



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD) No.547 of 2017
and
C.M.P.(MD)Nos.4578 & 5745 of 2017

1.The Commissioner of Police,
Alagarkovil Road, Pudur,
Madurai- 625 007.

2.The Inspector of Police(Law & Order),
B-1, Vilakkuthoon Police Station,
Madurai-625 001.

.. Appellants

Vs.

E.Navaneethakrishnan

.. Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, as against the order dated 21.03.2017 made in W.P.(MD)No.11410 of 2016 on the file of this Court.

PRAYER IN WP(MD)No.11410/2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to permit the petitioner to carry on his Rajeswari Hotel Business situated at 61,62 Yanikkal, Madurai Town During late night hours.

For Appellants : V.R.Shanmuganathan
Special Government Pleader

For Respondent : Mr.P.T.S.Narendra Vasan

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

Writ Petition, W.P(MD)No.11410 of 2016 was filed seeking a direction to the respondent therein, to permit the Writ Petitioner to carry on his business during late night hours. The learned Single Judge by taking into account, the undertaking given by the respondent/Writ Petitioner accordingly, allowed the writ petition. Challenging the same the present appeal is filed.



2.The learned Government Pleader appearing for the appellants would submit that the running of the hotel by the respondent causes law and order problem. It is not as if entire business is stopped, but it is only regulated between 12.00 midnight to 4.00 a.m. It is also submitted that as per section 69 of the Madras City Police Act, 1888, the Commissioner of Police, Madurai City, can regulate it by way of rules.

3.The learned counsel appearing for the respondent/writ petitioner would submit that in the absence of any rule, by such exercise of power under Section 39 of the Madras City Police Act, 1888, it is not open to the appellants to stop the respondent from doing his lawful business.

4.As long as power is available to the Commissioner of Police, Madurai City, the same can be exercised as per law. However, in the absence of any rule, which can be brought forth by exercising power under Section 39 of the Madras City Police Act, 1888, running of business cannot be curtailed.

5.Accordingly, the writ appeal stands disposed of by giving liberty to the appellant to frame any rules, by exercising the power under Section 39 of the Madras City Police Act, 1988. It is made clear that till such rule is brought forth, the activity of the respondent/writ petitioner, as recorded by the learned single Judge, cannot be curtailed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Police,
Alagarkovil Road, Pudur,
Madurai- 625 007.

2.The Inspector of Police(Law & Order),
B-1, Vilakkuthoon Police Station,
Madurai-625 001.

+1cc to Mr.P.T.S.NARENDRAVASAN,Advocate,SR.76343

+1cc to M/S.Special Government Pleader,SR. 76253

W.A. (MD) No.547 of 2017
01.09.2017

TA/GK

KK/SV MMS/SAR 3/18.09.2017/ 2P- 5C