

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.13284 OF 2016

AND WMP NO.11658 OF 2016

1.S.Dharmaraj
2.R.Dhanalakshmi ... Petitioners

Vs.

1. The Commissioner of Corporation
Coimbatore
Coimbatore.
2. The City Health Officer
Coimbatore Corporation
Coimbatore. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 2nd respondent relating to the impugned notice dated 21.03.2016 and quash the same.

For Petitioners : Mr.D.R.Arun Kumar
For Respondents : Mr.R.Sivakumar

O R D E R

Heard Mr.D.R.Arun Kumar, learned counsel for the petitioner, and Mr.R.Sivakumar, learned Standing Counsel, who accepts notice on behalf of the respondents, on a direction issued by this Court.

2.With the consent of the learned counsel appearing on either side, the writ petition is taken up for final disposal, at the admission stage itself.

3.The petitioners seek for quashing the impugned notice dated 21.03.2016 issued by the respondent Corporation calling upon them to stop the activities carried on by them in the premises in question, within three days from the date of receipt of the said notice, failing which, further action will be taken in regard to lock and seal of the said premises.

4. Earlier, four persons, namely P. Padmavathy, R. Velusamy, A. Sethupathy and N. Mamoon Rasheed had approached this Court and filed a writ petition in W.P.No.14509 of 2014 stating that the petitioners herein and one other person by name Easwaran are unauthorisedly running industrial units in residential locality. On notice being issued in the said writ petition, the first respondent herein, who was the first respondent in the said writ petition was served, but yet did not appear before this Court either in person or through counsel and his name was printed in the cause list. So far as the respondents 4 and 5 therein, namely, Easwaran and R. Dhanalakshmi, the second petitioner herein are concerned, the learned counsel for the writ petitioners reported that they have vacated the premises and therefore, the said writ petition was dismissed as against them. After observing so, a direction was issued to the Corporation to direct the officer to inspect the premises in question and if there is any violation, proceed to take action in accordance with law. So far as the relief sought for against the Electricity Board, it was observed that if any orders are passed by the Coimbatore Corporation or by the Pollution Control Board, then the Electricity Board will take appropriate action.

5. Thus, in terms of the direction issued in the said writ petition, the respondent Corporation was required to proceed in accordance with law. But the impugned notice appears to be a knee jerk action solely because a direction was issued. It cannot be disputed that to take action in accordance with law would mean the relevant law which governs the subject matter and in the instance case, the relevant law would be the Tamil Nadu Town and Country Planning Act. If action is required to be taken thereunder, then the procedure under Section 56-A of the said Act has to be followed, which provides for 30 days notice. This has not been complied with by the respondent Corporation and action has been initiated against the petitioner by threatening them that further action will be taken in regard to lock and seal of the said premises, within a period of three days. Therefore, this would be a good ground to set aside the impugned order. However, it has to be seen that whether an industrial activity is carried on in a residential locality. This has to be gone into by the respondents, after the petitioners are given opportunity to submit their objections.

6. Hence, for the above reasons, this Court is not inclined to set aside the impugned notice, but would direct the petitioners to submit their objections to the impugned notice, within a period of 15 days from the date of receipt of a copy of this order and on receipt of such objections, the Competent Authority of the respondent Corporation shall conduct an enquiry into the matter, examine the documents that may be produced by the petitioners, for which, a personal hearing may be afforded.

Thereafter, the Competent Authority shall pass appropriate orders, on merits and in accordance with law, not later than 15 days of which the personal hearing would be concluded.

7. Till such orders are passed, there will be an order of status-quo which is prevailing as on today (07.04.2016) shall be maintained.

8. The grievance of the petitioners is that the petitioners alone have been targeted and it is out of the personal animosity with the petitioners in the earlier writ petition and there are industrial units operating in that area and some of them are larger units and the Corporation of Coimbatore has turned blind eye to all those industrial activities and targeted the petitioners alone. This allegation has to be taken into consideration by the respondent Corporation and to be verified as to whether they are correct and if so, appropriate action in accordance with law should be initiated against those persons also, if there is any violation.

9. With the above observation and direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

TK

-s/d-

Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner,
Corporation of Coimbatore
Coimbatore.
2. The City Health Officer
Coimbatore Corporation
Coimbatore.

+ 1 cc to Mr. R. Sivakumar, Advocate SR 22299

+ 1 cc to M/s. D. R. Arun Kumar, Advocate, SR 22167

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