

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S. SIVAGNANAM

W.P.No.4691 of 2016

A.Vimala

..Petitioner

Vs.

- 1 The Commissioner
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
- 2 The Regional Deputy Commissioner (North)
Office of the Regional Deputy Commissioner
Corporation of Chennai,
No.62, Basin Bridge Road,
Old Washermenpet,
Chennai-600 021.
- 3 The Revenue Officer,
Revenue Department,
Corporation of Chennai,
Rippon Building, Chennai-600 003.
- 4 The Assistant Revenue Officer,
Zone IV Division 36,
Corporation of Chennai
Old Washermenpet,
Chennai-600 021.
- 5 The City Health Officer,
Public Health Department,
Corporation of Chennai,
Rippon Building, Chennai-600 003.
- 6 The Additional Health Officer,
Office of the Regional Deputy Commissioner
Corporation of Chennai,
No.62, Basin Bridge Road,
Old Washermenpet, Chennai-600 021.
- 7 The Assistant Health Officer,
Zone IV Division 36, Corporation of Chennai
Old Washermenpet, Chennai-600 021.

8 The Commissioner of Food Safety
5th Floor, DMS Office Building,
359 Anna Salai, DMS Campus,
Teynampet, Chennai-600 006.

9 N.S.Chandran
Proprietor-Madurai Pandiyan Chettinad Hotel
116/1 Erukkencherry High Road,
Sharma Nagar, Chennai-600 039.

..Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 8 to take action against the 9th respondent under the provisions of the Madras City and Municipal Corporation Act and Food Safety and Standards Act, 2006.

For Petitioner : Mr.A.Thiagarajan
For Respondents : Mr.P.V.Selvakumar (R1 to R7)
Standing Counsel

: Mr. R.Rajeswaran (R-8)
Special Government Pleader

: Mr. V.Raju (R9)

ORDER

With the consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. Heard Mr.A.Thiagarajan, learned counsel appearing for petitioner, Mr.P.V.Selvakumar, learned Standing counsel appearing for respondents 1 to 7, Mr.R.Rajeswaran, Special Government Pleader appearing for R8 and Mr.V.Raju, learned counsel appearing for R-9.

3. The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus to direct the respondents 1 to 8 to take action against the 9th respondent, who is running a hotel in the said premises, which has been leased out by the petitioner to the 9th respondent.

4. Several issues have been pointed out by the respondents which include unhygienic atmosphere prevailing in the hotel, change of user of the premises than for the purpose, for which it had been leased out, carrying on cooking adjoining an open drainage canal and various other allegations.

5. Learned counsel for the petitioner, after reiterating the factual matrix, referred to the representations dated 19.12.2015 received by the 4th respondent on 21.12.2015, wherein, among other things, the petitioner has stated that the trade licence of the 9th respondent should not be renewed, which has been followed by other representations dated 11.01.2016, 14.01.2016, 23.01.2016 and 28.01.2016 and since no action had been taken, the present Writ Petition has been filed.

6. Presumably, after notice was ordered in the Writ Petition, the 4th respondent appears to have initiated some action in the matter. Counter affidavit of the 4th respondent states that on receipt of the complaint, the 4th respondent along with the License Inspector, Division - 36, Zone IV conducted an inspection on 21.02.2016 and found that the 9th respondent is using a total extent of 1660 sq.ft contrary to the license obtained by the 9th respondent for 960 sq.ft. and the 4th respondent has given a show cause notice to the 9th respondent to explain the additional usage of area contrary to the license granted to him.

7. The complaint given to the Health Department regarding the unhygienic condition of the hotel was entertained and the complaint has been forwarded to the Tamil Nadu Food Safety and Drug Administration Department for necessary action and after receipt of the reply from the 9th respondent to the show cause notice issued and after receipt of the report from the Tamil Nadu Food Safety and Drug Administration Department, necessary action will be taken.

8. The learned counsel for the 9th respondent submitted that there is a landlord-tenant dispute between the petitioner and the 9th respondent and the 9th respondent has filed a suit before this Court in C.S.No.110 of 2016 and an order of interim injunction has been granted in O.A.No.125 of 2016 dated 03.02.2016 by which, the 9th respondent's possession and enjoyment has been protected and it is stated that the suit is still pending and the order of interim injunction is in force. After hearing learned counsel for the parties, this Court is of the view that the dispute between the petitioner and the 9th respondent regarding the tenancy cannot be the subject matter of any decision in this Writ Petition. Therefore, the said issue is left open for the parties to agitate the same before the appropriate Forum.

9. With regard to the two aspects pointed out in the counter affidavit filed by the 4th respondent, the 4th respondent should proceed further in the matter, for which purpose, the 9th respondent should be directed to submit his reply to the show cause notice.

10. In the light of the above, this Writ Petition is disposed of by directing the 9th respondent to submit a reply to the show cause notice issued by the 4th respondent, regarding the allegation of additional usage of the area contrary to the license granted to the 9th respondent, such reply be submitted within a period of three weeks from the date of receipt of a copy of this order, after which, the 4th respondent shall conduct an enquiry after notice to the petitioner and 9th respondent and pass final orders on merits in accordance with law within a period of four weeks thereafter.

11. With regard to the action initiated by the Health Department of the Corporation of Chennai, it is stated that now the matter is pending before the Authority under the control of 8th respondent. In the light of the above, the 8th respondent is directed to instruct his Subordinate Officers to look into the complaint and issue necessary instructions to the 7th respondent to take appropriate action in accordance with law.

12. With regard to the renewal of the license, since already a show cause notice is pending, the question considering the renewal at this stage will not arise, but as and when application is filed for renewal, the same should be considered after notice to the petitioner and the 9th respondent.

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

msr/sms

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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5th Floor, DMS Office Building,
359 Anna Salai, DMS Campus,
Teynampet, Chennai-600 006.
- + 1 CC TO MR.V.P.RAJU, ADVOCATE SR 15873
- + 1 CC TO MR.A.THIAGARAJAN, ADVOCATE SR 15820
- + 1 CC TO MR.P.V.SELVAKUMAR, ADVOCATE SR 15821
- + 1 CC TO THE GOVT.PLEADER, SR 16313

KR/17/3/16

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