

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-06-2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15424 of 2018
and
W.M.P.No.18306 of 2018

D.Manikandan

...Petitioner

Vs.

1.The Superintendent of Police,
Taluk Office Road,
Erode,
Erode District.

2.The Inspector of Police
Erode Taluk Police Station,
Rangampalayam.
Erode District.

... Respondents

Petition filed under Article 226 of the Constitution of India, 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 "GREEN LEAF SPA AND AYURVEDIC TREATMENT CENTRE" Door No.106, Iraniyan Veethi, Cholar, Erode-2, Erode District.

For Petitioner : Mr.S.Leonard Vasanth

For Respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader.

O R D E R

The relief sought for in this writ petition is to forbear the respondents or their men, agents from interfering with the peaceful conduct of business i.e., cross massage in the name and style of "GREEN LEAF SPA AND AYURVEDIC TREATMENT CENTRE" Door No.106, Iraniyan Veethi, Cholar, Erode-2, Erode District.

2. The writ petitioner states that he is carrying on business i.e., cross massage in the name and style of "GREEN LEAF SPA AND AYURVEDIC TREATMENT CENTRE" in Door No.106, Iraniyan Veethi, Cholar, Erode-2, Erode District. The petitioner

claims that they are providing Ayurvedic treatment to cure many illness including nerves dis-order and other related deceases. The grievances of the writ petitioner is that even in the absence of any specific information, the respondent police are frequently disturbing the business run by the writ petitioner. Thus, the writ petitioner is constrained to move this present writ petition.

3. This Court, in similar circumstances, following the ratio laid down by this court in the judgment reported in 2015 (1) MLJ 308 (Masti Health and Beauty Private Limited & Others V.The Commissioner of Police, Chennai City), disposed of the Writ Petition in W.P.No.9380 of 2016, by order dated 14.03.2016, by directing the respondents-police to comply with the judgment reported in 2015(1) MLJ 308 (cited supra) and further made it clear that the petitioner therein under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order.

4. Since the issue involved in the present writ petition is identical to the issue involved in W.P.No.9380 of 2016, it is relevant to extract para 67 of the judgment reported in 2015(1) MLJ 308 (cited supra), which reads as follows:

"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) Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, 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 31.03.2015, before this Court, about the decision taken. No costs. Consequently, all connected pending MPs are closed."

5. In addition to the above said directions, this Court is of an opinion that the respondents are empowered to follow the provisions of the Code of Civil Procedures, 1973. Search and inspection of business places and other places are provided and the law enforcing authorities on receipt of certain reliable information are empowered to conduct searches in accordance with procedures as contemplated under the Code of Criminal Procedures. However, it is made clear that the procedures are to be followed scrupulously by the law enforcing authorities and the writ petitioner cannot be exempted from the provisions of Law.

6. Thus, it is the duty mandatory on the part of the respondents-police to ensure that no irregularities or other illegal businesses are conducted by any person under the guise of carrying on business activities. Under these circumstances, the respondents-police are empowered to conduct searches, inspections and seize the materials both in accordance with provisions of the Immoral Traffic (Prevention) Act and the Code of Criminal Procedures.

6. In the light of the said order, this writ petition is disposed of by directing the respondents to comply with the direction imposed in para 67 of the judgment reported in 2015 (1) MLJ 308 as extracted and also the additional directions issued in this regard. It is made clear that the petitioner under the guise of carrying on business activities shall not be indulged in any unlawful or illegal activities detrimental to law and order or public order. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Superintendent of Police,
Taluk Office Road,
Erode,
Erode District.

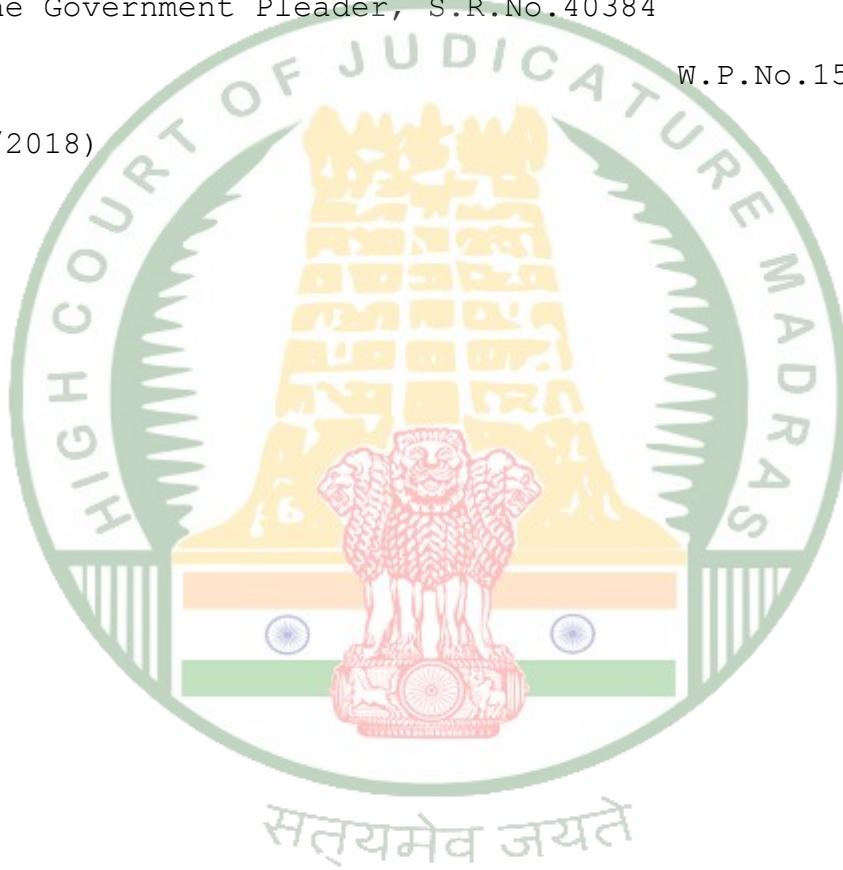
2.The Inspector of Police
Erode Taluk Police Station,
Rangampalayam.
Erode District.

+1cc to Mr.S.Leonard Vasanth, Advocate, S.R.No.39984

+1cc to the Government Pleader, S.R.No.40384

W.P.No.15424 of 2018

GSP(10/07/2018)



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