of the benevolent Central Legislation, viz., the Street Vendors [Protection of Livelihood] Act, 2014 and the Rules and Regulations framed thereunder and till the formalities contemplated under the Act are fully complied with, the petitioner cannot be evicted from the present place of business and the petitioner, in this regard, has submitted a representation dated 04.10.2017 to the respondents seeking for permission / licence to continue to run the Bunk shop in the said place and apprehending dispossession, he came forward to file the present writ petition.

3 Mr.L.Chandrakumar, learned counsel appearing for the petitioner on instructions, would submit that the petitioner is running the Bunk shop in the above said address for very many years and that, he has not sub-let or part with the interest or possession of the

Bunk shop in question and he continues to run the same and selling the food articles prepared in an hygienic manner and is strictly complying with the relevant Food Safety Norms and Rules and unless and until the identification and enumeration process is done as per the provisions of the above said Act, the petitioner may not be disturbed from the Bunk Shop in question and would further submit that the petitioner had submitted a representation to the Town Vending Committee/2nd respondent herein and hence, prays for appropriate orders.

4 Per contra, Mr.A.Nagarajan, learned Standing counsel appearing for the respondents would submit that immediate, urgent and necessary steps have already been taken to form the Town Vending Committee and enumeration process is going on and it is for the petitioner to substantiate his plea that he is running the Bunk shop in question for very many years without parting with either the possession or interest or both in respect of the said bunk shop.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going in to the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 2nd respondent to consider and dispose of the petitioner's representation dated 04.10.2017 on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, the said official shall defer further decision with regard to the removal of the bunk shop. It is made clear that the petitioner, till the disposal of the representation by the 2nd respondent, shall not change/alter the physical features and the character of the bunk shop in question and shall not create any third party rights in respect of the bunk shop in question.

4. The above said facts are similar to that of the present case also. In view of the same, there shall be a direction to the 2nd respondent herein to consider and pass appropriate orders on the petitioner's representation dated 28.11.2017 on

merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that till the representation of the petitioner is disposed of by the 2nd respondent, the physical possession of the petitioner's Bunk Shop near Door Nos.140 and 151, Estanic Park, Vallanchery, GST Road, Potheri, Kanchipuram District shall not be disturbed.

5. With the above observation, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

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To:

- 1 The Secretary to Government, Municipal Administration and Water Supply (M.C.1) Department, Government of Tamil Nadu, Fort St. George, Chennai-9.
2. The Commissioner, Maraimalai Nagar Municipality, Maraimalai Nagar 603 209, Kanchipuram District.

+1cc to Mr.R.Kamaraj, Advocate, S.R.No.92603

W.P.No.34078 of 2017

CS/09/01/18

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