

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2017

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

WP.No.6573/2017 & WMP.No.7067/2017

P.A.Radhika

..Petitioner

Versus

1.The Commissioner of Police
Coimbatore City Police,
Coimbatore.

2.The Inspector of Police
E2 Peelamedu Police Station
Coimbatore District.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for 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 Diya Ayurvedic Muligai Spa at Aysria Residency Hotel No.5/1, Ramalakshmi Nagar, Goldwins, Coimbatore 641 014, Coimbatore District.

For Petitioner : Mr.B.Sundar

For Respondents : Mrs.K.Bhuvaneswari,
Government Advocate

ORDER

By consent, the writ petition is taken up for final disposal. Mrs.K.Bhuvaneswari, learned Government Advocate accepts notice on behalf of the respondents.

2 The petitioner in the affidavit filed in support of this writ petition would submit that she is carrying on business in the name and style of "Diya Ayurvedic Muligai Spa", at No.5/1, Aysria Residency Hotel, Ramalakshmi Nagar, Goldwins, Coimbatore 641 014, Coimbatore District, for the past six months and to run the business, she has also

entered into a lease/Rental Agreement dated 12.11.2016 with S.Sreedharan, S/o.G.R.Subramanian, who is also having a place of business in the same place. It is further averred by the petitioner that she is having the services of qualified and trained Therapists and by adopting Ayurvedic principle and Kerala Traditional treatment, they are giving Ayurvedic Treatment and Massage and the 2nd respondent, under the guise of inspection/enquiry is coming to the business premises and harassing the petitioner day-in and day-out and in this regard, the petitioner has also submitted a representation dated 05.12.2016 to the 1st respondent with a copy marked to the 2nd respondent and in spite of receipt and acknowledgment, so far no orders have been passed and hence, the petitioner came forward to file this writ petition.

3 The learned counsel for the petitioner has 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, Chenani-8 and others] and 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 prevent the same by following due process of law and prays for appropriate orders.

4 The Court heard the submissions of Mrs.K.Bhuvaneswari, learned Government Advocate appearing for the respondents who would submit that under the guise of carrying of business of Spa, may indulge in illegal and immoral activities and in that event, it is always open to the respondents to take preventive action in accordance with law.

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

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 by Registered Post Acknowledgment Due, along with a copy of this order 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 and dispose of the said representation on merits and in accordance with law within a period of six weeks and communicate the decision taken, to the petitioner and it is made clear that the business activities of the petitioner are being carried on in an illegal and unlawful manner, it

is always open to the respondents / Police to take action in accordance with law.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Commissioner of Police
Coimbatore City Police,
Coimbatore.
- 2.The Inspector of Police
E2 Peelamedu Police Station
Coimbatore District.

+1cc to M/s.B. Sundar, Advocate, S.R.No.16886
+1cc to the Government Pleader, S.R.No.17355

RSK(CO)
EU 5.4.17

WP.No.6573/2017

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