

W.P.Nos.19568, 22382 & 22383 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved On: 27.11.2025	Pronounced On: 22.01.2026
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CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.Nos.19568, 22382 & 22383 of 2015
and M.P.Nos.1, 1, 1, 2, 2 & 2 of 2015

W.P.No.19568 of 2015:

M.Baskar .. Petitioner

Vs.

1.The Special Secretary,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

2.The Chairman,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

3.The Chief Executive Officer,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

4.Shanthi

5.R.Ayyanar,
S/o.Ranganathan,
No.32/33, Perumal Koil Street, Ambathur,
Chennai – 600 053. .. Respondents

(R5 impleaded vide order dated
06.10.2025 made in W.M.P.NO.34893 of
2025 in W.P.No. 19568 of 2015)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the



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records pertaining to the impugned proceeding vide letter
No.K2/42/2015 dated 10.06.2015 by the 3rd respondent quash
WEB COPY the same.

For Petitioner : Mr.N.L.Rajah
Senior Counsel
for Mr.P.Shanmughasundaram

For RR 1 to 3 : Mr.P.Kumaresan
Additional Advocate General
for Ms.K.Mageshwari
Standing Counsel

For R4 : No appearance

For R5 : Mr.M.Rajasekar

W.P.No.22382 of 2015:

S.Jayavel .. Petitioner

Vs.

1.The Member Secretary,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

2.The Chairman,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

3.The Chief Executive Officer,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

4.S.Jayanthi .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the



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records pertaining to the impugned proceedings vide letter No.K2/42/2015 dated 10.06.2015 in respect of Shop No.T/C 88-
WEB COPY 1, at Anna Fruit Market, Koyambedu issued by the 3rd respondent herein, quash the same.

For Petitioner : Mr.N.R.Elango
Senior Counsel
for Mr.K.Mahendran

For RR 1 to 3 : Mr.P.Kumaresan
Additional Advocate General
for Ms.K.Mageshwari
Standing Counsel

For R4 : No appearance

W.P.No.22383 of 2015:

M.Manimekalai .. Petitioner

Vs.

1.The Member Secretary,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

2.The Chairman,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

3.The Chief Executive Officer,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.

4.S.Gowri ..
Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the



W.P.Nos.19568, 22382 & 22383 of 2015

records pertaining to the impugned proceedings vide letter No.K2/42/2015 dated 10.06.2015 in respect of Shop No.T/C 88-2, at Anna Fruit Market, Koyambedu issued by the 3rd respondent herein, quash the same.

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For Petitioner : Mr.N.R.Elango
Senior Counsel
for Mr.K.Mahendran

For RR 1 to 3 : Mr.P.Kumaresan
Additional Advocate General
for Ms.K.Mageshwari
Standing Counsel

For R4 : No appearance

C O M M O N O R D E R

These three writ petitions present a similar issue. Hence, they are clubbed together and disposed of through a common judgment.

2.The petitioner in W.P.No.19568 of 2015 is in possession of a shop bearing No.V/D-8 in Koyambedu Wholesale Vegetable Market. This shop was allotted to one Tmt.P.Shanthi through a proceeding of the Chief Executive Officer, CMDA on 01.04.2010. The basis for allotment was a letter given by the said Tmt.P.Shanthi to the Chairman of the CMDA on 30.09.2009.



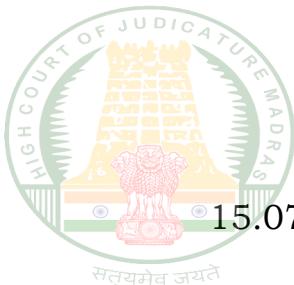
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3.The Chairman, CMDA had been conferred with the power to allot Plots/Houses/Flats/Shops etc., in all categories in all projects in M.M.Nagar, Manali New Town, KWMC, MBTT, I&SM, CMBT etc., pursuant to a resolution dated 22.10.2008. The Member Secretary, CMDA had issued a proceeding in Proc.No.K5/5455/09 on 15.07.2009 reserving 15% for the Chairman / Minister's discretionary quota, leaving 85% to be sold through drawal of lots by CMDA till the disposal of the entire stock.

4.On the basis of the allotment so made, a sale deed was executed on 07.12.2010 in favour of Tmt.P.Shanthi. Tmt.P.Shanthi, in turn, sold the property, so allotted to her, in favour of the petitioner by way of a registered sale deed dated 15.12.2010. Even before, the sale deed was executed in favour of the writ petitioner's vendor, writ petitions were came to be filed before this Court in W.P.No.27345 of 2009, W.P.No.26735 of 2009, W.P.No.21265 of 2009 and W.P.No.29197 of 2010, inter alia, challenging the manner of allotment itself.

5.The prayer in W.P.No.27345 of 2009 was for issuance of certiorarified mandamus to quash the proceedings dated



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15.07.2009 and the consequential allocation proceedings.

Similarly, in W.P.No.29197 of 2010, one Karthikeyan challenged the proceedings of the Member Secretary referred to above and

sought to quash the same and also to cancel all the allotments made on the basis of the said proceedings and for a direction to the CMDA to take possession of the shops allotted to the respondents 4 to 29 to the said writ petition and bring the same for public auction. In this writ petition, the Chairman cum the Minister for CMDA was impleaded as the third respondent and the beneficiaries of the allotments were also impleaded as parties. The vendor of the writ petitioner, P.Shanthi was arrayed as the 14th respondent.

6. The First Bench of this Court consisting of the Hon'ble Mr.Justice Sanjay Kishan Kaul (as he then was) and Mr.Justice M.Sathyanaarayanan passed final orders on 15.12.2014. The Bench held the manner of allotment is contrary to law. It directed the shops allotted, under the Government discretionary quota, be brought for public auction.

7. Subsequently, the vendor of the writ petitioner filed a Review Application No.4 of 2015 seeking a review of the order



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dated 15.12.2014. The Division Bench dismissed the review.

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8. Thereafter, the petitioner, Mr.M.Baskar filed a writ petition in W.P.No.13637 of 2015 seeking for a mandamus to scrap the Minister's quota allotment in all other schemes of CMDA and also to initiate criminal prosecution against the bribe-givers, bribe-takers and touts, who had benefited on account of the abuse of the discretionary quota and for consequential reliefs. That writ petition came up for disposal before Sanjay Kishan Kaul, CJ. and T.S.Sivagnanam,J. on 30.04.2015. The Division Bench dismissed the writ petition recording the following:

“2. The petitioner claims that under the Minister's Quota, shops were allotted to certain people and he admits that he had purchased one such shop bearing No.D-8 measuring 194 square feet from one P.Shanthi on 15.12.2010, though transfer was not permissible. The admitted position, thus, is that contrary to the terms of allotment of shops, the shop was purchased. Now, faced with the cancellation of all Ministerial Quota shops, the petitioner has filed the present writ petition styling it as Public Interest Litigation.

3. In the writ petition, respondent Nos.6 to 8 have been added as parties, as they represented



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as counsels the position contrary to the allotment of the Ministerial quota, which were cancelled. The petitioner seeks to canvass the case that these people have not brought the full facts before this Court qua some other proceedings and the innocent buyer such as the petitioner is the sufferer in the bargain. Reference is also made to the fact that in view of the people like the petitioner, who claim to be gullible buyers, this Court should make an endeavour to rehabilitate them.

4. We have heard the learned counsel for the petitioner.

5. We find, this petition is really an abuse of process of Court styled as Public Interest Litigation. The predicament the petitioner finds himself in is a consequence of his own action. It is like a person buying knowingly a stolen property and then claiming that he does not know it so that he should not bear the consequences of that property being taken away. The petitioner would naturally have full knowledge that there cannot be any transfer of shop from the original allottee, whatever may be the methodology of having obtained the shop. The consequence, thus, is that when the allotment itself is cancelled, the petitioner is the consequential sufferer.

6. We are also pained to note the endeavour of the petitioner to rope in counsels who have



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canvassed the case against the quota as party respondents, which is only to embarrass them. We strongly deprecate this practice.

7. We do believe this is a case which needs to be buried with costs.

8. We, thus, dismiss the writ petition with costs quantified at Rs.50,000/- (Rupees Fifty Thousand Only) to be deposited with the Mediation and Conciliation Centre, Madras High Court Campus, within a period of 15 days.”

9. Subsequently, the vendor Smt.P.Shanthi was served with the impugned order. In terms of this order, CMDA called upon Smt.P.Shanthi to surrender the possession of the shop within 15 days from the date of receipt of the impugned order, warning that in default of compliance with the said order, the shop will be locked and sealed without any further notice. It was also pointed out that on surrender of the shop, the amount remitted by Tmt.P.Shanthi would be refunded immediately.

10. The petitioner, on coming to know of this order, wrote to the CMDA pointing out the following:

(i) Notice had been erroneously sent to the original allottee Tmt.P.Shanthi, though a sale deed had been executed for the property in his favour and he was in possession of the same;



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(ii) The orders of the Division Bench in W.A.No.1779 of 2013 etc., dated 15.12.2014 have no application or scope for the purported auction contemplated under the impugned order;

(iii) The sale deed, having been executed by the CMDA in favour of Tmt.P.Shanthi, Tmt.P.Shanthi gets the property absolutely. The order of the High Court only dealt with the allotment of the discretionary quota and not with the sale deed itself;

(iv) As the purchase had gone through without any reservation except for the conduct of business, the impugned order is bad; and

(v) The shop, not having been retained in the capacity as allottee but in the capacity as a purchaser, the order of the High Court does not affect such allotments. Consequently, he sought recall of the notice and to recognise his legal right over the shop. As no response was forthcoming from the CMDA, he has came forward with the present writ petition.

11. This Court entertained the writ petition and granted an order of *status quo* on 04.08.2015. As there were connected writ petitions, Registry was directed to post this writ petition along with W.P.Nos.22382 & 22383 of 2015. On 02.03.2018, the writ



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petition was admitted and Rule Nisi was issued.

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12. The petitioner in W.P.No.22382 of 2015 is one S.Jayavelu. The 4th respondent, Tmt.S.Jayanthi, is his vendor. Tmt.S.Jayanthi was an applicant to the Chairman(CMDA)-cum-Minister in the State of Tamil Nadu for allotment of a shop. On the basis of her application under the Chairman's discretionary quota which has been referred to earlier, she was allotted Shop No.T/C 88-1 in reference No.K2/7718/09 on 12.09.2009. The terms and conditions of the allotment had been specified on 15.09.2009. A lease-cum-sale agreement was executed on 29.09.2009 and Tmt.S.Jayanthi took possession of the property on the same day. In terms of the allotment, Tmt.S.Jayanthi had to pay a sum of Rs.42,68,006/-. On payment of the said amount, a sale deed was executed on 05.11.2009. Subsequently, on 07.03.2011, Tmt.S.Jayanthi alienated the property allotted to her in favour of the writ petitioner. He purchased the property for a sum of Rs.48,00,000/-.

13. As pointed out in the earlier portion of the judgment, Tmt.S.Jayanthi had been arrayed as the 8th respondent in W.P.No.29197 of 2010. Tmt.S.Jayanthi engaged a counsel and



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contested the proceedings. On the order being passed on 15.12.2014, Tmt.S.Jayanthi along with another beneficiary one Tmt.S.Gowri, filed a review petition in Review Application No.16 of 2015. The review came to be dismissed and the proceedings attained finality.

14. After the orders were passed in the review application, notice was sent to Tmt.S.Jayanthi on 10.06.2015, calling upon her to surrender possession of Shop No.T/C 88-1 within 15 days from the date of receipt of the notice and to collect the amounts that had been remitted by her. S.Jayavelu also sent a representation, on the more or less the same lines, as Mr.Baskar. His representation too did not evince any response. Hence, challenging the order dated 10.06.2015, the present writ petition.

15. The petitioner in W.P.No.22383 of 2015 is one M.Manimekalai. The Shop No.T/C 88-2 in reference No.K5/7718/09 of Anna Fruit Market, Koyambedu, was allotted to Tmt.S.Gowri, the 4th respondent. Tmt.S.Gowri had also sought for allotment from the Chairman(CMDA) exercising his discretionary quota. An allotment had been made in her favour

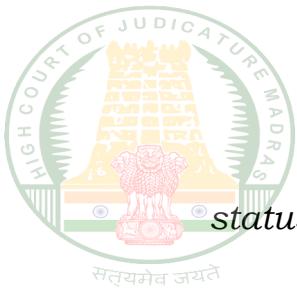


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in Allotment No.K5/7718/09 on 12.09.2009 with the terms and conditions being informed on 15.09.2009. A lease-cum-sale agreement was executed on 29.09.2009. Tmt.S.Gowri was put in possession on the same day. On Tmt.S.Gowri remitting a sum of Rs.42,68,006/- on 18.09.2009, a deed of sale was executed by CMDA in favour of Tmt.S.Gowri on 05.11.2009. Tmt.S.Gowri in turn executed a sale deed in favour of one Mr.K.Dharmalingam on 10.10.2011. The purchaser, Mr.K.Dharmalingam, executed a power of attorney in favour of his daughter M.Manimekalai on 28.12.2012. Subsequently, K.Dharmalingam passed away on 28.05.2015, leaving behind six persons as his legal heirs, i.e., the writ petitioner, two sons and three other daughters.

16. As noted above, on the basis of the orders passed by this Court in the writ appeal, writ petitions and the review petitions, the allotment made in favour of Tmt.S.Gowri was canceled.

17. After he passed away, the impugned order dated 10.06.2016 came to be issued. In both these writ petitions, as they were in physical possession of the property, this Court entertained the writ petition and granted an interim order of



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status quo until further orders on 24.07.2015.

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18. On being served with notice, the first respondent filed a counter affidavit. The first respondent pleaded that the shop had been allotted to Tmt.P.Shanthi under Chairman's discretionary quota vide, allotment order dated 01.04.2010. This allotment order was quashed by this court. Since the allotment of the shop bearing No.V/-D8 to Tmt.P.Shanthi has become invalid, the sale made by the original allottee in favour of the writ petitioner has to be cancelled. It was pleaded that as per clause 13 of the Lease cum Sale Agreement, the transfer to shops should be made only with the concurrence of the Authority. The sale of the shop by the original allottee, Tmt.P.Shanthi in favour of the writ petitioner on 15.12.2010 was not in compliance of this condition. It was pleaded that the sale of the shop to the petitioner was not informed to CMDA. It was from the interim order, granted in this writ petition, did the CMDA came to know about the details of the writ petitioner and served the said order on him on 05.02.2018. It was further pointed out that several Special Leave Petitions had been filed by the persons, who felt aggrieved over the order passed in W.P.No.27345 of 2009 etc., batch. All the Special Leave Petitions had been dismissed by the



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Supreme Court. Hence, the first respondent sought dismissal of the writ petition.

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19. Pending the writ petition, two persons filed applications for impleading. First of those applications was filed by one Mr.P.Balan in WMP.No.10580 of 2023. This application came to be dismissed as withdrawn on 23.04.2025.

20. Another impleading petition was presented by one Mr.R.Ayyanar in WMP.No.34893 of 2023. Mr.R.Ayyanar urged that he is running a flower shop at Koyambedu from 1996 onwards, on rental basis in FC No.3. He pleaded that on 04.01.2009, the respondents 1 to 3 had issued a paper publication inviting applications for allotment of shops. As the impleading petitioner was not possessed of sufficient funds, he did not participate in the same. He urged that the allotment by drawing of lots was scheduled on 27.04.2009 but was postponed due to the general elections. It was cancelled on 15.07.2009 due to administrative reasons. He pleaded that, he was expecting public auction of the shops again in the near future and he intended to participate in the same as his financial position had improved. Surprisingly, the first respondent introduced the



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discretionary quota and thereby, keeping 15% of the shops, flats, plots and houses under this category.

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21. Mr.R.Ayyanar further pleaded that originally shop No.C-88 was a single shop to an extent of 1200 sq. ft. This was divided into C-88/1 and C-88/2 and were allotted to two different parties under the discretionary quota. Similarly, shop bearing door No.D/8 was allotted to the fifth respondent. He pointed out that the discretionary quota had been challenged by way of a Public Interest Litigation in W.P.No.27345 of 2009 and notice had been ordered, he asserted that coming to know of the Public Interest Litigation, the fifth respondent sold the shop in favour of the writ petitioner.

22. Mr.R.Ayyanar reiterated the contention that the Division Bench had quashed the allotment on 15.12.2014 and directed fresh exercise of allotment of shops on or before 31.03.2015. He also took support of the order dated 10.04.2015, wherein the petition seeking review of the order dated 15.12.2014 were dismissed. He averred that the earlier writ petition filed by the writ petitioner herein in W.P.No.13637 of 2015 was dismissed by this court imposing a cost of



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Rs.50,000/- After having cited that order, he stated that the petitioner has filed the present writ petition and obtained an order of status quo.

23.Though this court had passed a time bound order on 15.12.2014, he pointed out that the respondents 1 to 3 had not followed the said order. He stated that he has been waiting for almost 10 years with the fond hope that a fair public auction will be conducted, with an intention that he can participate in the same. He asserted that he filed a writ petition in W.P.No.21506 of 2025 seeking a direction against the respondents 1 to 3 to comply with the direction of this court dated 15.12.2014 by bringing the shop V/D-8, 88-1 and 88-2 through public auction after advertisement. This court, by order dated 25.07.2025, held that the Public Interest Litigation is misconceived as this court had granted interim order in the present writ petition. However, it granted him liberty to implead himself in the present writ petition. His plea is that the failure of the respondents in not adhering to the orders passed by this court on 15.12.2014 is causing huge loss to the exchequers too. Hence, he filed an application to implead himself.



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24.By order dated 06.10.2025, I allowed the impleading application in WMP.No.34893 of 2025.

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25.The newly impleaded fifth respondent, thereafter, filed a type set of papers dated 08.10.2025 containing

- (i) allotment order dated 01.04.2010 made in favour of Tmt.P.Shanthi;
- (ii) orders passed in W.P.Nos.27345 of 2009 etc., batch dated 15.12.2014;
- (iii) Review application No.4 of 2015 etc., batch dated 10.04.2025;
- (iv) order passed in W.P.No.13637 of 2025 dated 30.04.2015; and
- (v) finally, an order that was passed by the third respondent, which has been challenged in the present writ petition.

26.During the course of hearing, the impleading party filed another type set of papers dated 15.10.2025 containing

- (i) order passed by this court in W.A.No.562 of 2009; and
- (ii) order passed by the Supreme Court in SLP.(C).No.8202 of 2011 dated 26.11.2013.

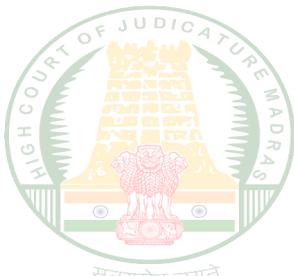


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27.The pleadings, having been completed, I took up the matter for final disposal.

28.I heard Mr.N.L.Rajah, learned Senior Counsel for Mr.P.Shanmuga Sundaram, Mr.N.R.Elango for Mr.K.Mahendran for the petitioners, Mr.P.Kumaresan, learned Additional Advocate General assisted by Ms.Mageswari for the respondents 1 to 3 and Mr.M.Rajasekar for the fifth respondent.

29.After setting forth the facts, Mr.N.L.Rajah urged that no notice had been served on Mr.M.Basker, the writ petitioner, though his possession had been recognised by the respondents. He referred to the license book issued by the Market Management Committee of the Koyambedu Market Complex. In terms of the license book, the Market Management Committee had granted license to the writ petitioner from 01.04.2012 onwards. Mr.N.L.Rajah also pointed out that the petitioners had been regularly paying the charges and despite being aware of his presence in the shop, no notice had been issued to the writ petitioner.



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30. Further referring to the guideline value for Koyambedu

Market, he urged that the price that the petitioner had paid in 2010 is a fair price, and no loss has been caused to the exchequer.

31. Referring to the note file, produced by Mr.P.Kumaresan, learned Additional Advocate General, Mr.N.L.Rajah pleaded that the respondents, as early as 05.08.2015, were aware of the sales executed in the petitioner's favour and pointed out that CMDA had proposed to take action for cancellation of the sale deed through Sub Registrar, Anna Nagar and that, such a procedure is impermissible. He urged that the power of cancellation of sale deed is only available to the civil court and not with the Registration Department. As a corollary to this submission, he urged that even if the respondents were to approach the civil court for cancellation, their suit will be hopelessly barred by limitation, as the purchase of the shops by the petitioner was in the year 2010 and the suit, which would have to be filed, is beyond the period fixed under the statute.

32. Mr.N.R.Elango, Senior Counsel submitted as follows:



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(i)No fraud had been perpetuated by the petitioner on the CMDA and therefore, the impugned order issued, on the basis of the orders passed in the writ petition and the review petitions, is untenable.

(ii)Taking this Court to the series of encumbrance certificates filed by the parties, he pointed out that the price paid by the petitioners for purchase of the properties was the fair price and no loss had occasioned to the CMDA.

(iii)Not being a fraudulent transaction, there was no illegal gain for the petitioners nor an inequitable loss to the respondents 1 to 3.

(iv)He relied upon the judgment of the Supreme Court in ***ITC Vs. State of Uttar Pradesh and others, (2011) 7 SCC 493***, to urge that if public interest has not suffered nor is likely to suffer, then the transfer must be allowed to stand, considering the violations as a mere technical procedural irregularity, without adverse effects. He states that cancellation must be resorted to only if the violations result in adverse effect or has an impact on the public interest, as public interest would prevail over a transfer. He stated that if the violations are a mere short recovery of consideration, the Court can permit the transfer by giving an opportunity to the transferee to make good the short



fall in consideration.

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33.Mr.N.R.Elango and Mr.N.L.Rajah submitted that their clients are willing to pay the difference amount and retain the properties, as they have been carrying on business in the said area for over a decade and more.

34.In response, Mr.P.Kumaresan, stated that the petitioner's vendor viz., Tmt.P.Shanthi, had received the notice in the earlier writ petition but did not participate in the same. She had presented Review Application No.4 of 2015 pleading that a third party interest had been created. Taking me to that order, he pointed out that this Court did not agree to the said submission and therefore, that binds the petitioner also.

35.Drawing my attention to the array of the parties in W.P.No.27345 of 2009, Mr.P.Kumaresan, urged that Tmt.P.Shanthi had been arrayed as 14th respondent. He further drew my attention to the allotment order dated 01.04.2010 and pointed out that under clause 10, allottee was mandated in the following directions:-

(i) The shop shall be used for the wholesale trade specified commodity notified under TNSC Act.



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The allottee shall not part with possession, alienate, assign or otherwise encumber the rights of the shop with any third parties without the written prior approval of CMDA"

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36. He read out *in extenso* the earlier orders passed by this court and urged that as the proceedings had been concluded vide order of this court passed in W.P.No.27345 of 2009 and those orders had been confirmed by the Supreme Court. Hence, he urged that the petitioner is not entitled to challenge the impugned order. He pointed out that the petitioner had purchased the property from Tmt.P.Shanthi, whose allotment had been cancelled by this court and therefore, the petitioner has no right to maintain the writ petition.

37. Mr.M.Rajasekar, in addition to the above, pointed out that the entire transaction between CMDA, Market Management Committee and Tmt.P.Shanthi originated from allotment made by Minister and that the allotment had been cancelled by this Court. The cancellation was to be effected across the board against all allottees and this court did not save any proceedings including the situations, where sale deeds had been executed. He also relied upon clause 10 extracted above and pointed out



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that no consent had been obtained from CMDA by the petitioner's vendor, prior to the transfer of the properties. He took this further and urged that, had the allottees approached CMDA for transfer, the authorities would have rejected the same as writ petitions challenging the allotment were pending. In addition, he pointed out that the alienation of public asset must be in a fair and transparent manner, and the best known method is the public auction. That not having been resorted, this court had set aside the allotment.

38. With respect to the plea of Mr.M.Rajasekar that the petitioner having business in flower market and hence, cannot interfere with this proceedings, he points out that he is interested in commencing fruit business and that, if the writ petitions are dismissed and the shops are brought for public auction, he will participate in the same.

39. In reply, Mr.N.L.Rajah urged that CMDA had not issued any notice to the petitioner and therefore, the entire proceeding is bad. Yet again, he relied upon the license that had been issued to the writ petitioner. He urged that cancellation of a sale deed cannot be ordered by a Sub Registrar, as Section 77-A of



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the Registration Act had been declared unconstitutional by this Court. He invited my attention to a judgment passed by this

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Court in ***B.Gnanasekaran v. The Chairman, CMDA & others*** in ***W.P.Nos.28262 and 29583 of 2018*** to argue that, once an allotment order is crystallised into a sale deed, the same cannot be cancelled. Consequently, he seeks for quashing of the order and for allowing the writ petitions.

40.I have carefully considered the submissions of both sides and have gone through the records.

41.The following facts are not in dispute. CMDA brought forth a new policy of 15% reservation of allocation in plots, houses, flats, shops, etc., in all categories of properties through the Minister's discretionary quota. The discretion had to be exercised by a Chairman (CMDA), who also happen to be a Minister in the State of Tamil Nadu. On the basis of this modified policy, the Minister had the allotted plots and shops in Koyambedu Wholesale Market, in and by way of his letter, dated 11.08.2009. Applications were received by the Minister and allotments were made by him at his discretion. A batch of writ petitions were filed before this Court in W.P.Nos.23401 of 2009,



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27345 of 2009, 26735 of 2009, 21265 of 2009 and 29197 of 2010.

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42.In W.P.Nos.27345 of 2009 and 29197 of 2010, the order of the CMDA dated 15.07.2009, reserving 15% for Chairman's Discretionary quota was specifically in challenge. The record shows that the writ petitioner in W.P.No.23401 of 2009 was dismissed by the learned Single Judge on 02.08.2013 and an appeal was preferred therefrom in W.A.No.1779 of 2013. The Division Bench consisting of Hon'ble Mr.Justice Sanjay Kishan Kaul, Hon'ble The Chief Justice and Mr.Justice M.Sathyanarayanan clubbed all these matters together and disposed them of on 15.12.2014.

43.The vendors of the writ petitioners herein namely, Tmt.S.Jayanthi, Tmt.S.Gowri and Tmt.Shanthi were parties to this writ petition. They were respondents 8, 11 & 14 respectively. Tmt.S.Jayanthi and Tmt.S.Gowri engaged a counsel and contested the proceedings. Tmt.Shanthi, though a party, did not contest the same. After hearing the parties, the Court passed the following order:-



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"It is not in dispute that no methodology is followed for making allotment of the shops in question, except the so-called discretion of the Hon'ble Minister as Chairman. The legal position is quite clear and thus, it is agreed that to resolve this issue, the only appropriate course would be to have a proper advertisement, which would facilitate an advance notice to all concerned, that the shops would be put to auction and thereafter, the bids are opened and allotment is made.

2. We, thus, dispose of the appeal and the writ petitions with a direction to carry out the fresh exercise of auction of the shops, as per the norms to be circulated and the needful should be done on

or before 31st March, 2015. No costs.

Consequently, connected miscellaneous petitions are closed.

3. The amounts deposited by the concerned parties till date be refunded to the parties within fifteen (15) days from today, with interest, if any accrued."

44. Aggrieved by the said order, a review petition was moved before the Division Bench. This review was moved by Tmt. Shanthi in Review Application No.4 of 2015 and by



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Tmt.S.Jayanthi and Tmt.S.Gowri in Review Application No.16 of

2015. The Bench observed as follows:-

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"A review is sought along with condonation of delay, of the agreed order dated 13.12.2014. What we find surprising is an endeavour to defend the alleged discretion sought to be exercised by the Honourable Minister/Ex-Chairman in allotting shops. In fact, this agreed order was passed in the circumstances where these shops were sought for allotment through draw of lots, but on two earlier occasions, such endeavour was set at naught without giving any reasons. Thereafter, the Minister proceeded with these discretionary allotment.

2. The learned counsel for the petitioners more so, Mr.Richardson Wilson, learned counsel makes a valiant endeavour to persuade us that we should re-visit this issue, as even third party rights have accrued. He submits that auction is not the only methodology of making the allotment.

3. We are not saying that auction is the only option. A transparent methodology has to be followed in the context of conducting auctions for allotment of shops and thus, the draw of lots used to be conducted among the people who applied for allotment which was a fair procedure.

4. In view of all the aforesaid reasons, we are unable to persuade ourselves to agree with the submissions of the learned counsel for the petitioners, despite their best efforts.

5. All the review applications and the condone delay petitions accordingly stand dismissed."



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45. It is pertinent to point out that one of the pleas that had been raised by the review petitioners was that, as third party rights had accrued, this Court must re-visit its order dated 15.12.2014. This plea too stood rejected, as is clear from paragraph No.4. All the petitioners herein are purchasers of the property from the allottees pending the writ petitions. A perusal of their affidavit shows that all of them have taken a plea that since sale deeds have been executed in their favour, they are in a better position than the mere allottees. It is in order to press home this point, Mr.N.L.Rajah referred to the order of Justice T.S.Sivagnanam in ***B.Gnanasekaran Vs. The Chairman, CMDA***, in W.P.No.28262 of 2013 and in ***P.M.Sebastian Vs. CMDA***, in W.P.No.29583 of 2013.

46. I now have to decide the effect on the pendency of the writ petitions on the purchase that had been made by the writ petitioners. I will refer to Section 52 of the Transfer of Property Act, 1882. The said provision reads as follows:-

“52. Transfer of property pending suit relating thereto.—During the pendency in any Court having authority within the limits of India



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excluding the State of Jammu and Kashmir or established beyond such limits] by the Central Government, of any suit or proceeding which is not collusive and in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

Explanation.—For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence from the date of the presentation of the plaint or the institution of the proceeding in a Court of competent jurisdiction, and to continue until the suit or proceeding has been disposed of by a final decree or order and complete satisfaction or discharge of such decree or order, has been obtained, or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force.”

47. The purpose for enacting Section 52 to give a statutory recognition to the well known, laid down maximum "ut-lite pendente nihil innovetur". The meaning of this Maxim is "During the pendency of litigation, nothing new should be introduced".



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This is the test for application of the doctrine of *lis pendens*.

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Originally, the idea was to maintain status quo of the property in dispute and also to prevent alienation of the same to avoid the consequences of an order being passed. As time went by, Courts started interpreting this provision to hold that the very transfer is not bad or void, but is subjugated to the final decision that will be made by the Court. A purchaser of a property pending a litigation even if he is not a party to the case, is bound by the decision taken in a suit or proceeding. This principle is based on justice, equality and good conscience.

48. In India, the Colonial legislature introduced this Section to give statutory recognition to the principle of *lis pendens*. They are explained in two classic English judgments as follows:-

(i) ***Bishop of Winchester Vs. Paine, (1805) 11 Ves. 197.***

In ***Bishop of Winchester v. Paine, (1805) 11 Ves. 197***, Sir William Grant, the Master of the Rolls held as follows:-

“Ordinarily, it is true, decree of the Court binds only the parties to the suit. But he, who purchases during the pendency of the suit, is bound by the decree that may be made against the person, from whom, he derives



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title. The litigating parties are exempted from the necessity from taking any notice of a title, so acquired. As to them, it is as if no such title existed. Otherwise suits would be indeterminable: or which would be the same in effect, it would be in the pleasure of one party, at what period the suit should be determined."

This view was further amplified in ***Metcalf v. Pulvertost***,

(1813) 2 Vesey and Beames 204. Sir Thomas Plumer, the Vice Chancellor at that time, opined as follows:-

"The effect of the maxim pendente lite nihil innovetur understood as making the conveyance wholly inoperative, not only in the suit depending but absolutely to all purposes in all future suits and all future time is founded in error."

(ii) The principle of *lis pendens* came to be crystallized in ***Bellamy Vs. Sabine, (1857 1 De G & J 566)***. Lord Justice Turner opined as follows:-

"It is, as I think, a doctrine common to Courts both of law and equity, and rests, as I apprehend, upon this foundation - that it would plainly be impossible that any action or suit



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could be brought to a successful termination, if alienations pendente lite were permitted to prevail. The plaintiff would be liable in every case to be defeated by the defendant's alienating before the judgment or decree, and would be driven to commence his proceedings de novo, subject again to be defeated by the same course of proceedings."

49. Lord Cranworth in the very same case observed that "*lis pendens affects the purchaser not because it amounts to notice, but because the law does not allow litigants to give to others, pending the litigation, rights to the property in dispute, so as to prejudice the opposite party*".

50. Insofar as this country is concerned, the Board of Privy Council in ***Faiyaz Husain Khan Vs. Munshi Prag Narain and others, ILR (1907) 29 All 339 at 345(PC)***, extended the principles laid down in ***Bellamy Vs. Sabine*** to British India also. Lord Macnaghten delivered the judgment for the committee. He held that the view taken in ***Bellamy Vs. Sabine*** is how Section 52 of the Transfer of Property Act has to be understood. During an active prosecution of a suit or a proceeding, in which the right to immovable property is directly and specifically in



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question, then the property cannot be transferred by any party to the suit or a proceeding, so as to affect the rights of any other party thereto under the decree or order which may be made therein. [Also see, **Manjeshwar Krishnaya Vs. Vasudeva Mallya, ILR (1918) 41 Mad 458 (FB)**].

51. This principle makes it clear that a purchaser of a property pending a *lis* is not entitled to plead that he had no notice of the proceedings. I should hasten to add that I have not stated this principle to apply broadly across the country, as the states of Gujarat and Maharashtra have since amended the Transfer of Property Act, by inserting an amendment to Section 52, which makes it mandatory that the doctrine of pendente lite applies only if the *lis* is duly registered.

52. The allotment of shops was directly in issue in the batch of writ petitions. Kaul, CJ., came to a conclusion that the allotment at the discretion of the Chairman has no methodology at all. He pointed out that it is contrary to the legal position and the appropriate course would be is to issue an advertisement, which would amount to proper notice to all the parties concerned and put to auction and thereafter, allotments be



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made. This view put an end to the allotment that had been made by the then Chairman, CMDA in favour of the vendors of all the three writ petitioners herein.

53. The vendors of the writ petitioners moved this Court by way of a review. It was specifically brought to the notice of the bench that third party rights have intervened and therefore, the order requires to be reviewed. Even after recording the said statement, the Division Bench of this Court came to a conclusion that it is not reviewing its order. This makes it clear that the allotment made in favour of Tmt.S.Jayanthi, Tmt.S.Gowri and Tmt.Shanthi fell to the ground. The rights that the petitioners claim to have secured, by way of a sale deed, were all secured during the pendency of the proceedings. Hence, whatever rights that were transferred by the vendors, in their favour is subject to the result of these writ petitions.

54. I have to point out that even the Transfer of Property Act was enacted, the word “proceeding” was inserted in Section 52. Writ, being a nature of a proceeding, would be covered under Section 52 of the Act. The view that Section 52 applies to writ proceedings also has been taken in two judgments of other High



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Courts, namely **Goudappa Appayya Patil Vs. Shivari Bimappa Pattar, AIR 1992 Kar 71 at 76** and in **M/s.Chetak Electric and Iron Industries Vs. Rajasthan Finance Corporation, AIR 1998 Raj 42.**

55.I should also point out that as long as a proceeding is pending before a Court, this Court nearly 90 years ago has taken a view that *lis pendens* would apply. [See, **Velayuda Mudali Vs. The Co-operative Rural Credit Society, AIR 1934 Mad 40 = (1934) 66 Mad LJ 90**].

56.As the right of the vendors of the petitioners to the immovable property allotted to them was directly and specifically in question and since the proceedings were not collusive in nature, (there has been no plea to that effect), I have to conclude that Section 52 of the Transfer of Property Act applies to this case as well and the petitioners are not entitled to be put on notice.

57.There is another factor which persuades me to reach this conclusion. As rightly contended by Mr.P.Kumaresan and Mr.M.Rajasekar in all the sale deeds executed by the CMDA in



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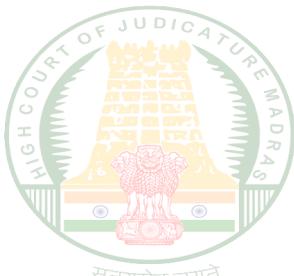
favour of the vendors of the petitioners contains the following the clauses:

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“Transfer of title shall be only with the concurrence of an authority and only to a person in the same trade.”

58. This clause has ensured that prior to a purchase from an allottee of the CMDA, it is his / her duty to get the concurrence of the authority. None of the writ petitioners plead that prior to the alienation made by the vendors in their favour, consent of the CMDA or the Market Management Committee had been obtained.

59. Perhaps anticipating this behalf, Mr.N.L.Rajah urged that as the Market Management Committee has granted license to the writ petitioners, they are deemed to have notice of their occupation. I am afraid that I am not in a position to accept this plea. There is an ocean of difference between a license granted for carrying out activities in a specified market, in terms of The Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996, and getting a consent from CMDA for the purpose of alienation.



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60.The State of Tamil Nadu enacted the Tamil Nadu Specified Commodities Markets (Regulation of Location) Act, 1996. The Act came into force in the city of Chennai on 26.08.1996. The purpose of this legislation was to regulate the location of market areas and the wholesale markets in specified commodities, in the CMDA areas and other local areas. This was in order to de-congest the city and to ensure that commercial activities are confined to specified area so as to pave way for planned development and also for better public health. The wholesale market in the city of Chennai with respect to fruits, flowers and vegetables has to be carried on only in the Koyambedu area, which is notified for the said purpose. As to what are the specified commodities to which the legislation applies is mentioned in the Schedule to the 1996 legislation. Any person who is desirous of carrying on wholesale trading in a specified commodity in a market area, has to obtain a license under Section 21 of the 1996 legislation.

61.Be it a tenant or an occupant or an owner, he would be covered under Section 21 of the 1996 legislation as the Section states “no person, within a market area shall set up, establish, use, continue or allowed to be continue without a license”. A



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license is granted by the Market Committee constituted in terms of Section 8 of the 1996 legislation. It can be seen that, a permission for sale has to be obtained from the CMDA and not from the Market Committee, as is clear from the aforesaid clauses, while allotting the shops to the vendors of the petitioners. This discussion makes it clear that, for the mere fact that a license had been issued by the Market Authority, it cannot be deemed to be an approval for a sale which has been made without any authorization from the CMDA.

62. The plea raised by Mr.N.L.Rajah echoed by Mr.N.R.Elango that as a sale has been executed, the petitioners have a vested right and they cannot be treated on par with mere allottees is extremely tantalizing in the beginning. Yet a closer scrutiny shows that it is only a whiff of a shining cloud and it has no substance in the same. The transactions entered into between the CMDA and the vendors of the petitioners were on the basis of the allotment. The allotment itself had been struck down by this Court in 2014 and the attempt to review the said order also ended in a failure. Once the basis on which the sale deeds had been executed have fallen to the ground, the greater super structure that the petitioner had sought to erect also falls



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to the ground. It is an attempt to build a castle in the air and this Court cannot fall prey to such an attempt. A Bench having struck down the allotment under the discretionary quota, the foundation on the basis of which the entire super structure had been raised, also is rendered invalid. This is based on the age-old principle found in the latin maxim '*sublato fundamento cadit opus*'. The meaning of this maxim is that when the foundation is removed, the structure falls. The principle that this maxim informs us is that if the initial basis for a legal proceeding is declared invalid, then all the subsequent actions and proceedings arising there from are equally invalid. This maxim ensures the propagation of procedural fairness and substantial justice, by preventing unlawful foundations.

63. As pointed out above, the sale deeds were issued to the petitioners' vendors based on the allotment issued by the Chairman, and so were the sale deeds executed in favour of the petitioners. Once the allotment fails and had been so held by this Court, any transactions based on such an allotments would also have to fail.

64. The plea of Mr.N.L.Rajah that a sale deed can be



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canceled only through the process of Court and not by the authorities is also red herring argument.

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65. For several reasons, the sale deeds as held by me, are all hit by the doctrine of *lis pendens*. They are based on an invalid allotment that had been made. The sale deeds themselves had been executed violating the terms of the allotment as well as a specific condition in the sale deed executed in favour of their predecessors. There is no necessity for a sale deed to be declared as invalid, when it is hit by doctrine of *lis pendens*. The transfer has to be abide by the result of the proceeding. Hence, this submission too does no deserve any consideration.

66. Turning to the judgment relied upon by Mr.N.L.Rajah in **B.Gnanasekaran's** case, I have the following to state:

(i) The allotment was made in favour of one P.M.Sabastian on 08.04.2003. The sale deed was also executed in his favour on 31.08.2009 and registered as Document No.2896 / 2009. A writ petition was presented in the year 2013, challenging the allotment order made on 08.04.2003 and to quash the same, and for calling for fresh auction. Justice T.S.Sivagnanam (as he



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then was) held that, as the order of allotment dated 08.04.2003

had fructified in an absolute sale deed in the year 2009 itself, there cannot be a challenge to the allotment letter. This was one of the several findings given by the learned Judge. The learned Judge also came to a conclusion that the conversion of the godown into a shop had also been challenged by Mr.Gnanasekaran and that the writ petition in W.P.No.10797 of 2013 came to be withdrawn.

67.The facts of that case are fundamentally different from the case on hand. In case, the allotments made in favour of the vendors of the petitioners had not been challenged in the year 2009 and if they had been crystallized through sale deeds, the action of the CMDA, if it had attempted to cancel the allotment would attract the view that had been rendered by Justice T.S.Sivagnanam. Hence, the judgment in **B.Gnanasekaran's** case is not applicable to the facts of the present case.

68.The impugned order is not a stand alone order. A reading of the same shows that it was passed pursuant to the orders passed by the First Bench of this Court, in the writ petition and in the review petitions. If I were to agree with



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Mr.N.R.Elango and Mr.N.L.Rajah and quash the proceedings, it would be indirectly upholding the illegal allotments made by the

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Chairman (CMDA) in favour of the vendors. It is a settled position in law of writs that a Constitutional Court, while exercising its writ jurisdiction, will not quash an order even if it comes to a conclusion that the same is illegal, if the result of doing so is to revive another order which is illegal. This position is settled by a series of the judgments of the Supreme Court. I merely have to apply the aforesaid principle to the facts of the present case. [(See, **Godde Venkateswara Rao Vs. Government of Andhra Pradesh and others, AIR 1966 SC 828**)
(K.Subbarao, J.)]

69. Further more, the plea that the sale deeds had been executed in favour of the vendors of the petitioners and that they had in turn created third party rights, was directly and substantially the issue in the review petitions before the Division Bench. The Division Bench had rejected the plea. Once that plea is rejected, it operates as a *res judicata* on this Court. The principle of *res judicata* is when an issue had been directly and substantially heard by a Court of competent jurisdiction, on a previous occasion and a finding has been rendered, then the



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subsequent Court cannot re-visit the same issue. This is founded on the principles of public policy that *res judicata pro veritate accipitur* a matter adjudicated is taken for truth or a judicial decision must be accepted as correct. It is beyond cavil that *res judicata* is applicable to writ petitions also. (See, **Daryao Vs. State of Uttar Pradesh, AIR 1961 SC 1457**].

70. Insofar as Mr.N.L.Rajah's client is concerned, there is another factor which goes against him. Mr.Basker has filed a PIL in W.P.No.13637 of 2015. The said writ petition was dismissed by the Division Bench holding as follows:-

"5. We find, this petition is really an abuse of process of Court styled as Public Interest Litigation. The predicament the petitioner finds himself in is a consequence of his own action. It is like a person buying knowingly a stolen property and then claiming that he does not know it so that he should not bear the consequences of that property being taken away. The petitioner would naturally have full knowledge that there cannot be any transfer of having obtained the shop. The consequence, thus, is that when the allotment itself is cancelled, the petitioner



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is the consequential sufferer.”

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The Bench having held so, there are no legs on which the petitioner can stand upon.

71. During the course of hearing, Mr.P.Kumaresan was called upon to report if any such allotments had been sustained by the CMDA or if there is any provision whether any benefit can be given to the petitioners.

72. Mr.M.Rajasekar pointed out, on an earlier occasion, this Court in ***P.Chennammal Vs. M/s.Bhakthavatchalu & Co., in W.A.No.562 of 2009*** dated ***07.02.2011***, had granted preference for certain persons. On a challenge been made to the Supreme Court in S.L.P.(Civil).No.8202 of 2011, by an order dated 26.11.2013, the Supreme Court had come to the following conclusion:-

“However, we find that the High Court has unnecessarily directed that in case the appellant and the Respondent No.1 make an application, they shall be given preference over the other applicants. We see no reason as to why such preference has been given to any applicant. Once the allotment



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has been held to be illegal and set aside, and the High Court had directed that a fresh allotment be made as per law, then all candidates including the previous candidate and any other new candidate who may apply for the same would be eligible to be considered at par.”

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73. Hence, the plea of Mr.N.L.Rajah and Mr.N.R.Elango that as the petitioners are carrying on business for over a decade and hence, should be given some concession on the grounds of equality, can also not be rendered in this case.

74. In the light of the above discussion, these Writ Petitions are dismissed. Since the petitioners are carrying on business in the said area for over a decade, albeit under the protection of interim orders passed by this Court, they are granted three (3) months time to vacate and hand over possession of the property. In case, they do not do so, the State Respondents are at liberty to initiate such proceedings as they are entitled to under law. CMDA, having received substantial amounts from the petitioners' vendors, is duty bound to refund the same to the writ petitioners, who are the representatives in interest of their vendors. On the petitioners handing over possession of the properties, the respondents shall refund the amount received by



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them from the vendors together with interest at the rate of 7.5% per annum. Considering the fact that the petitioners have invested monies and purchased the property, I am not inclined to impose any cost in the writ petition. Consequently, the connected miscellaneous petitions are closed.

22.01.2026

nl / krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1. The Special Secretary,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.
2. The Chairman,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.
3. The Chief Executive Officer,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.
4. The Member Secretary,
CMDA, Gandhi Irwin Road,
Chennai – 600 008.



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and M.P.Nos.1, 1, 1, 2, 2 & 2 of 2015

22.01.2026