

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.12.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Writ Petition No.3717 of 2003
and
WPMP.4686 of 2003

Tenkasi Vattara Thirumanamandapa
Urimaiyalargal Sangam
Represented by its President Mr.T.G.S.Jayachandran
Tenkasi ..Petitioner

-Versus-

1. The Commissioner
Tenkasi Municipality
Tenkasi, Tirunelveli District.
2. The Commissioner
Shencottah Municipality
Shencottah, Tirunelveli District.
3. The Commissioner
Kadayanallur Municipality
Kadayanallur
Tenkasi Taluk, Tirunelveli District.
4. The Executive Officer
Town Panchayat
Illanji Village,
Tenkasi Taluk, Tirunelveli District.
5. The Executive Officer
Town Panchayat
Panpoli Village
Tenkasi Taluk, Tirunelveli District.
6. The Executive Officer
Keelapavoor Panchayat
Keelapavoor Alangulam Taluk
Tirunelveli District.
7. The Executive Officer
Kulasekarapatti Panchayat
Tenkasi Taluk
Tirunelveli District.

8. The Executive Officer
Town Panchayat
Achanpudur Village
Shencottah Taluk
Tirunelveli District.

9. The Executive Officer
Town Panchayat
Melagaram Village,
Tenkasi Taluk, Tirunelveli District.

10. The Executive Officer
Surandai Panchayat
V.K.Pudur Taluk
Tirunelveli District.

11. The Executive Officer
Navaneethakrishnapuram Panchayat
Alangulam Taluk,
Tirunelveli District.

12. The Executive Officer
Piranoor Panchayat
Shencottah Taluk
Tirunelveli District. ... Respondents

Petition filed under Section 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents herein from in any manner demanding licence or renewal and from levying or collecting licence fee or renewal fee for the Kalyana mandapams belonging to the members of the petitioner's Sangam and taking any civil or penal action for non payment of the licence fee or renewal fee.

For Petitioner: Mr.K.Rajkumar
For R1 to R3 : Mr.P.Srinivas
For R4 to R12 : Mr.V.Jayaprakash Narayanan
Spl. Govt. Pleader

ORDER

This writ petition has been filed seeking to forbear the respondents herein from in any manner demanding licence or renewal and from levying or collecting licence fee or renewal fee for the Kalyana mandapams belonging to the members of the petitioner's Sangam and taking any civil or penal action for non payment of the licence fee or renewal fee.

2. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondents 1 to 3 and the learned Special Government Pleader appearing for the respondents 4 to 12.

3. This writ petition has been filed by the association, representing the interests of the owners of marriage halls in Tenkasi town. Tenkasi Municipality demanded licence fee from the owners of marriage halls, challenging which the petitioner association is before this Court.

4. Learned counsel appearing for the respondents 1 to 3 submitted that this writ petition is not maintainable inasmuch as the individual owners, have not challenged the demand raised by the Municipality.

5. I am unable to agree with the submission of the learned counsel for the respondents 1 to 3, because, the association can maintain the writ petition, since on admitted facts, a common question of law requires to be decided. In this case, the Municipality had called upon the owners of Marriage Halls to obtain a licence under Section 249 r/w Schedule V and consequently pay licence fee. The question to be determined by this Court is whether, a licence is required to be obtained from the Municipality for running a Marriage Hall? Admittedly, the levy of licence fee is made under Section 249 r/w Schedule V Entry (j) of the Tamil Nadu District Municipalities Act, 1920.

6. The learned counsel appearing for the petitioner contended that Section 249 falls under the heading of "Industries and Factories" and Since the marriage hall is neither an industry nor a factory, no licence is required for it. To appreciate the rival contention, it is necessary to extract the relevant provisions verbatim:

"Industries and Factories"

249. Purposes for which places may not be used without licence.

(1) The council may publish a notification in the District Gazette and by beat of drum that no place within municipal limits or at a distance within three miles of such limits shall be used for any one or more of the purposes specified in Schedule V without the ³[licence of the executive authority] and except in accordance with the conditions specified therein:

⁴[Provided that no such notification shall take effect -

(a) until sixty days from the date of publication, and

(b) except with the previous sanction of the ¹[State Government] in any area outside the municipal limits]

(2) The owner or occupier of every such place shall, within thirty days of the publication of such notification, apply to the ²[executive authority] for a licence for the use of such

place for such purpose.

(3) The ²[executive authority] may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such licence.

SCHEDULE - V
PURPOSES FOR WHICH PREMISES MAY NOT BE USED
WITHOUT A LICENCE UNDER SECTION 249
[See Section 249]

¹[(a) Washing soiled clothes or keeping soiled clothes for the purpose of washing them or keeping washed clothes;]

(b)

(c)

(d)

(e)

²[(ee) ***]

(f)

(g)

(h)

(i)

(j) keeping a public halting-place, choultry or other rest-house for travellers (other than a choultry or rest-house maintained by the Government or a local authority), a hotel, restaurant, eating-house, coffee house, boarding house or lodging house (other than a students' hostel under public or recognised control);

7. Referring to Entry (j) in Schedule V, Mr. Rajkumar contended that the expression "marriage hall" does not find place therein and therefore, is no necessity to obtain licence. He placed strong reliance upon the there Judgment of the Supreme Court in Padma Sundara Rao (Dead) and Others -Vs- State of T.N. and Others [(2002) 3 SCC 533] and submitted that this Court cannot add any new category of business to Entry (j) in Schedule V.

8. This Court has no quarrel with the proposition of law laid down in the aforesaid judgment. The principle of "causus omissus" should be invoked only in rarest of rare cases when the plain meaning of a provision leads to absurdity and not in every case, as this Court cannot step into the shoes of the Legislature. As regards the first submission of Mr. Rajkumar that the heading given is "Industries and Factories" and therefore, marriage hall cannot fall within either of the two definitions, this Court is of the view that the title or heading or sub-heading is only a guide to the interpretation of a statutory provision and it cannot have the effect of cutting down the wide application of the clear words in the provision. (See M/s. Frick India Ltd., -VS- Union of India [AIR 1990 SC 689]). The idea behind Section 249 r/w Schedule V Entry (j) of the Tamil Nadu District Municipalities Act, 1920 is to

regulate commercial activities in a place. Though the marriage hall cannot be considered as an industry or factory, yet, it is a business activity. The owners levy rent and other charges before letting out the premises for the conduct of marriages. It is not a charitable activity. It is let out to the members of the public not only for conduct of marriages, but also for other activities like Hall Meetings, exhibitions etc., in off seasons. Whenever there is mass arrest under Section 151 Cr.P.C., the police would bring the arrestees to the nearest marriage hall before intimating to the jurisdictional Magistrate and later, the arrestees will be released. Since members of the public gather there, it is incumbent on the owners of such halls to provide certain minimum security measures like keeping fire extinguishers, providing toilets, and drinking water etc., All these requirements can be enforced by the Municipality only if the activities are brought within the fold of Schedule V and the owners of Marriage Halls are made to obtain licence from the Municipality. Bearing this in mind, if one reads the expression "keeping a public halting place", in Entry (j) of the Schedule V, there can be no cavil that this would include marriage halls. Marriage hall is a place where public halt. The expression "public halting place" is wide enough to bring within its net marriage halls. This requires no further expatiation.

9. This Court is not invoking the principle of causus omissus but it is merely interpreting the provisions based on its simple grammatical construction.

In view of the foregoing reasons, this writ petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

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सत्यमेव जयते

Sub Assistant Registrar

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To

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+1cc to Mr.V.Jayaprakash Narayanan, Advocate, S.R.No.74021

+1cc to Mr.P.Srinivas, Advocate, S.R.No.74131

W.P.No.3717 of 2003

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