

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 04.11.2019

Orders Pronounced on : 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.No.6080 of 2018
and
W.M.P.No.7497 of 2018

Perumal

.. Petitioner

Vs.

1. The Hon'ble Principal District Judge,
Villupuram,
Villupuram District.

2. The District Munsif-cum-Magistrate
Vedaiya Vaniga Valagam,
Pondy-Tindivanam Road,
Thiruchitrambalam Post,
Vanur Taluk, Villupuram District.

3. The Registrar (Management),
Madras High Court,
Chennai-600 104.

4. Ayyappan

5. K.Janakiraman

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records culminating in the impugned order, dated 08.02.2018 in D.No.247/2018, passed by the second respondent, based on the order of the Principal District Judge at Villupuram, pertaining to the vacating of the Tea shop premises by order in D.No.696/2018, dated 06.02.2018 issued based on the High Court order, dated 01.02.2018 in R.O.C.No.53719/2017/D-4, both the above orders were not furnished to the petitioner and therefore it is prayed that the impugned order may be quashed.

For petitioner : Mr.G.Moorthy
For respondents : Mr.S.Haja Mohideen Gisthi for RR-1 to 3
No appearance for R-4
Mr.N.Anbazhagan for R-5

ORDER

R.SUBBIAH, J

The present Writ Petition is filed for issuance of a Writ of Certiorari to call for the records culminating in the impugned order, dated 08.02.2018 in D.No.247/2018, passed by the second respondent, based on the order of the Principal District Judge at Villupuram, pertaining to the vacating of the Tea shop premises by order in D.No.696/2018, dated 06.02.2018 issued based on the High Court order, dated 01.02.2018 in R.O.C.No.53719/2017/D-4, in the interest of justice and equity.

2. The petitioner herein is running a Tea shop in the name of 'Balaji Tiffin Cente', selling snacks, bakery and prepared food items shop in the building Vedaiya Vaniga Valagam, adjacent to the Vanur District Munsif-cum-Magistrate Court at Thiruchitrambalam Koot Road in the Pondi-Tindivanam Main Road. The said building is owned by the fourth respondent and the petitioner's Tea Shop is running in that place since 1993, much prior to the inception of the District Munsif-cum-Judicial Magistrate Court in that area. The petitioner had also been registered with the FSSAI of Tamil Nadu from the year 2013-2016 and the properly renewing the same from time to time before the expiry of the Registration Certificate bearing Registration No.2241673000636 for the period from 30.12.2016 to 29.12.2018 issued by the Food Safety Office, Vanur Block, Villupuram District. The licence is issued by the Food Safety Office, Tamil Nadu, only after proper inspection and after satisfying the conditions relating to amenities, location, hygiene and various other factors as stipulated and prescribed under the Food Safety and Standards Act and the Rules made thereunder.

3. It is further stated by the petitioner that the fifth respondent had started to harass the petitioner's daughter in his absence and also the rest of the family members and causing unwanted troubles to the livelihood and existence of their family. On 15.11.2017, the fifth respondent thrashed the petitioner's tea master K.Malaiyan in the Vanur Advocate Bar Association room and the tea master laid a complaint with the Auroville Police, which was not registered and no action was taken by the Police authorities. According to the petitioner, the fifth respondent is frequently giving troubles to the petitioner from running the tea shop. The petitioner came to know that there are many First Information Reports (F.I.Rs.)

pending against the fifth respondent in various Police Stations.

4. The petitioner also learnt that the fifth respondent had complained to the High Court stating that the tea stall is causing hindrance to the general public and other people and based on the said complaint sent to the High Court, the impugned order dated 08.02.2018 was passed by the District Munsif-cum-Judicial Magistrate, Vaanur, intimating the petitioner that the High Court had directed the petitioner to vacate the tea shop from the premises in question and accordingly, the learned District Munsif-cum-Judicial Magistrate, Vaanur directed the petitioner to vacate the tea shop within 15 days, by referring to the High Court's proceedings in R.O.C.No.53719/2017/D4, dated 01.02.2018.

5. In the above context, the learned counsel for the petitioner submitted that the petitioner is not a permissive occupant and the tea stall is not functioning inside the Court premises. The petitioner got licence/registration for running the shop. Further, an agreement was entered into with the owner.

6. While so, based on the fifth respondent's complaint, without any notice to the petitioner, discreet enquiry was conducted, and thereafter, the impugned order had been passed by the second respondent. Before passing the impugned order, the petitioner was not called for to give his explanation. The petitioner's shop was there even before commencement of the Court in the place in question. Thus, the learned counsel for the petitioner sought for quashing the impugned order.

7. By filing counter affidavits, dated 21.02.2019 and 11.04.2018 of the first respondent and also the counter affidavit, dated 10.04.2018 of the second respondent, the learned counsel appearing for the respondents 1 to 3 submitted that the allegations made by the petitioner as against the fifth respondent, are not proved. In fact, pursuant to the reference in R.O.C.No.53719/2017/D4/19.07.2017 of the Registrar (Management) of this Court, the first respondent surprisingly inspected the present strategy of the functioning of the canteen adjacent to the District Munsif-cum-Judicial Magistrate's Court, Vanur and the tea shop is running in the rented building by the petitioner and the said inspection was carried out on 11.09.2017 at 10 a.m. along with the second respondent, staff members of Vanur Court and litigant public were also present along with the Health Inspector, Primary Health Centre, Kiliyanur, Food Inspector, Vanur Block, Inspector of Police, Auroville Police Station, Mr.Kumaran, Assistant of the Block Development Office, Vanur and one Mr.Kumaresan, Private Puncture Tyre shop owner and after having studied the over-all prevailing situations and after having obtained separate report from the respective

officials pertaining to the Food Safety and Standards Act, the first respondent submitted a report in D.No.4768/2017, dated 13.09.2017 to the Registrar General of this Court. It is further stated in the counter of the first respondent that the second respondent was instructed to issue a notice to the petitioner for vacating the running of the tea shop only on the main reason that as the petitioner's tea shop is very contiguous and is always susceptible to get ignition to the records of the Vanur District Munsif-cum-Judicial Magistrate's Court and also to avert the disturbance to the peaceful atmosphere of the Court proceedings, as it would cause inconvenience and not to bear upon them and besides that, the Advocates of Bar Association, Vanur and also the other general public are reporting about the running of the petitioner's tea shop with the unwholesome preparation of food and selling them to the people fully hazard to the hygienic and which may cause to crop up communicable as well as other diseases and it was not a notice that was caused to be issued for the other reasons and the only reason is to avoid the unnecessary interruptions by the consumers of the eatables from the petitioner's tea shop as well as to make it a peaceful functioning of Court proceedings and not on any other reasons opposing the lessee/writ petitioner and also with a bona-fide intention that the petitioner would subscribe and co-operate on two aspects, one for the functioning of the Court proceedings and another not to face the prosecutory proceedings against him from the authority of the said Act on hygienic point of view and furthermore, his approach to this Court is that his personal interest on the unhygienic running of his business would not be disturbed and to be continued it as usual.

8. It is also stated in the counter of the first respondent that there is every possibility for vacating the petitioner's tea shop to the nearby Court rented building by securing a suitable rented building and to carry on his tea shop with the co-based business with no hindrance and it would not affect his source of income to run his family. The notice issued by the second respondent is only with a good intention that his tea shop must not be an ever-disturbance to carry on the Court proceedings not as the owner of the fourth respondent herein.

9. Relying on the counter affidavit dated 21.02.2019 of the first respondent, it is also stated by the learned counsel appearing for the respondents 1 to 3 that during the inspection held on 11.09.2017, the canteen of the petitioner is noted with some unhygienic conditions. The first respondent had sent the Food Safety Officer, Block Development Officer, Health Inspector and the Inspector of Police, Auroville Police Station and recorded their statements, from which, the first respondent came to know that on 25.07.2017, the Food Inspector had visited the canteen and issued a notice for improvement of the canteen and to rectify the defects within 14 days.

10. It is further stated by the learned counsel appearing for the respondents 1 to 3 that on request by the first respondent, the Designated Officer of the Food Safety Department, Villupuram submitted a report about the present status of the canteen and that the canteen is closed and is not functioning for a long time.

11. Heard both sides and perused the materials available on record.

12. Be that as it may. On a perusal of the impugned order, we find that the impugned order is passed mainly on the basis of the direction issued by this Court, and the issue of continuance or otherwise of the canteen/tea shop of the petitioner is based on the proceedings initiated under the provisions of the Food Safety and Standards Act.

13. That apart, from the action taken by the Food Safety Officer, Villupuram District, it could be seen that there is no hygienic condition in the canteen/tea shop. Further, from the records, it appears that the canteen/tea shop is disturbance to the Court proceedings. As the petitioner had been informed of various actions taken before the impugned order is passed, the question of providing an opportunity of personal hearing to the petitioner, does not arise. The impugned order is passed based on the good reasons for vacating the canteen/tea shop, based on the proceedings of this Court, dated 01.02.2018 in R.O.C.No.53719/2017/D4.

14. Therefore, for the above reasons, it is clear that this is not a fit case for quashing the impugned order. The Writ Petition lacks merit and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, W.M.P.No.7497 of 2018 is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Hon'ble Principal District Judge,
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Villupuram District.

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Madras High Court,
Chennai-600 104.

+1cc to Mr.S.Haja Mohideen, Advocate, S.R.No. 99843

W.P.No.6080 of 2018

VBA(CO)
GN(31/12/2019)