IN THE COURT OF THE LXVIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH-69)

Dated this the **13th day of February 2019**

PRESENT:
Sri.Nanda Kumar.B, BAL., LL.B.,
LXVIII Addl. City Civil and Sessions Judge,
Bengaluru City.

ORIGINAL SUIT No.4605/2017

PLAINTIFF:

M/s All India Street Vendors Public and Charitable Trust And also Called as AISVPCT Having Registered office At Shop No.15, Jayanagar Shopping Complex, 4th Block, Bengaluru- 560 011¢

Represented by its Managing Trustee/ Authorised person Mr. Mohammed Javeed, Aged about: 40 years, S/o Nawab Jan, R/at. No.33, 2nd Floor, 4th cross, M.D.Block, Opp Masjid A Mehraj, Chamarajapet, Bengaluru South, Bengaluru-560 018.

(By Sri.G.R.Venkataramana Reddy, Advocate)

Versus

DEFENDANT:

1. The Commissioner of Police, Infantry Road, Bengaluru¢

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2 The Commissioner
Bruhat Bangalore Mahanagara
Palike, Hudson Circle
Bengaluru.

3 Senthilnathan @ Sendhil
(Deleted)

4 JAveed Abdulla (Deleted)

PARTIES TO I.A.No.2

APPLICANT/ PLAINTIFF : M/s All India Street Vendors Public and Charitable Trust And also Called as AISVPCT

Represented by its Managing Trustee/ Authorized person Mr. Mohammed Javeed,

Versus

OPPONENT/ DEFENDANT : **1** The Commissioner of Police and others

ORDERS ON I.A.NO.2

I.A.No.2 is filed by the plaintiff under Order XXXIX Rule 1 and 2 C.P.C. for an order of Temporary Injunction restraining the defendant No.1 and 2, or any one on their behalf from interfering with the day to day affairs of the Plaintiffs trust's street vending business in the Schedule Property.

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2. Summarized facts of I.A.No.2 is as follows;

It is the case of the plaintiff that, M/s. All India Street Vendors Public and Charitable Trust and Also called as AISVPCT is the Managing Trustee/ Authorized person of the Plaintiff Trust. The Plaintiff is a registered trust.The Plaintiff is having its registered office at Shop No.15, Jayanagar Shopping Complex, 4th Block, Bengaluru-560 011 and its aims and objectives is to protect the Street Vendors all over the country and to work for their safety and their welfare and also to protect their rights and interest. Their Rights are protected under The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 and they are entitled for license from the 2nd defendant for the street vending business as per law. The Plaintiffs trustees are the owners of the shop/Street Vendors carrying on their business near Jayanagar, Shopping Complex, Bengaluru for more than 30 years and their families are depending on the income eked out from the street vending business. That of late some commercial buildings, multi complex and malls have come up in an around Jayanagar Complex. As such the owners of the

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said malls have intended to remove the Plaintiff's from the premises of the Jayanagar Complex and abstain their business. Hence they have joined hands with Defendants No. 1 and 2 and in collusions with Defendants No. 1 and 2 have been attempting to disposes the Plaintiff's trustees from carrying on their street vending business. The Plaintiff's has filed a complaint before Karnataka State Human Rights Commission, M.S.Building Bangalore, wherein the Learned Commission as been pleased to pass an order directing the 1st Defendant not to interfere with their business. That in spite of the said order the Defendants with some henchmen have cause obstruction to the conduct of the business of the Plaintiff's Trustees and have caused damage to the items kept in the shop. Hence that without any other alternative, the Plaintiff's have filed the present suit along with the present application for temporary injunction. Hence have sought for temporary injunction against Defendants No.1 and

3. Defendant Nos.1 and 2 though have been represented by ADGP but have not filed any objections to the said application (IA No.2).

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4. Heard the Learned counsel for the Plaintiff's on IA No.2.

5. Perused the materials on record.

6. The points which arise for consideration is as follows:

1. Whether the plaintiff has made out a prima-facie case?

2. Whether the balance of convenience is in favour of the plaintiff?

3. Whether the plaintiff will be put to hardship, if the Temporary Injunction is not granted?

4. Whether the plaintiff is entitled for Temporary Injunction as sought for?

5. What Order?

7. My findings to the above points are as follows:

Point No.1 to 4 : In the affirmative;

Point No.5 : As per final order

For the following ;

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R E A S O N S

8. **POINT Nos.1 to 3:** These points are taken up together as they could be disposed of by a common reasoning and also to avoid repetition of facts.

8(a) In so far as the fact that the Plaintiff is a registered trust having its registered office at Shop No.15, Jayanagar Shopping Complex, 4th Block, Bengaluru-560 011 and its aims and objectives is to protect the Street Vendors all over the country and to work for their safety and their welfare and also to protect their rights and interest is concerned there is no dispute by the defendants.

8(b) It is the contention of the Plaintiff that due to emergence of commercial buildings, multi complex and malls, in and around Jayanagar Complex, the owners of the said malls have intended to remove the Plaintiff's from the premises of the Jayanagar Complex and cause obstruction to their business, have joined hands with Defendants Nos.1 and 2 and in collusions with Defendants No. 1 and 2 have been

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attempting to disposes the Plaintiff's trustees from carrying on their street vending business.

8(c) In this regard the Plaintiff's have produced notarized copy of trust deed, copy of the complaint dated 13.6.2017 given to the State Human Rights Commission and copy of identity cards of the trustees and copy of gazette notification.

8(d) These documents have not been disputed by the Defendants. I do not find any valid grounds to disbelieve the contention of the Plaintiff and the documents produced on their behalf. As such the Plaintiff's rights in carrying on Street vending business needs to be protected, until they are evicted by due process of law. As such in my opinion, the Plaintiff's have made out a prima-facie case and the balance of convenience is in favor of the Plaintiff's. As such I am of the opinion, that if an order of temporary injunction is not granted, it is the plaintiff's who would be put to hardship and inconvenience. Hence I hold point Nos.1 to 3 in the **AFFIRMATIVE**.

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9. **POINT No.4:** As Point Nos.1 to 3 have been held in the affirmative, the plaintiff's are naturally entitled for an order of temporary injunction. Hence, I hold Point No.4 also in the affirmative.

10. **POINT No.5:** For the reason stated above, I proceed to pass the following order;

ORDER

I.A.No.2 filed by the plaintiff under Order XXXIX Rule 1 and 2 of C.P.C. seeking Temporary Injunction is hereby allowed. The Defendant Nos.1 to 4 are hereby restrained from interfering with Plaintiff's-Trustees day to day business i.e., street vending business in the plaint schedule property in any manner until disposal of the suit, except under due process of law.

In the circumstances, no order as to cost.

(Dictated to the Judgment Writer, transcribed and typed by her, corrected, signed and then pronounced by me in the open court on this the ***13th day of February, 2019)****.*

(NANDA KUMAR.B)
LXVIII Addl. City Civil and Sessions Judge, Bengaluru City.

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