

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.35866 of 2016
and
W.M.P.No.30809 of 2016

M.Sathyaraj ... Petitioner

- Vs -

1. The Commissioner of Police,
The Greater Chennai Police,
EVK Sampath Road,
Vepery, Chennai - 600 007.
 2. The Joint Commissioner of Police,
West (L & O),
Ambattur Industrial Estate,
Chennai - 600 058.
 3. The Deputy Commissioner of Police,
Anna Nagar, Chennai - 600 040.
 4. The Deputy Commissioner of Police,
CCB, COP, EVK Sampath Road,
Vepery, Chennai - 600 007.
 5. The Assistant Commissioner of Police,
Anna Nagar, Chennai - 600 040.
 6. The Inspector of Police,
K-8, Arumbakkam Police Station,
M.M.D.A. Colony,
Chennai.
- .. Respondents

Prayer:- Writ petition filed under Section 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents or their men, agents from interfering with the peaceful conduct of business i.e. cross massage in the name and style of "Mokshaa Spa" previously known as Elysian Spa Ltd., at No.14, Razaak Garden Main Road, (Hotel Poigai), M.M.D.A. Colony, Arumbakkam, Chennai - 600 106.

For Petitioners : Mr.V.Veerapandian
For Respondents : Mr.R.S.Selvam
Government Advocate
- - - - -

O R D E R

Heard the learned counsel for the petitioner and Mr.R.S.Selvam, learned Government Advocate accepting notice on behalf of the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner's case is that he is carrying on business in the name and style of "Mokshaa Spa" at No.14, Razaak Garden Main Road, (Hotel Poigai) M.M.D.A. Colony, Arumbakkam, Chennai - 600 106, for the past two year and in his massage parlour, he is following the Kerala Traditional Treatment, viz., Ayurveda massage, which cures many illness in the body including the nervous disorder. There is no law regulating this kind of business and no license is required from the respondent police in terms of the Chennai City Police Act.

3. It is the further case of the petitioner that there are qualified and trained therapist available and without any rhyme or reason, the 6th respondent police has interfered with his business activities under the guise of conducting raid. In this regard, the petitioner sent a representation dated 24.09.2016 and in spite of receipt of the same, interference continues and hence, the petitioner has come forward with this writ petition.

4. The learned counsel for the petitioner on instructions would submit that no illegal or unlawful activities take place while conducting business activities and therefore, the 6th respondent cannot interfere with the business activities. The learned counsel for the petitioner also drawn the attention of this Court to the order dated 28.04.2015 made in WP.12817/2015, wherein, this Court has taken into consideration the common order dated 09.12.2014 made in WP.Nos.24629/2014 etc., batch [Masti Health and Beauty Private Limited Vs. Commissioner of Police, Chennai] reported in 2015 [1] MLJ 308 and prays for similar orders.

5. The learned Special Government Pleader, on instructions, would submit that there are no previous cases as against the petitioner's Salon and Spa.

6. It is relevant to extract paragraph 67 of the order in Masti's case [cited supra], which reads as follows:-

"67. In the light of the above, all the writ petitions are disposed of to the following effect:-

[i] The respondents shall not, as a matter of routine and without any basis, conduct any raids and interfere with the business carried on by the petitioners ;

[ii] In specific cases, where the police have reasonable grounds to believe that an offence punishable under the Immoral Traffic [Prevention] Act, has been or is being committed, it is open to the police to take action, after scrupulously following all the steps indicated in Section 15 of the said Act. The steps to be followed are narrated by me in paragraph 28 above ; and

[iii] Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, the respondents may take appropriate steps for bringing in either a new legislation or a subordinate legislation in terms of the provisions of the Chennai City Municipal Corporation Act or the Chennai City Police Act, so that public order, decency and morality, which can form the basis for a regulatory law under Article 19[2] of the Constitution, are taken care of. The Government shall file a report on or before 31.03.2015, before this Court, about the decision taken. No costs. Consequently, all connected pending MPs are closed."

7. In the light of the said order, the writ petition is disposed of by directing the respondents to comply with the directions/conditions imposed in paragraph 67 of the said order as extracted above. It is also made clear that the petitioner under the guise of carrying on business activity, shall not indulge in any unlawful or illegal activities detrimental to law and order or public order. It is further made clear that this order will not prohibit the respondents / authorities concerned from interfering in the petitioner's business activities, if there is any violation on the part of

the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
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K-8, Arumbakkam Police Station,
M.M.D.A. Colony,
Chennai.

+1cc to Mr.V.Veerapandian, Advocate, S.R.No.63095

+1cc to the Government Pleader, S.R.No.63287

WP.NO.35866 OF 2016
AND WMP.NO.30809 OF 2016

KJI (CO)
MA(29/12/2016)