

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYNARAYANAN

WP.No.6232/2107

R.Sathis

Proprietor

GOLDEN DAYSPA

.. Petitioner

Versus

1.The Superintendent of Police
Erode District, Erode.

2.The Inspector of Police
Erode North Police Station
Erode District.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents or their men and agents from interfering with the lawful conduct of business activities in the name and Style of Golden Spa at Door No.187, Indhu Nagar, Perundurai Road, Erode 638011.

For Petitioner : Mr.S.Kamadevan

For Respondents: Mr.S.N.Parthasarathy, GA

ORDER

By consent, the writ petition is taken up for final disposal. Mr.S.N.Parthasarathy, learned Government Advocate accepts notice on behalf of the respondents.

2 The petitioner is carrying on business in the trade line of "Spa" in a rental premises bearing Door No.187, Indhu Nagar, Perundurai Road, Erode-11, under the name and style of "Golden Day Spa" and it is also registered with the Central Board of Excise and Customs for the payment of service tax also. According to the petitioner, the business run by him practice of massage in Ayurvedic system as well as Kerala traditional medical

treatment system are being followed and the 2nd respondent police under the guise of inspection, is interfering with the lawful business activities of the petitioner and in this regard, the petitioner has also submitted a representation dated 03.01.2017 to the 1st respondent with a copy marked to the 2nd respondent and in spite of it, the business activities of the petitioner is being interfered with and therefore, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that the petitioner is carrying on the business activities in a lawful manner and no illegal or unlawful activities are taking place and in the event, the petitioner indulges in such an activity, it is always open to the respondents to abate the same by following due process of law and prays for appropriate orders and has also drawn the attention of this Court to the judgment reported in 2015 [1] MLJ 308 [Masti Health and Beauty Private Limited rep.by its Head of Operations [Chennai] Dr.Binoop Varier and others Vs. The Commissioner of Police, Chennai City, Chennai-8 and others].

4 Per contra, Mr.S.N.Parthasarathy, learned Government Advocate appearing for the respondents would submit that a Bench of this Court also put on notice to the Government to frame appropriate guidelines for conducting such a kind of business and if the petitioner indulges in any illegal or immoral activities, it is always open to the respondents to resort to proper course of law to abate the nuisance or offence.

5 This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

6 It is relevant to extract paragraph No.67 of the above cited judgment:

"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 it 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. No costs. Consequently, all connected pending MPs are closed."

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit one more representation to the respondents 1 and 2 within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 1 and 2 are directed to consider the said representation in accordance with law, after taking note of the above cited decision extracted above and pass orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner.

8 The writ petition stands disposed of with the above direction. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1.The Superintendent of Police
Erode District, Erode.

2.The Inspector of Police
Erode North Police Station
Erode District.

+ 1 cc to Mr.S.Kamadevan, Advocate Sr.No.16299

+ 1 cc to The Government Pleader Sr.No.16531

WP.No.6232/2017

KGK(CO)

RRI 27/03/2017



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