

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.36784/2015 & MP.No.1/2015

S.Jayalakshmi

.. Petitioner

Vs.

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

2.The Regional Joint Director of
Industries & Commerce [DIC] [SIDCO]
No.65/1. GST Road, Guindy, Chennai-32.

3.The Zonal Officer/Zone-IX
Corporation of Chennai, No.1, Lake Area
4th Cross Street, Nungambakkam, Chennai 600 034.

4.Arjunan Ravikumar

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the entire records relating to the impugned order passed by the 3rd respondent in his proceedings Z.O.IX.R.D.C. No.R3/1008/2014 dated 28.07.2015 and quash the same.

For Petitioner : Mr.C.Prakasam

For R2 : Mr.R.Rajeswaran, Spl.GP

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

ORDER

Heard the learned counsel for the petitioner ; Mr.P.V.Selvakumar, learned Standing Counsel accepting notice on behalf of the respondents 1 and 3 and Mr.R.Rajeswaran, learned Special Government Pleader accepting notice on behalf of the 2nd respondent and with their consent, the writ petition is taken up for final disposal. Since the writ petition is disposed of at the admission stage itself, notice to the 4th respondent is dispensed with.

2 The petitioner who is a resident of Seethamma Colony, TTK Road, Alwarpet, Chennai, had approached this Court earlier by filing a writ petition in WP.No.10072/2015, wherein prayer was made to dispose of the petitioner's representation dated 11.03.2015 within a stipulated time. In the said representation the petitioner made a complaint to the Corporation of Chennai stating that the 4th respondent is carrying on commercial activity in a residential flat. The said writ petition was disposed of by order dated 08.04.2015, by directing the Commissioner, Corporation of Chennai, to consider and dispose of the petitioner's representation as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of that order. Pursuant thereto, the impugned proceedings has been passed stating that an inspection was conducted in the flat owned by the 4th respondent and it was found that there is no commercial activity and people are residing in the flat. According to the petitioner, the averments made in the impugned order are absolutely false and the 4th respondent is a very politically powerful person and therefore, the authorities have not reported the correct facts and on the contrary, made allegation as if the petitioner has misled this Court.

3 Learned counsel for the petitioner would submit that a complaint was given to the 2nd respondent stating that the 4th respondent is carrying on the business without obtaining license, that too, in a residential premises. Pursuant to the complaint, the 2nd respondent had addressed a letter to the 4th respondent dated 24.04.2015 with a copy marked to the petitioner, from which it is seen that the 4th respondent had obtained a Retail Trade Service License from the Industries and Commerce Department for the very same premises. However, the communication states that the license has been cancelled as there is no Industrial or service activity involved. This was followed by another communication by the 2nd respondent to the petitioner, stating that there is no commercial activity taking place in the location when the Field Officers visited the premises on 09.04.2015 and 10.04.2015. In spite of these documents, the petitioner still asserts that the 4th respondent is carrying on commercial activity by having a packaging unit for packing products for retail sale. Further allegation is that the 3rd respondent never inspected the residential flat of the 4th respondent and has passed the impugned order based on the assumptions and presumptions.

4 After hearing the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents 1 and 3, this Court is of the view that a roving enquiry cannot be made by this Court, while exercising the jurisdiction under Article 226 of the Constitution of India. But, however, there

appears to be some documents to show that there was some commercial activity done by the 4th respondent in the above said flat since there was a license obtained by him from the Director of Industries and Commerce Department which has since been cancelled. However, to rule out any doubt in this regard, there will be a direction to the 1st respondent to nominate a senior officer other than an officer from the 3rd respondent soon, to make a surprise inspection of the flat owned by the 4th respondent and thereafter, pass appropriate orders on merits and in accordance with law.

5 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR (CS-VI)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AP

To

- 1.The Commissioner
Corporation of Chennai
Rippon Building, Chennai.
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- 3.The Zonal Officer/Zone-IX
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4th Cross Street, Nungambakkam, Chennai 600 034.

+1 CC to MR.C.Prakasam Advocate. SR.NO. 62964
+1 CC to MR.P.V.Selvakumar Advocate. SR.NO. 62568
+1 CC to Govt.Pleader. SR.NO. 62887

WP.No.36784/2015

CO-SK

JD 25/11/2015