

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.36023/2016 & WMP.No.30963/2016

M/s.Sri Mirra Medicals
rep.by its Managing Partner,
V.Murugan

.. Petitioner

Vs.

1.The Secretary

Government of Tamilnadu
Health & Family Welfare Department
Fort St George, Chennai 600 009.

2.The Assistant Director of Drugs Control
Zone-I, DMS Campus, 259-261, Anna Salai
Teynampet, Chennai 600 006.

3.Mrs.Chandan Bala

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records of the 2nd respondent in the proceedings Ref.No.1364/ADDC/Z1/A1/2016 dated 15.04.2016 and quash the same and further direct the 2nd respondent to consider the application of the petitioner dated 02.04.2016 seeking Drug License without insisting the Rental Agreement and No Objection Certificate from the Land Lady.

For Petitioner : Mr.M.Kamalakaran

For RR 1 & 2 : Mr.A.N.Thambi Durai, Spl.GP

ORDER

Heard the learned counsel for the petitioner and Mr.A.N.Thambi Durai, learned Special Government Pleader accepting notice on behalf of the respondents 1 and 2 and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner would state that he along with his wife is running a medical shop under the name and style, M/s.Sri Mirra Medicals, situate at No.90/177, Choolai High Road, Choolai, Chennai - 600112, for the past 16 years. It is his case that he got license for running the said shop under the

Drugs and Cosmetics Act from the year 2002, by submitting the No Objection Certificate as well as the Lease Agreement from the erstwhile owner. While so, when the petitioner applied for renewal of license to the 2nd respondent, it was rejected on the ground that the petitioner has not submitted the relevant rental agreement. The appeal preferred by the petitioner before the 1st respondent was also dismissed. However, liberty was granted to the petitioner to apply afresh for license with all relevant documents. In the meanwhile, the 3rd respondent, being the subsequent purchaser of the property, refused to receive the rent from the petitioner and hence, the petitioner filed RCOP No.481/2013 on the file of the learned XV Judge, Small Causes Court, Chennai, seeking permission to deposit the rent in Court. Pursuant to the order of the Court below, the petitioner deposited the arrears of rent as well as the future monthly rents in the Court. The 3rd respondent also filed RCOP No.1329/2014 for eviction on the file of the learned XIII Judge, Small Causes Court, Chennai and the same is pending. Hence, the petitioner has approached this Court by filing the present writ petition, challenging the proceedings of the 2nd respondent dated 15.04.2016, in and by which, the 2nd respondent rejected the application of the petitioner seeking renewal and insisted upon the production of the No Objection Certificate and the Rental Agreement of the 3rd respondent / Landlady.

3 At the outset, a careful reading of the impugned order of the 2nd respondent would disclose that the same does not warrant any interference at the hands of this Court for the simple reason that the consent of the landlord/landlady is mandatory in respect of any business to be carried on by the tenant and his/her No Objection Certificate along with the Rental Agreement has to be produced by the tenant while applying for / renewal of the license. In fact, it is a condition precedent too in this Case. Further, it is evident that the 2nd respondent has also issued notice to the 3rd respondent calling upon her as to whether she has any objection in the 2nd respondent renewing the license of the petitioner and the 3rd respondent has specifically stated that she has an objection and that she had filed RCOP No.1329/2014 before the Court concerned for eviction of the petitioner. It is the further case of the petitioner that there exists a dispute between the petitioner and the 3rd respondent.

4 Be that as it may, a reference may be drawn to a decision of this Court wherein, similar issue was raised and in which case also, the eviction petition was pending. This Court has held that it is a mandatory provision which requires the consent/No objection of the landlord. This Court as well as the Hon'ble Apex Court, has time and again, have categorically

stated that the consent/No objection of the landlord/landlady is mandatory. It is seen that the impugned order of the 2nd respondent is not an order of rejection ; but it is only an order, returning the application to the petitioner to comply with the conditions as contemplated under the rules. Hence, this Court do not find any reason to interfere with the impugned order of the 2nd respondent.

5 Accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

1.The Secretary
Government of Tamilnadu
Health & Family Welfare Department
Fort St George, Chennai 600 009.

2.The Assistant Director of Drugs Control
Zone-I, DMS Campus, 259-261, Anna Salai
Teynampet, Chennai 600 006.

+1 cc to Mr.M.Kamalakannan Advocate sr 58347

+1 cc to the Government Pleader sr 58537

WP.No.36023/2016

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