

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15839 of 2015
and M.P.No.1 of 2015

P.Gurubalakrishnan [Petitioner]
S/o.Ponniah
Proprietor of Kodai Kumaran Metals
No.11A Sixth Street
Narasinghapuram Extension, Guindy, Chennai-32.

Vs

- 1 The Commissioner
Corporation of Chennai Ribbon Building
Chennai-3
- 2 Assistant Commissioner
Zone 13 Revenue Departments
Corporation of Chennai Chennai-3 [Respondents]

PRAYER : This Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorarified mandamus, calling for the records of the 2nd respondent relating to the impugned notice dated 24.10.2014 issued under section 379(A) of the CCMC 1919 quash the same directing the respondents to unlock the seal and to enable the petitioner to remove the instruments and vacate the place of business at No.11A Sixth Street Narasinghapuram Extension Guindy Chennai 600 032 by considering petitioner's representation dated 13.5.2015.

For Petitioner : Mr.M.Rajavelu
For Respondents: Mr.P.V.Selvakumar, SC

O R D E R

Heard Mr.M.Rajavelu, learned counsel for the petitioner and Mr.P.V.Selvakumar, learned Standing Counsel for the respondents.

2. This writ petition has been filed by P.Gurubalakrishnan, seeking a writ of certiorarified mandamus to call for the records of

the 2nd respondent relating to the impugned notice dated 24.10.2014 issued under section 379(A) of the Chennai City Municipal Corporation Act, IV of 1919 (hereinafter referred to as "the Act") and to quash the same with a direction to the respondents to unlock the seal and thereupon permit the petitioner to remove the instruments and vacate the place of business at No.11A, Sixth Street, Narasinghapuram Extension, Guindy, Chennai, by considering his representation dated 13.5.2015.

3. It is the claim of the petitioner that he being the proprietor of Sri Kodai Kumaran Metals, has been carrying on the business of buying Stainless Steel Waste and selling them to the prominent buyers from No.11A, Sixth Street, Narasinghapuram Extension, Guindy, Chennai, by occupying 600 sq.ft. of the shop in the aforementioned place from the year 2007. It is also his claim that he has obtained necessary license from the other statutory authorities and invested a sum of Rs.7 1/2 lakhs after getting loan from the HDFC Bank, Chennai and he has also employed 4 persons to carry on the above business. While so, the 2nd respondent issued the impugned notice dated 24.10.2014 under Section 379 (A) of the Act, directing the petitioner to stop the trade within 24 hours of the receipt of the notice, failing which, the 2nd respondent has threatened to take necessary action as per Section 379(A)(i) of the Act.

4. In this background, according to the learned counsel for the petitioner, the grievance of the petitioner is that he has not been issued with any notice prior to the impugned notice dated 24.10.2014, directing the petitioner to vacate and restore the aforementioned place in its original state. However, the learned counsel for the petitioner fairly submitted that the petitioner has not obtained licence as per Section 287 of the Act, which says that the places of business within the limits of the City or within three miles thereof may not be used without licence and payment of proportionate tax to the local body concerned. Further, the learned counsel for the petitioner submitted that the petitioner has made an application and even after submitting the application, the respondent concerned has not come forward to consider the same. That apart, the learned counsel for the petitioner submits that the petitioner has undertaken to vacate the premises in question within 15 days time from today and in view of the same, a direction should be given to the 2nd respondent to de-seal the premises.

5. Mr.P.V.Selvakumar, learned Standing Counsel for the respondents submitted that since the petitioner has come forward to vacate the premises in question by clearing all the stocks lying inside the shop at No.11A, Sixth Street, Narasinghapuram Extension, Guindy, Chennai, he may be given a short time to do the same.

6. Admittedly, in the present case, the petitioner has been running the business without getting proper licence from the concerned authority as required under Section 287 of the Act. Therefore, the 2nd respondents has taken action by issuing the impugned notice. The present place of business has been completely sealed. In view of the undertaking given by the petitioner in paragraph No.13 of the affidavit filed in support of the writ petition, the respondents are directed to permit the petitioner to remove all the goods lying inside the aforementioned place of the business of the petitioner, within a period of two weeks from the date of receipt of a copy of this order. It is needless to mention that on production of the order copy, the 2nd respondent is directed to remove the seal to enable the petitioner to vacate the premises.

With the above direction, this writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

rg

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Commissioner
Corporation of Chennai Ribbon Building
Chennai-3
- 2 Assistant Commissioner
Zone 13 Revenue Departments
Corporation of Chennai Chennai-3

+ 1 cc to Mr.P.V.Selvakumar, Advocate SR 34199

+ 1 cc to Mr.M.Rajavelu Advocate SR 34176

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