

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.8353 and 8354 of 2015

G.Maragathamani ... Petitioner in W.P.No.8353 of 2015

P.Elangovan ... Petitioner in W.P.No.8354 of 2015

Vs.

1. The Commissioner
Corporation of Chennai,
Chennai - 600 003.
2. The District Revenue Officer/
Assistant Commissioner,
Zone 13, Revenue Department,
Corporation of Chennai,
Chennai - 600 003. ... Respondents in both writ petitions

Prayer in W.P.No.8353 of 2015:

Petition filed under section 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to unlock the seal to enable the petitioner to use the subject matter premises bearing Door No.20/60-A, 6th street, Narasinghapuram, Guindy, Chennai - 32 for her own residential purpose by considering her representation dated 11.03.2015.

Prayer in W.P.No.8354 of 2015:

Petition filed under section 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to unlock the seal for a period of 10 days to enable the petitioner to remove his materials from the shop in Door No.16/85-A, 6th street, Narasinghapuram, Guindy, Chennai - 32 by considering his representation dated 11.03.2015.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.P.V.Selvakumar

C O M M O N O R D E R

Heard Mr.N.Manokaran, learned counsel appearing for the petitioners and Mr.P.V.Selvakumar, learned counsel appearing for the respondents. With the consent of both the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2.In these petitions the petitioners seek for a direction upon the respondents to un-lock and un-seal the premises of the petitioners which were sealed by the respondent Corporation on the ground that the petitioners were carrying on business without obtaining licence.

3.In respect of a case in the similarly placed person, this Court in W.P.No.32615 of 2014 on 12.01.2015 passed the following order:

"Heard Mr.N.Manokaran, learned counsel appearing for the petitioner and Mr.T.C.Gopala Krishnan, learned counsel appearing for the respondents.

2. The petitioner has challenged the notice issued under Section 379(A) (1) of the Chennai City Municipal Corporation Act IV of 1919, by which, the premises was sealed on the ground that the person in occupation of the shop was carrying on business without proper license. The petitioner is not the owner of the premises.

3. According to the petitioner, the tenant has vacated and the shop is vacant and therefore, the petitioner sought for removing the seal. This Court, by order dated 11.12.2014 passed the following interim direction:-

"Mr.T.C.Gopalakrishnan, learned Standing Counsel takes notice for the respondents. He is directed to verify as to whether the tenants of the petitioners, who carried on business without

licence, have now vacated or not. If the tenants were carrying on business in steel scrap and they have vacated, there can be no impediment for the Corporation to remove the seal and hand over possession to the petitioners with condition that they shall not use the premises without licence for any purpose. Post after two weeks."

4. In the light of the above direction, the respondent Corporation was required to inspect the premises and if the premises is vacant, they were directed to remove the seal and handed over possession to the petitioner. The learned counsel for the respondent Corporation requested sufficient time to implement the direction.

5. Accordingly, the Writ Petition is disposed of by directing the Officials of the respondent Corporation to cause an inspection of the petitioner's shop and if it is found to be vacant, then the respondent Corporation shall unlock and unseal the premises forthwith. No costs. Consequently, connected Miscellaneous Petition is closed.

6. It is made clear that the premises cannot be utilised by the owner without obtaining proper license. Further, the learned counsel for the respondent Corporation submits that the area is a primarily residential area. In this regard also, the respondent Corporation is at liberty to pass appropriate orders."

4. The petitioners herein would state that their stock in trade and other articles are still kept inside the shop and the shop is not a vacant shop as that of the shop in W.P.No.32615 of 2014.

5. In the light of the above, there will be a direction to the respondents to cause an inspection of the petitioners' shops by un-locking and un-sealing in the presence of the petitioners and if the petitioners want to remove the articles inside the shop, they will be permitted to remove the same, within a period of one week from the date on which the shops are un-locked and give an undertaking that the shop will not be used for the same purpose for carrying on any business. If such an undertaking is given then the respondents shall un-seal the shops and leave it as such for the petitioners to enjoy the same.

6.These writ petitions are disposed of with the above observation. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
Corporation of Chennai,
Chennai - 600 003.
2. The District Revenue Officer/
Assistant Commissioner,
Zone 13, Revenue Department,
Corporation of Chennai,
Chennai - 600 003.

2 CCs to Mr.N.Manokaran, Advocate SR.No. 16593 & 16594

W.P.Nos.8353 and 8354 of 2015

KK (CO)
PSI (06.04.2015)

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