

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32107 of 2015

and M.P.No.1 of 2015

M/s.Solaimalai Enterprises,
represented by its Manager
and Authorized Representative
R.Asaikalai

.... Petitioner

vs.

- 1.The State of Tamil Nadu,
rep. by its Home Secretary,
Fort St. George, Chennai-9.
- 2.The Deputy Commissioner of Labour,
Coimbatore, Coimbatore District.
- 3.The Commissioner of Police,
Kovai City, Coimbatore.
- 4.The Inspector of Police,
B.1 Shop Street Police Station, Coimbatore.
- 5.The Inspector of Police,
B.12 Ukkadam Police Station, Coimbatore.
- 6.The Inspector of Police,
B.8 Variety Hall Road Police Station, Coimbatore.
- 7.Sulaiman
- 8.Manickam
- 9.Thulasiraj
- 10.Iliyath
- 11.Sahul
- 12.Ravi
- 13.Kovai Mavatta Sumaipani Thozhilalar
Sangam (CITU),
a Trade Union represented by its
General Secretary.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 3 to 6 to forbear the respondents 7 to 13 and their men, agents from in any manner interfering in the peaceful conduct of business in and around the city of Coimbatore especially comes under the jurisdiction of respondents 3 to 6 with a consequential direction to the respondents 3 to 6 to safeguard the delivery boys while deliver the goods in the market from the respondents 7 to 13 who interfere in the petitioner activity by taking immediate action against them under law.

For Petitioner : Mr.AR.L.Sundaresan, SC
for Mr.D.Saravanan

For Respondents : Mr.Sanjai Gandhi,
Addl. Govt. Pleader, for R.1 to R.6

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents 3 to 6 to forbear the respondents 7 to 13 and their men, agents from in any manner interfering with the peaceful conduct of business in and around the city of Coimbatore, especially comes under the jurisdiction of respondents 3 to 6 to safeguard the delivery boys while delivering the goods in the market, from the respondents 7 to 13 who interfere with the petitioner's activity by taking immediate action against them under law.

2. The case of the petitioner, in nutshell, is set out hereunder:-

(a) The petitioner is a partnership firm engaged in the business of stockiest and Distributors of consumer non-durables. The petitioner is a dealer registered under the Tamil Nadu Value Added Tax. The petitioner entered into an agreement with the leading consumer non-durable manufacturers viz., Procter & Gamble Home Products Limited and Procter & Gamble Hygiene and Health Care Limited.

(b) The said agreement stipulates that the petitioner shall distribute the products of the said two companies and ensure that they reach the retail stores located at various locations in the region promptly and regularly. Hence, as a distributor, the petitioner is obliged to deliver the goods at the retailers' place. The petitioner is having their staff at Coimbatore. They used to carry the goods in their own vehicle and unload the same at the retailers' shop. The petitioner has also appointed so many delivery boys to distribute the products such as Ariel, Tide, Pantene, etc.

(c) The important area of operation of the petitioner includes the main market area of Coimbatore, comprising the jurisdiction of B.1, Big Bazaar Police Station, B.8 Variety Hall Road Police Station and B.10 Selvapuram Police Station and adjoining areas. In these locations, large number of retailers are situated. Thus, the major volume of petitioner's business is generated in the said police station limits. In these areas, the respondents 7 to 13 are engaged in the avocation of loading and unloading of goods. They are called in common parlance as Kalasis. They are all self employed workers performing their work on their own on collective payment. The respondents 7 to 13 are the men, who lead and control the other workers in the area. The respondents 7 to 13 and other workers are members of the 13th respondent trade union. The respondents 7 to 13 or the members of the 13th respondent are not employees of the petitioner. The respondents 7 to 13 and their men do not allow any employees of the petitioner to do the unloading and delivery jobs of the petitioner in the said areas. The petitioner's employees are prevented from unloading the goods from the vehicles of the petitioner and delivering at the retailer's premises situated within the above said police station limits. The respondents 7 to 13 are using all sorts of coercive methods in indulging the act of preventing the employees of the petitioner from discharging their work.

(d) In fact, the petitioner tried to negotiate with the respondents 7 to 13 and made it known to them about the petitioner's right to engage any of their workers in doing their business. But, the respondents 7 to 13 are men wielding power and the petitioner had to suffer huge loss due to non-supply of goods to the retailers because of the preventive and disruptive activities of the respondents 7 to 13. The act of the respondents 7 to 13 is highly illegal. There is no contract between the petitioner and the respondents 7 to 13. In this regard, a complaint was also lodged by the petitioner in person to the Commissioner of Police, Coimbatore on 10.10.2014. But, the same was not considered so far. Hence, the petitioner has filed the present writ petition for the relief set out earlier.

3. I have heard the learned senior counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 6.

4. In view of the submissions made on either side, this Court directs the petitioner to give a fresh complaint along with a copy of this order, to the third respondent herein within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the third respondent is directed to consider the same with regard to providing police protection to the delivery boys from the respondents 7 to 13,

while delivering the goods in the market and pass appropriate orders / take necessary action within a period of two weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

sbi

To

- 1.The Home Secretary,
State of Tamil Nadu,
Fort St. George,
Chennai-9.
- 2.The Deputy Commissioner of Labour,
Coimbatore,
Coimbatore District.
- 3.The Commissioner of Police,
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Coimbatore.
- 6.The Inspector of Police,
B.8 Variety Hall Road Police Station,
Coimbatore.

+1 cc to D.Rameshkumar, Advocate, sr.59976
+1 cc to Government Pleader, sr.60699

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