



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A. (MD) No.1245 of 2017

and

C.M.P (MD) No.8690 of 2017

and

C.M.P (MD) No.323 of 2018

in

WP (MD) No.14491 of 2015

S.Rajasekaran

.. Appellant/Petitioner

Vs.

1.The Commissioner,
Aruppukottai Municipality,
Aruppukottai,
Virudhunagar District.

2.K.Rajasekar,

3.Umayal Parvathi

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 22.08.2017 passed in W.P(MD)No.14491 of 2015.

Prayer in WP(MD). 14491/ 2015 :-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS directing the 1st respondent to remove the power looms installed in Old D.No.40a, New D.No.140, Karuppanasamy Kovil Road, Velayuthapuram, Aruppukottai, Virudhunagar District, within a stipulated time to be stipulated by this Honble Court.

For Appellant

: Mr.A.Sivaji

For R-1

: Mr.N.Dilipkumar

For R-2 & R-3

: Mr.R.Balakrishnan

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]
<https://hcservices.ecourts.gov.in/hcservices/>
By consent, the main Writ Appeal itself, is taken up for final disposal.



2. Mr.N.Dilipkumar, learned standing counsel appears for the first respondent and Mr.R.Balakrishnan, learned counsel appears for respondents 2 and 3.

3. The appellant herein alleging unauthorized operation of a Power Loom Unit without getting consent from the Tamil Nadu Pollution Control Board and also alleging noise pollution, has filed W.P(MD)No.14491 of 2015 and the person, who is said to have operated the Powerloom Unit without any authorisation, namely, Umaiyal Parvathi, has also filed W.P(MD)No.8162 of 2017, praying for issuance of a Writ of Mandamus, directing the Aruppukottai Municipality, to issue licence to her to run the Power Loom Unit in the name and style of 'Umayal Parvathi Power Looms', as per the SSI Certificate issued by the Additional Director of Industries and Commerce, dated 17.03.2015 and as per her application dated 25.09.2015, submitted to the said local body.

4. Both the above Writ Petitions were taken up for final disposal on 22.08.2017 and the learned Single Judge, has taken note of the fact that the application submitted by the petitioner in W.P(MD)No.8162 of 2017, has been rejected by the local body and therefore, the Writ Petitioner, namely, Umayal Parvathi, made a challenge to the same in W.P(MD)No.15782 of 2017, has closed both the Writ Petitions, vide impugned common order dated 22.08.2017 and challenging the legality of the same, the petitioner in W.P(MD)No.14491 of 2015, came forward to file this Writ Appeal.

5. Mr.A.Sivaji, learned counsel appearing for the appellant would submit that mere issuance of SSI Certificate, would not enable the third respondent to run the Power Loom Unit and that apart, it is also causing noise pollution and since the learned Judge has not considered the infraction of the relevant statutory provisions on the part of the third respondent, the present Writ Appeal is filed.

6. Per contra, Mr.N.Dilipkumar, learned standing counsel appearing for the first respondent/local body, would submit that the first respondent, in turn, approached the Tamil Nadu Pollution Control Board and got the parameter for running the Power Loom Unit and since, clear-cut guidelines have been given, he has returned the application submitted by the third respondent and misconstruing the same as a rejection order, the third respondent has filed W.P(MD)No.15782 of 2017 and the same is still pending.

7. Mr.R.Balakrishnan, learned counsel appearing for the respondents 2 and 3, would submit that after the rejection order, the third respondent stopped the operation of the Power Loom Unit in the premises in question, but, shifted some of machineries to some other place and doing her business and would further add that the appellant herein is also arrayed as respondent in W.P(MD)No.15782 of 2017 and it is for him to work out his remedy in the said Writ



8. This Court has heard the rival submissions and perused the materials placed before it.

9. In the light of the fact that the order of rejection/return made by the first respondent/municipality, is put to challenge in W.P(MD)No.15782 of 2017, in which, the appellant herein is also arrayed as a party respondent and taking into consideration of the fact that the third respondent/petitioner in W.P(MD)No.15782 of 2017, had halted the operation of the Power Loom Unit in the premises in question bearing Old Door No.40A and New Door No.140 at Karuppannasamy Kovail Road, Velaayuthapuram, Aruppukkottai, Virudhunagar District, this Court is of the considered opinion that nothing survives for further adjudication in this Writ Appeal.

10. In the result, this Writ Petition is closed and the appellant and the third respondent are at liberty to work out their remedy in the pending Writ Petition in W.P(MD)No.15782 of 2017. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.A.Sivaji, Advocate, SR.No.50484

+One cc to Mr.R.Balakrishnan, Advocate, SR.No.50455

+One cc to Mr.N.Dilipkumar, Advocate, SR.No.50833

pm

RL/4C/3P/KK/SAR4/8/3/2018

W.A. (MD)No.1245 of 2017

22.02.2018