

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN, J

Writ Petition No.30787 of 2015

S.Shanthilal

.. Petitioner

vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 3.

2.The Revenue Officer,
Corporation of Chennai,
Rippon Building,
Chennai - 3.

3.The Trade License Inspector,
Revenue Department,
Zone - 8, Shenoy Nagar,
Chennai - 30

4.Kanthi Bai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 3 to seal the fourth respondent shop carrying on unauthorized business at No.80, K.H.Road, Ayanavaram, Chennai - 23, considering the petitioner's representation dated 19.08.2015 within a reasonable time to be fixed by this Court.

For Petitioner : Mr.N.Srinivasalu

For RR1 to 3 : Mr.P.V.Selvakumar

For R.4 : Mr.Raghavalu

ORDER

What the petitioner could not achieve directly is seeking to achieve indirectly by filing this writ petition against the fourth respondent, without initiating any proceedings before the proper forum for possession.

2.The petitioner is the owner of the property bearing Door No.80, K.H.Road, Ayanavaram, Chennai - 600 023. The said property was settled in favour of the petitioner in the year 2004. The fourth respondent is a tenant even under the original owner. The fourth respondent is running the business of silver refinery and allied activities from the year 1977 in the said premises. The petitioner is running a hospital namely clinic in the said building thereby treating the patients for the past 20 years. However, the petitioner now contends that the fourth respondent's business is causing health hazard to the patients of the hospital run by the petitioner and therefore, the petitioner has given a representation on 19.08.2015 to the respondents and since, no action has been taken, the petitioner has come before this Court.

3.Heard Mr.N.Srinivasalu, learned counsel for the petitioner; Mr.P.V.Selvakumar, learned counsel for the respondents 1 to 3 and Mr.Raghavalu, learned counsel for the fourth respondent.

4.It is admitted by the petitioner himself that the fourth respondent is a tenant even before the property was settled in favour of the petitioner and he has been continuously doing the business in the said premises. The hospital run by the petitioner and the business run by the fourth respondent are simultaneously being run for the past 20 years. When that be so, now, it is not open for the petitioner to contend that the business of the fourth respondent causes health hazardous to the petitioner's patients.

5.However, the learned counsel for the respondents 1 to 3 and the learned counsel for the fourth respondent would point out that it is not a hospital and it is only a clinic run by the petitioner and where, the patients are treated by the petitioner without any admission. Therefore, the said contention of the petitioner cannot be accepted. If really, there is any health hazardous or pollution caused to the petitioner's patients, it is always open to the petitioner to take appropriate proceedings before the Civil Court since, the petitioner's hospital is stated to be a religious institution otherwise, the proceeding before the rent control Court alone is maintainable. When proper remedy is available before the competent Court, the same cannot be by-passed and the petitioner cannot invoke Article 226 of the Constitution of India and seek relief.

6.In the result, the writ petition fails and accordingly,
the same is dismissed. No costs.

jbm

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 3.
 - 2.The Revenue Officer,
Corporation of Chennai,
Rippon Building,
Chennai - 3.
 - 3.The Trade License Inspector,
Revenue Department,
Zone - 8, Shenoy Nagar,
Chennai - 30
- + 1 cc to Mr.A.K.Raghavalu, Advocate SR 56192
+ 1 cc to Mr.D.Shivakumaran, Advocate SR 56456
+ 1 cc to Mr.P.V.Selvakumar, Advocate SR 56034
+ 1 cc to M/s.N.Sreenivasalu, Advocate (sr.56450) 29/10/2015

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सत्यमेव जयते

W.P.No.30787 of 2015

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