

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WP.No.10690/2018 & WMP.Nos.12632 to 12635/2018

Krisp Laboratories Pvt Ltd
rep.by its Director, 12A, Arcot Road
Porur, Chennai 600 116.

.. Petitioner

Versus

1. The Commissioner
Corporation of Greater Chennai
Ripon Building, Chennai 600003.
2. The Executive Engineer
Zone-11, Corporation of Greater Chennai
Valasarawakkan, Chennai 600 116.
3. The Zonal Officer
Zone-11, Corporation of Greater Chennai
Valasarawakkan, Chennai 600 116.
4. The Trustee
Sundrapandian Family Trust
No.52, Aspiran Garden First Street
Kilpauk, Chennai 600 010.
5. M/s.Senthil Estates
rep.by Mr.C.Sundarapandian
SLV Industrial Incorporate Exporting Company
Karur 639 001.

.. Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 2nd respondent comprised in its Locking and Sealing Notice No.68/2018 dated 08.03.2018 and the records of the 2nd respondent comprised in the consequent De-Occupation Notice No.EE/Zone XI/68/2018 dated 06.04.2018 and quash the same as being arbitrary, illegal and violative of the provisions of the Tamil Nadu Town and Country Planning Act, 1971, and also being violative of the principles of natural

justice and consequently, forbearing the respondents, their officers, subordinates, employees, agents or any other person[s] claiming and/or acting under them from in any manner interfering with the possession and enjoyment of the petitioner of the premises, viz., industrial shed No.3, at plot No.12-A, Dhiravium Nagar, 2nd Street, Porur, Chennai-00116 otherwise than in accordance with law.

For Petitioner : Mr.R.Parthasarathy
For R1 to R3 : Mr.A.Nagarajan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.A.Nagarajan, learned Standing Counsel accepts notice on behalf of the respondents 1 to 3.

2. The deponent of the affidavit is the Authorised Signatory of the petitioner Limited Company and according to him, they are the tenant under the 4th respondent through a written Lease Agreement 30.05.1984 in respect of the property at Industrial Shed No.3, Door No.12-A, Arcot Road, Porur, Chennai-116, admeasuring to an extent of 1800 sq.ft., for a non-residential purpose. The rent amount is being collected by the 5th respondent. The petitioner apprehending dispossession at the hands of the respondents 4 and 5, had filed OS.No.521/2014 on the file of the Court of District Munsif, Poonamallee, for permanent injunction, restraining the defendants from interfering with their peaceful possession and enjoyment without due process of law and pending disposal of the same, had the benefit of the order of ad-interim injunction in IA.No.1477/2014 and thereafter, the suit itself came to be decreed as ex-parte on 17.03.2015 by the Court of Principal District Munsif, Poonamallee, and the respondents 4 and 5 did not file any application to set aside the exparte decree nor filed any appeal and therefore, the said judgment has become final. However, to the shock and surprise of the petitioner, the premises under their occupation, have been put under lock and seal on the pretext that the superstructure is an unauthorised one. According to the petitioner, they have not been put on notice at all and all of a sudden, lock and seal has been put up on the premises and therefore, their business activity came to a standstill. The petitioner, on enquiry, came to know that the 4th respondent is said to have put up an unauthorised construction without any planning permission and therefore, they made a request to the officials concerned to remove the lock and seal temporarily, so as to enable them to take certain portion of the goods and it has been accepted and after removal of

goods, once again lock and seal has been put up.

3. Mr.R.Parthasarathy, learned counsel for the petitioner has drawn the attention of this Court to section 56 of the Tamil Nadu Town and Country Planning Act, 1971, and would submit that before issuing lock and seal notice, in all fairness, the concerned jurisdictional Corporation officials ought to have put the petitioner on notice and without doing so, they have put up the lock and seal immediately and would further add that it may be the ways adopted by the 4th respondent/landlord to get into the possession of the premises in question for the reason that the writ petitioner, is having the benefit of the exparte decree in OS.No.521/2014 passed by the Principal District Munsif, Poonamallee, in his favour and prays for appropriate direction to de-seal the premises, so as to enable the petitioner to carry on his business activities.

4. Per contra, Mr.A.Nagarajan, learned Standing counsel appearing for the respondents 1 to 3 would submit that since the tenants had refused to receive notices, notices were affixed and after following due process of law, the lock and seal has been put up and since the petitioner is having an effective alternate remedy u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, the writ petition is not maintainable and prays for dismissal of the writ petition.

5. The Court heard the rival submissions and also perused the materials placed on record.

6. The fact remains that the petitioner is having the benefit of exparte decree dated 17.03.2015 made in OS.No.521/2014 by the Court of Principal District Munsif, Poonamallee, against the respondents 4 and 5. A perusal of the notice issued by the 2nd respondent would also indicate that those notices have been addressed to the building owner and not to the tenants/occupants. Though the learned standing counsel appearing for the Corporation of Chennai would submit that the notices were attempted to serve on the occupants, they refused to receive the same and therefore, affixture was sought to be taken. In the considered opinion of the Court, there is no materials placed to substantiate the said contention.

7. Be that as it may, in the light of the above facts and circumstances, this Court grants liberty to the petitioner to submit a detailed representation to the 2nd respondent for the removal of lock and seal in respect of the premises under his occupation within a period of one week from the date of receipt of a copy of this order and the 2nd respondent, upon receipt of the same, shall entertain it and after affording an opportunity of personal hearing to the petitioner, shall pass appropriate

orders in accordance with law within a further period of one week thereafter and communicate the decision taken, to the petitioner.

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

Sd/-
Asst.Registrar(Cs III)

/true copy/

Sub Asst. Registrar

AP

To

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+lcc to Mr.P.Parthasarathy, Advocate in sr.no.31366

WP.No.10690/2018

CS/03/05/18

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