



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.12.2017

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CORAM:
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP. (MD) .No.17117 of 2017

Ganesh . . . Petitioner
Vs.

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police(Crime),
South Gate Police Station,
Madurai City. . . Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the second respondent to unseal and unlock the petitioner's business premises situated in Door No.560/4/452, at Kaveri Street, Mettur Main Road, Bavani, Erode District, except the property seized in Crime No.846 of 2017 registered on the file of the second respondent police within the period that may be stipulated by this Court.

For Petitioner : M/s.R.Gandhi

For Respondents : Mr.K.S.Durai Pandiyan,
Additional Public Prosecutor.

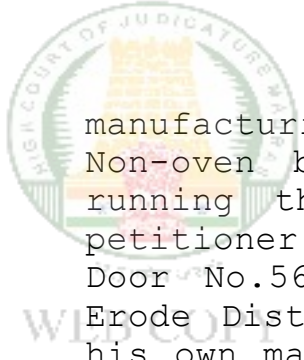
ORDER

This Criminal Original petition is filed for issuing a direction to the second respondent to unseal and unlock the petitioner's business premises situated in Door No.560/4/452, at Kaveri Street, Mettur Main Road, Bavani, Erode District, except the property seized in Crime No.846 of 2017 registered on the file of the second respondent police within the period that may be stipulated by this Court.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The petitioner states that he is the proprietor of a concern, by name, Shri Vigneshwara Textiles and he is



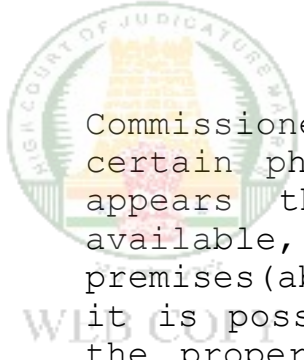
manufacturing Jute bags, Shopping bags, Handloom Cloth bags and Non-oven bags. It is further stated that the petitioner is running the business in the name and style of S.V.T. The petitioner further states that he is having manufacturing unit in Door No.560/4/452, at Kaveri Street, Mettur Main Road, Bavani, Erode District. It is stated that the petitioner is also having his own machines for cutting, stitching, printing and packing the jute bags and big shoppers.

4. The petitioner further states that he was in need of printing machines so as to print the names of the customers on the sides of the Jute bags. It is also stated that one Pandiyarajan, a mechanic from Sattur had informed the petitioner that there was a machine available for sale in Madurai. The petitioner also states that after paying substantial amount for the purchase of the machine, the machine was brought to the business premises of the petitioner. However, it is stated that even before the machine is put to use, the second respondent visited the petitioner's business premises and informed that he has to seize the machine as it is involved in Crime No.846 of 2017. It is learnt that a criminal case was registered in Crime No.846 of 2017 against one Duraipandi from whom the petitioner has purchased the machine. As per the complaint, the said Duraipandi is not the owner of the machine. It appears that the seller without the knowledge of the owner of the machine had sold the machine to the petitioner.

5. The learned counsel for the petitioner submitted that without notice to the petitioner, the second respondent under the guise of seizing the machine has closed the entire business premises of the petitioner. Since the petitioner's premises is kept under lock and seal, he further contended that the petitioner is unable to use the business place and thereby incurring heavy loss. Though the petitioner has no objection for seizing the case property, he has prepared to give an undertaking that he will not use the machine till the disposal of the case and orders passed by the competent civil or criminal Court.

6. The grievance of the petitioner is that he should be allowed to use his business premises as any hindrance will cause immense hardship and irreparable loss to the petitioner.

7. This Court is unable to visualize the nature of machine and the business premises of the petitioner so that this Court may protect the interest of the petitioner as well as the owner of the machine who lodged a criminal complaint against the seller of the machine to the petitioner. Hence, an Advocate Commissioner was appointed for the purpose of verifying the nature of business premises and the machine, so that a workable arrangement can be made to protect the property as well as the right of the petitioner in using the business premises. The Advocate



Commissioner has filed a report along with a typed set containing certain photographs of the building and printing machine. It appears that out of total extent of 1500 sq.ft., of area available, the entire machine occupies only a portion of the premises (about 220 sq.ft.). Since this Court is of the view that it is possible for the petitioner to use substantial portion of the property, he should be given permission in the interest of justice. The locking of the whole premises will be inequitable, having regard to the admitted facts and circumstances.

8. On the basis of the Advocate Commissioner's report, this Court is also convinced that the petitioner can be suitably directed to cover the area by a temporary partition so that the machine seized by the second respondent will be kept in tact separately in the same building and the petitioner can use the remaining portion for continuing his business.

9. Hence, this Court is inclined to issue the following direction:-

i) *The petitioner is directed to put a temporary partition covering the portion of the premises in which the printing machine is located. In this regard, the learned counsel for the petitioner undertakes that he will complete the work of secluding the machine by a temporary arrangement within a period of two weeks from the date of receipt of a copy of this order and after completing the temporary partition, the petitioner shall hand over the key for the separate room to the second respondent forthwith.*

ii) *The Advocate Commissioner shall inspect the property once again on the day when the petitioner completes the temporary partition arrangement and ensure that the second respondent can remove the machine as and when it is required by orders of Court.*

iii) *It is stated that the key for the premises has been handed over to the concerned Judicial Magistrate. Hence, the second respondent is directed to get the key from the Judicial Magistrate concerned on the basis of this order. The second respondent shall hand over the key to the petitioner forthwith. Again after completing the work, the petitioner shall hand over the key for the secluded portion in which the machine is kept, to the second respondent.*

iv) *The lower Court is directed to hand over the key through the second respondent to the petitioner.*

10. The learned counsel for the petitioner fairly conceded that he will pay an additional remuneration of a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Advocate Commissioner. The Advocate Commissioner has also fairly agreed to receive the same as his remuneration.



11. With the above directions, the Criminal Original petition is disposed of.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar

To

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police(Crime),
South Gate Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

COPY TO:

Mr.V.Balasubramanian,
No.61, Law Chamber,
Madurai Bench of Madras High Court, Madurai-23.

+1cc to Mr.R.GANDHI, Advocate, SR. 94552

Crl.O.P. (MD) .No.17117 of 2017
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