

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.17528 of 2018

and

W.M.P.No.20797 of 2018

M/s.Willows Spa & Co.,
Rep.by its Partner,
Hemajwaalini,
No.16/23, Vasantha Avenue,
MRC Nagar Main Road,
Raja Annamalai Puram,
Chennai - 600 028. Petitioner

Vs

- 1.The Commissioner of Police,
The Greater Chennai Police,
Vepery, Chennai.
- 2.The Inspector of Police,
J-8, Neelangarai Police Station,
Neelangarai,
Chennai - 600 115. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue 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 "Willows Spa & Co" situated at No.38-B, First Avenue, Vettuvankeni, East Coast Road, Chennai - 600 115.

For Petitioner : Mr.G.Arul Murugan

For Respondents: Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

The prayer made in this writ petition is to forbear the respondents from interfering with the peaceful conduct of the Spa business by the petitioner.

2. According to the petitioner, they are conducting spa business under the name and style of "Willows Spa & Co" in accordance with law. While so, the Police officials are frequently visiting their business place under the guise of inspection and interfering with their business activities, thereby, causing hardship to their customers. Hence, the petitioner made a representation dated 04.07.2018 to the first respondent, a copy of which was sent to the second respondent and the said representation is pending, without any consideration. Therefore, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that this Court, in similar circumstances, following the ratio laid down by this Court in Masti Health and Beauty Private limited & Others V. The Commissioner of Police, Chennai City [2015(1) MLJ 308], by order dated 14.03.2016, disposed of the writ petition in W.P.No.9380 of 2016, directing the respondents therein to comply with the directions/conditions imposed in paragraph 67 of the order in Masti Health and Beauty Private limited (supra) and also directing the petitioner not to indulge in any unlawful or illegal activities detrimental to law and order or public order, under the guise of carrying on business activity. For better appreciation, para 67 of the said order is reproduced hereunder:

"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 is 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) 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 31.3.2015, before this Court, about the decision taken. No costs. Consequently, all connected pending MPs are closed."

Therefore, the learned counsel sought a similar order in this writ petition as well.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioner is running spa business, without any licence/registration certificate and skilled therapist. He further submitted that based on the complaint received, a case in Cr.No.1518 of 2018 has been registered against the petitioner for the offences punishable under Sections 3(2)A, 4(1), 5(1)A of the Immoral Traffic (Prevention) Act and the same is under investigation. However, he submitted that the respondent police have conducted enquiry, only on the basis of the complaint received and they have no intention to interfere with the business of the petitioner.

5. Heard both sides and perused the records.

6. In this writ petition, the petitioner has sought appropriate direction to the respondents, alleging that the respondent - police are frequently interfering with the spa/massage business of the petitioner, under the guise of enquiry, whereas, the stand taken by the respondent police is that they are just carrying out their statutory obligation to ensure that no premises is used for any unlawful activity and their intention is not to close down these business entities, but, only to ensure that the petitioner does not carry on any activity, which is prohibited by law, within its four walls.

7. On a perusal of the documents produced before this Court, it could be seen that the petitioner has not obtained any licence/registration certificate from the statutory authorities for running their business, but, has merely addressed a representation to the respondents, requesting that their business activities should not be interfered with, except by due process of law. In such circumstances, having regard to the fact that the criminal case is pending against the petitioner and also considering the submissions made on the side of the respondents that the practice of massage therapy and the running of massage business may, in all probability, be associated with unlawful activities and pose a serious threat to decent living in the local community, this Court is not inclined to grant any relief to the petitioner.

8. As a sequitur, this writ petition stands dismissed. However, the petitioner is at liberty to approach the respondent

authorities for appropriate relief. No costs. Consequently,
connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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To

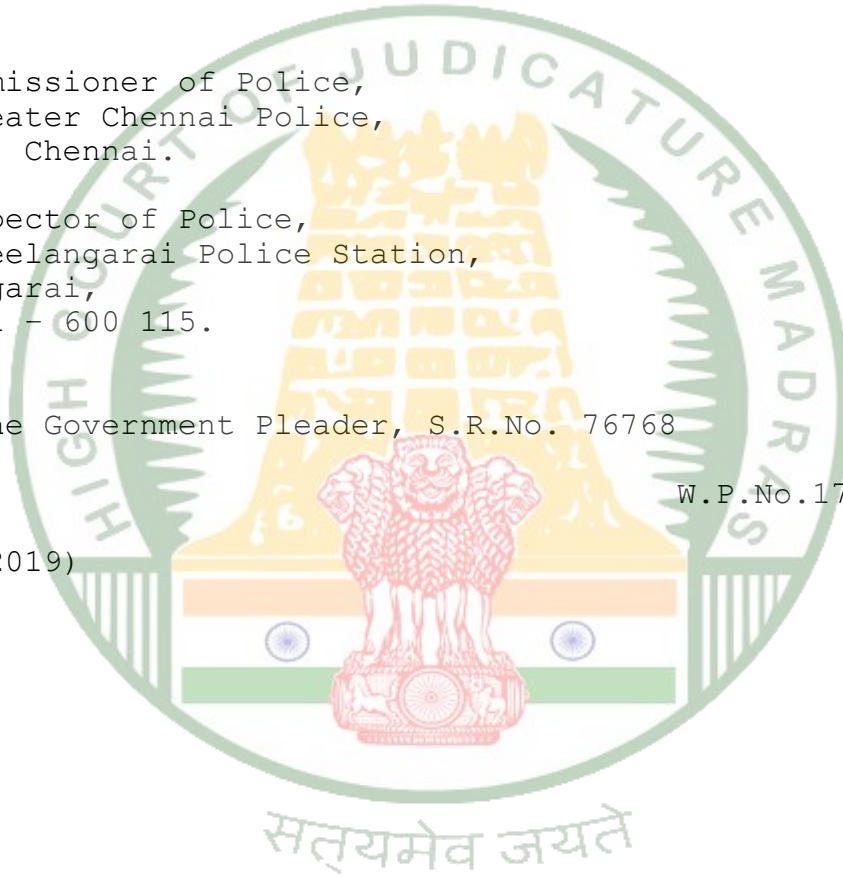
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+1cc to the Government Pleader, S.R.No. 76768

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AD(CO)
GN(04/02/2019)



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