KABC010173182020

IN THE COURT OF XV ADDITONAL CITY CIVIL & SESSIONS: JUDGE AT BENGALURU (CCH.NO.3)

Dated this 6th day of January 2024

O.S. No.4765/2020

Present :- **Sri. Laxman.Ramu.Kurane,B.Com, LLM**
XV Additional City Civil & Sessions Judge, Bengaluru.

Plaintiff/s :- **1. M/s. All India Street Vendors Public and Charitable Trust And also called As AISVPCT**
Having Registered Office:
At Shop No.15, Jayanagar Shoping Complex,
4th Block, Bengaluru 560011
And also at No. 1/A, Cold Store
C Block, New Kalasipalya Market
Bangalore – 560 002

Represented by its Authorized person
Mr. Mohammed Javeed
S/o. Nawab Jan

2. Vegetable and Fruit Wholesale Merchant's Association
No.7, 1st floor,
Sri Jayachamarajendra Market
Kalasipalyam, Bengaluru 560 002

Represented by its Secretary/Authorized person Mr. Arif Khan

3. Bangalore Vegetable Wholesale Market Merchant's Association
No.13/310, 3rd floor
Kumbara Association Building
Opp Sri. Jayachamarajendra Wholesale

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Market, (J.C.Market), KalasipalyaBengaluru – 560 002

Represented by its Secretary / Authorized person Sri. B.V. Viji Kumar
S/o. B.P. Veerabyraiah
(Rep.by H.M.J., Advocates)

V/s

Defendant/s :-

1. Mr. K.S.Mateenulla Shariff
Aged about 42 years
S/o. Mr. K.S. Khaleelulla Shariff
No.51, Millers Road, Benson Town 2nd Cross,
Bengaluru 560 046

2. Mr. Ghouse Khan
Aged about 56 years
S/o. Mr. Anwar Khan
No.165/1, 13th Main
17th Cross, NGR Layout
Viratnagar, Bommanahalli
Bangalore-560 068

3. Mr. Niyamath Ulla Sharieff
S/o. Mr. Kyayathulla Sharieff
Aged about 49 years
No.4, 12th Cross, Chandra Layout
Gangondanahalli
Bangalore - 560040

4. Smt Suma
Aged about 48 years
Father's name not known to plaintiffs
Claiming to be Secretary of Agricultural Producers Market Corporation (APMC)
Agrahara Tankbund Road
Binnypet, Bangalore – 560 023

(D.1 to D.3 Rep.by. A.S., Advocates)
(D.4 - Exparte)

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Date of Institution of the suit:	05.10.2020
Nature of the Suit (suit for pronote, Suit for declaration and possession, Suit for injunction, etc.):	Declaration & Injunction
Date of the commencement of recording of the Evidence:	23.08.2023
Date on which the Judgment was pronounced:	06.01.2024
Total duration:	Year/s Month/s Day/s 03 03 01

JUDGMENT

This suit is filed by plaintiffs against defendants for relief of declaration that the defendants, their henchmen, representatives, attorneys, officials or any persons claiming under them or through them have no legal sanctity or locus standi or any right to interfere with the day to day affairs of the suit schedule property or in the business of plaintiff members / trustees / stockiest / retailers from opening and running the vegetable business in the suit schedule property and to grant permanent injunction restraining them from dispossessing the plaintiffs members / trustees / stockiest / retailers from the suit schedule property.

2. The 1st plaintiff No.1 is a Trust duly registered. The 1st plaintiff trustees and their family members are depending on the said street vending business and except the street vending business, the 1st plaintiff trustees do not have any other business. The 1st plaintiff trustees are running Vegetable Business smoothly without causing any disturbance to the neighbours, public etc., The 2nd plaintiff is an association duly registered and the said trust is formed for the welfare of its members who are wholesale merchant's of

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vegetables in Sri Jayachamarajendra Market, Kalasipalyam. The plaintiff No. 3 is also an association duly registered for the welfare of its members who are wholesale merchants of vegetables in Sri Jayachamarajendra Market, Kalasipalyam.

3. The plaintiffs have obtained valid licenses from the concerned authorities and obtained Possession Certificates from BBMP. They are carrying out business in the suit schedule property from 50 years. The plaintiffs stated that the forefathers / ancestors of them were also members and were doing vegetable business at various places during the rule of Maharaj Sri Krishna Rajendra Wodeyar. During this period, Possession Certificate was issued by the then Maharaja. Thereafter, the State Government has obtained the Possession Certificate issued by Maharaja from the plaintiff members and allotted the shops in Sri Jayachamarajendra Market, Kalasipalya, Bangalore during the year 1984 by the then Chief Minister Mr. Deveraj Urs. The plaintiffs are doing business in the said market. The plaintiff members are the 3rd generation who are doing vegetable business in the said market. The plaintiffs submitted that they are eking their livelihood by doing this business on day to day basis in the suit schedule property and the suit schedule property comes under the jurisdictional and ownership / control of BBMP and the BBMP has leased the premises to the plaintiff members and plaintiff members are paying the rents to the BBMP regularly and without causing any harm or trouble to the public.

4. The plaintiff members have filed suit in OS No. 4605/2017 against the Commissioner of police and also Commissioner BBMP before the Hon'ble CCH-69 and obtained interim order on 13.02.2019 against the Commissioner of Police and also Commissioner of BBMP. The plaintiff members submitted that during the Corona Pandemic, the Hon'ble Prime Minister of India has

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ordered for lockdown for 21 days from 23rd March 2020, due to which the jurisdictional police had ordered to close down all the shops in Kalasipalyam for few days. Thereafter, the Hon'ble Chief Minister of Karnataka had granted permission to run shops which comes under essential commodities services. Accordingly, the members of plaintiff trust / association started running their business in the suit schedule property by abiding to the conditions imposed by the Government of Karnataka.

5. Such being the case, the defendants No.1 to 3 at the instigation of defendant No.4 claiming to be the Secretary of APMC came to the suit schedule property, demanding the plaintiff members to close down the shops in the presence of the jurisdictional police. When the plaintiffs questioned the same, defendants No.1 to 4 have threatened the plaintiff members with dire consequences. The defendants with the active collusion of jurisdictional police are not allowing the plaintiffs to run the business in the suit schedule property. The Government of Karnataka and Union of India have given permission to open the shops such as fruits shop, vegetable shops, provision stores, which comes under essential commodities list, the defendants are not allowing to open the shops of the plaintiffs in the suit schedule property.

6. The plaintiffs submitted that when they went to open the shops in the suit schedule property on 15.04.2020, the defendants and their henchmen, and police restrained them from entering the suit schedule property. Further, the defendants tried to dispossess the plaintiff members from the suit schedule property and they demanded to shift the business to land bearing Sy No. 68 of Gulimangala Village, Sarjapura Hobli, Anekal Taluk without any prior notice or notification. Hence, this suit.

7. The defendants after service of summons appeared through their

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counsel and filed written statement. Defendant No. 4 neither appeared nor contested the case. Hence, placed exparte. The defendants No. 1 to 3 have not specifically denied the claim made by the plaintiffs in Paras No. 3 to 7 and stated that the plaintiffs are put to strict proof of evidence in their entire written statement. The defendants have not denied the claim of plaintiffs over the suit schedule property specifically but, stated that the plaintiffs have to prove the same with strict proof of evidence and prays for dismissal of the suit with cost.

8. From the above pleadings this Court has framed the following issues.

(1) Whether the plaintiffs prove that defendants have no legal sanctity or right to interfere with the day today affairs of business of plaintiffs in the suit schedule shops ?

(2) Whether the plaintiffs prove the alleged interference by the defendants ?

(3) Whether the plaintiff are entitled for the relief of declaration as sought ?

(4) Whether the plaintiffs are entitled for the relief of permanent injunction as sought ?

(5) What Order or Decree ?

9. The plaintiffs in order to prove their case against the defendants got examined one Mr. Mohammed Javeed as PW.1 and produced in all 11 documents. The defendants in order to disprove the case of plaintiffs have not lead any oral or documentary evidence. Hence, taken as no evidence on

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defendants side and the case is posted for Judgment on merits.

10. Heard arguments of plaintiff counsel.

11. My findings on the above issues are as under:

Issues No.1	:-	In the Affirmative
Issues No.2	:-	In the Affirmative
Issues No.3	:-	In the Affirmative
Issues No.4	:-	In the Affirmative
Issues No.5	:-	As per final order

R E A S O N S

12. **ISSUES NO. 1 to 4 : -** These issues are interrelated, in order to avoid repetition of facts, these issues are discussed at once. The PW.1 Mr. Mohammed Javeed who is authorised person of plaintiff No.1 trust in his examination in chief stated that the plaintiff trust is a registered trust and the trustees and their family members are depending on the said street vending business. Except the street vending business, they do not have any other business. The trustees are protected under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014. It is stated that till this date, their trustees / members are running the vegetable business smoothly without causing any disturbance to the neighbours and public. It is further stated that the plaintiff No.2 is an association also duly registered and it is framed for the welfare of its members who are wholesale merchants of vegetables in Sri Jayachamarajendra Market, Kalasipalyam. It is further submitted that the plaintiff No.3 is also duly registered association and it is formed for the welfare of its members who are wholesale merchants of

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vegetables in Sri Jayachamarajendra Market, Kalasipalyam. The PW.1 stated that the members of plaintiffs were doing vegetable business at various places during the rule of Maharaja Sri Krishna Rajendra Wodeyar. During this period, Possession Certificate was issued by the then Maharaja. Thereafter, the State Government has obtained the Possession Certificate issued by Maharaja from the members of plaintiffs and alloted shops in Sri Jayachamarajendra Market, Kalasipalya during the year 1984. The PW.1 stated that their members are the third generation, who are doing vegetable business in the said market and they don't know any other business. The members of plaintiff trust and association are eking their livelihood by doing business on day to day basis in the suit schedule property which comes under the jurisdictional control of BBMP and the BBMP has leased the premises to the trust members who are paying the rent to BBMP regularly.

13. The PW.1 stated that their trust has filed suit in OS No. 4605/2017 against the Commissioner of Police and also Commissioner of BBMP before the Hon'ble CCH-69, wherein, the Hon'ble Court granted interim order on 13.02.2019. The PW.1 stated that due to natural emergency of Corona Pandemic, the Hon'ble Prime Minister of India has ordered for Lockdown for 21 days from 23.03.2020, due to which the jurisdictional police had ordered to close down all the shops in Kalasipalya. Thereafter, the Hon'ble Chief Minister of Karnataka had granted permission to run shops which comes under essential commodities services. PW.1 stated that the defendants No.1 to 3 at the instigation of defendant No.4 claimed to be the Secretary of APMC came to the suit schedule property and demanded the members of plaintiff to close down the shops in the presence of the jurisdictional police. When the plaintiffs questioned the same, they threatened the members of plaintiffs. The defendants except the written statement, they have not made cross examination of PW.1 and the evidence of PW.1 remained

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undisputed.

14. The plaintiffs in support of oral evidence produced Ex. P.1 Authorised Letter dated 16.04.2020 issued by All India Street Vendors Public & Charitable Trust & also called as (AISVPCT), Authorization letter issued by Vegetable & Fruit Wholesale Merchant's Association and Authorization letter issued by Bangalore Vegetable & Fruit Wholesale Merchant's Association, authorized Mr. Mohammed Javeed, Mr Arif Khan & Mr. B.V. Vijikumar to file this suit against the defendants. The plaintiffs also produced Ex.P. 2 Certified copy of Trust Deed dated 05.07.2017. The plaintiffs also produced Ex.P. 3 Certified copy of PAN card of PW.1. Ex.P. 4 is the certified copy of Aadhar Card of PW.1. Ex.P. 5 is the certified copy of authorization letter produced in OS No. 2249/2020. Ex.P.6 is the Copy of Order of IA No.2 passed in OS No. 4605/2017. The said suit has been filed by the plaintiff (AISVPCT) against the Commissioner of Police, Commissioner BBMP, One Mr. Senthilnathan @ Sendhil and Mr. Javeed Abdulla. The All India Street Vendors Public and Charitable Trust filed the above said suit for relief of permanent injunction and restraining the Commissioner of Police, Commissioner BBMP and others from interfering with the day today affairs of the plaintiffs trust i.e., Street Vending Business in the suit schedule property. The Hon'ble CCH-69 granted injunction against the Commissioner of Police, Commissioner BBMP, Mr. Senthilnathan @ Sendhil & Mr. Javeed Abdulla. The plaintiffs has also produced Ex.P.7 Judgment of OS No. 2249/2020 dated 13.07.2023 passed by Hon'ble CCH-2. This suit was filed by M/s. All India Street Vendors Public & Charitable Trust and also called as AISVPCT against Mr. Mohammed Mudassir, Mr. Niyamatulla, Mr. Mohammed Azmath & Smt. Suma for relief of permanent injunction, restraining them from interfering with the day to day affairs of the suit schedule property or in the business of the plaintiff members. The said suit was decreed on 13.07.2023. The defendants of the above suit

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have not challenged the Judgment and Decree passed in OS No. 2249/2020. The plaintiffs have also produced Ex.P. 8 Order on IA No.1 passed in OS No. 2249/2020. Ex.P.9 is the copy of Endorsement issued by Police dated 02.06.2023. Ex.P.10 is the Certificate under section 65(B) Evidence Act. Ex.P. 11 is the copy of Order passed by Hon'ble Supreme Court of India in Writ Petition (CIVIL) Diary No. 10893/2020 in Swami Agnivesh V/s. Union of India & Others.

15. The plaintiffs by leading oral and documentary evidence have proved their case against the defendants. The defendants are restrained from interfering with the plaintiffs members to do their business which is their main source of income. Further, the defendants have no right to obstruct the possession of plaintiffs over the suit schedule property. In view of the above said reasons, I hold Issues No.1 to 4 in the Affirmative.

16. **ISSUES NO. 4:-** In view of the above discussions on Issues No.1 to 4, I proceed to pass the following:-

O R D E R

The suit of plaintiffs is decreed without cost.

It is declared that the defendants, their henchmen, representatives, attorneys, officials or any persons claiming under them or through them have no legal sanctity or locus standi or any right to interfere with the day to day affairs of the suit schedule property or in the business of the plaintiff members / trustees / stockiest / retailers in the suit schedule property.

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The defendants, their henchmen, representatives, attorneys or any person claiming under them or through them are restrained from interfering / blocking the plaintiff members / trustees / stockiest / retailers from opening and running the vegetable business in the suit schedule property and from dispossessing the plaintiffs members / trustees / stockiest / retailers from the suit schedule property in any manner.

Draw decree accordingly.

(Dictated to the Stenographer, transcribed and typed by her, corrected and then pronounced by me in the open court on this the 6th day of January 2024.

(Laxman Ramu Kurane)
XV Addl.City Civil & Sessions
Judge, Bengaluru.

ANNEXURE

WITNESSES EXAMINED FOR THE PLAINTIFFS :-

PW.1 :- Mr. Mohammed Javeed

DOCUMENTS MARKED ON BEHALF OF PLAINTIFFS:-

Ex.P1	Authorised Letter dated 16.04.2020.
Ex.P.2	Certified copy of Trust Deed dated 05.07.2017.
Ex.P.3	Certified copy of PAN card of PW.1.

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Ex.P.4	Certified copy of Aadhar Card of PW.1.
Ex.P.5	Certified copy of authorization letter produced in OS No. 2249/2020.
Ex.P.6	Certified copy of Order of IA No.2 passed in OS No. 4605/2017.
Ex.P.7	Judgment of OS No. 2249/2020 dated 13.07.2023 passed by Hon'ble CCH-2.
Ex.P.8	Order on IA No.1 passed in OS No. 2249/2020.
Ex.P.9	Copy of Endorsement issued by Police dated 02.06.2023.
Ex.P.10	Certificate under section 65(B) Evidence Act.
Ex.P.11	Copy of Order passed by Hon'ble Supreme Court of India in Writ Petition (CIVIL) Diary No. 10893/2020 in Swami Agnivesh V/s. Union of India & Others.

WITNESSES EXAMINED FOR THE DEFENDANTS:-

NIL

DOCUMENTS MARKED ON BEHALF OF THE DEFENDANTS:-

NIL

(Laxman Ramu Kurane)
XV Addl.City Civil & Sessions Judge, Bengaluru.

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Name of Assessee

A E-Mail Address for Communication rizkhan4u@gmail.com

B Mobile No. **9741892932**

C Details of Directors/Shareholders/Trustees

Sr. No.	NAME	% of Shareholding
1	Mohammed Javeed	
2	SAJJAD KHAN	
3	Mohammed NADEEM AHMED	
4	Mohammed FAZIL PASHA	
5	SYED ISMAIL	
6	SYED IMRAN	
7	FAHIM TAJ	
8	SYED ANSAR	
9	INAYAT PASHA	
10	KHALANDAR @ADAM	
11	MD ARIF	
12	MUFASEER AHMED	
13	MOHAMMED KHADEER	
14	SHANTI	

If Directors are other then Shareholders then above details would also be req

Whether Registered under 12A OF Income Tax

Whether Registered under 80G of Income Tax

D Whether registered on Darpan Portal

E Whether Registered on FCRA Portal

F

G

allindiastreetvendors@gmail.com

PAN / AADHAAR	ADDRESS	MOBILE NO.	EMAIL - ID
PAN - AFNPJ8848K	NO. 70, 3RD FLOOR, MYSOR RO	9741892932	allindiastreetvendors@
PAN - CFFPK4562P	NO.4096, 2ND FLOOR, 2ND CROSS, PIPELINE ROAD, KUMARSWAMY LAYOUT, BANGALORE, 560078	9845015442	NSKVEGETABLEAMLA@
AADHAAR - 482031749305	NO. 431/A, 9TH CROSS, ILYAZ NAGAR, NEAR HT LANE, JP NAGAR POST, BANGALORE-560078	9900220061	
AADHAAR - 280043723599	NO. 110/4, H CROSS, 3RD MAIN, NEAR NATIONAL MEDICAL, BISMILLAH NAGAR, DHARMA RAM COLLEGE, BANGALORE -560029	9880923537	
AADHAAR - 727795937355	NO.31/8, 1ST MAIN, 2ND CROSS, KRISHNAPPA GARDEN, BANGALORE - 5600041	9945076279	
AADHAAR - 978270538983	NO. 50, 13TH CROSS, AKSHA MA	7829422478	
AADHAAR - 359623165362	NO. 428, 11TH CROSS, ILYASNA	8073265711	
AADHAAR - 307136330510	NO. 428, 11TH CROSS, ILYASNA	8073265711	
AADHAAR - 432226151026	SARBANDAPALYA, HALLI COLON	9739754627	
AADHAAR - 429385282865	NO. 72, 30TH CROSS, 10TH MAI	8050106759	
AADHAAR - 291744646647	NO. 243, 2ND CROSS, HARI C	9620123579	
AADHAAR - 848630035857	NO. D4, ANJANEYA TEMPLE STR	7207747776	
AADHAAR - 521636591717	NO. 73, 10 TH MAIN, 30TH CRO	9916754202	
AADHAAR - 376894290451	NO. 73, 10 TH MAIN, JAYANAGA	9587990459	

uired for Director

NO (If Yes Provide Registrati

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Designation
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