

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM

THE HON'BLE Mr. JUSTICE **M.M.SUNDRESH**

W.P.No.33017 of 2016

Sri Kannan Departmental Stores,
Now known as Jaisuryas Hotels,
New Bus Stand complex,
Erode Bus Stand, Erode.

.. Petitioner

Vs

The Commissioner,
Corporation of Erode,
Erode.

.. Respondent

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to provide electricity connection to the petitioner's house situated at No.153, 3rd Street, Bharath Rajiv Gandhi Nagar, Kolathur, Chennai-99.

For Petitioner

..

Mr.Srinath Sridevan

For Respondent

..

Mr.M.Rajamathivanan

ORDER

At the time of admission on 26.09.2016, this Court has passed the following order.

"It is evident from the communication dated 18.10.2004 issued by the first respondent that the permission was granted to the petitioner to demolish the dividing walls by paying Rs.4,35,000/- towards loss to the Municipality. The petitioner had also given a letter to the first respondent to adjust the said amount from the advance given by the petitioner to the tune of Rs.9,60,000/-. Thereafter only, the petitioner is running a hotel in the name of "Jayasurya Hotel"(previously known as "Sri Kannan Departmental Stores") by getting Certificate of Registration from the Commercial Tax Officer on 30.12.1996 and licence from Tamil Nadu Food Safety and Drug Administration Department (Food Safety Wing). The said licence is said to have been renewed as on date which is valid upto 09.09.2016. When this being the position, the respondent cannot pass the impugned order. Therefore, the impugned order is liable to be stayed and accordingly, there shall be an order of interim stay until further orders and the petitioner is permitted to open the restaurant. Post the matter in the first week of November, 2016."

2. The order impugned has been passed on a wrong premise that the petitioner is using hazardous materials by running a hotel. The learned counsel appearing for the petitioner has fairly brought to the notice of this Court that the Hotel business is being carried on by the petitioner in the first floor. Therefore, the impugned order is factually incorrect. It is nothing but verbatim orders passed against the nearby shops. In fact, the common order was passed by this Court holding that selling of beverages, tea and coffee cannot be termed as hazardous as indicated in the impugned order. Thereafter, the learned counsel for the petitioner brought to the notice of this Court that the petitioner is running a hotel business not beverages, tea and coffee as was the business of other shop owners. On that premise and taking note of the modification petition filed viz., WMP No.10447 of 2017 in W.P.No.33017 of 2016, the order passed by this Court dated 13.03.2017 in W.P.No.33017 of 2016 was withdrawn.

3. When the matter is taken up for hearing, the learned counsel appearing for the petitioner would submit that the requisite permission has been obtained by way of licence under Food Safety and Standards Act, 2006, from Tamil Nadu Food Safety and Drug

Administration Department (Food Safety Wing) and fire safety measure was also done for running a hotel in the first floor.

4. The learned counsel appearing for the respondent-Municipality would submit that there would be lot of problems in permitting the petitioner to run a hotel in the first floor. Therefore, the learned counsel for the respondent submits that the petitioner may run a hotel in the ground floor. The learned counsel for the petitioner would submit that the said suggestion is agreeable and in those circumstance, letter has already been given and the same is pending consideration.

5. In such view of the matter, without going into the merits of the case, a direction is issued to the Commissioner of Erode Municipality to look into the application dated 26.06.2017 and pass appropriate orders for running the hotel subject to the other compliance, if any, within a period of two weeks from the date of receipt of a copy of this order.

6. The writ petition stands disposed of accordingly.

27.06.2017

Index:Yes/No
raa

To

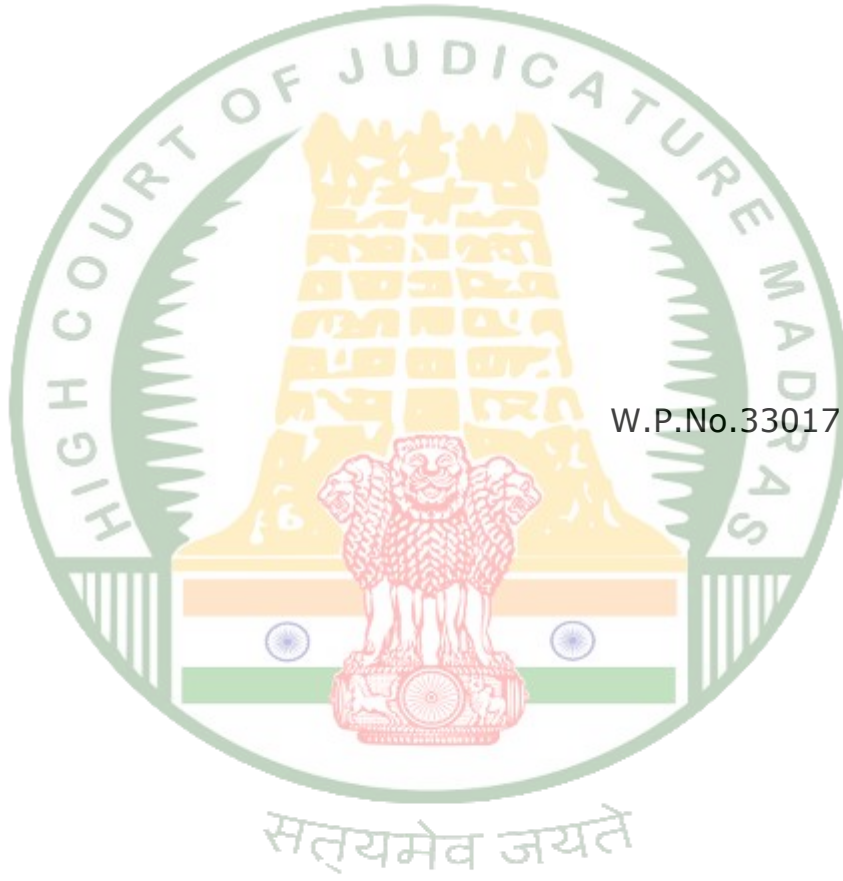
The Commissioner,
Corporation of Erode,
Erode.



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M.M.SUNDRESH, J.

raa



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