

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.3244 of 2019
and
C.M.P.No.20505 of 2019

C.Kathiresan

... Appellant/Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Commissioner and Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.

2.The Director of Medical and Rural Health,
Chennai - 600 006. ...Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters patent against the order dated 30.07.2018 passed in W.P.No.30805 of 2007 on the file of this Court.

W.P.No.30805/2007:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second Respondent ini Na.Ka.No. 21443/Teva 1/ 3/2007 dated 3.9.2007 and quash the same direct the second Respondent herein to permit the petitioner herein to sell aavin products in his nassey bunk shell run at Government General Hospital at Nagapattinam pursuant to recommendation made by joint Director Medical and Rural Health Services Nagapattinam as per letter dated 9.3.2007 sent to the second Respondent herein.

For Appellant : Mr.K.M.Venugopal

For Respondents: Mr.J.Pothiraj, Special
Government Pleader.

J U D G M E N T

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the allottee to run NAESEY bunk stall at Government Hospital, Nagapattinam pursuant to the permission granted by the respondent herein on 09.03.2007 to run the said shop for the period from 2006-2007.

2.The appellant has been running the business and thereafter, by virtue of the order dated 03.09.2007, the appellant was directed to vacate the premises as the land was required for expansion of the hospital buildings. The said order was challenged before this Court. The learned Single Judge dismissed the Writ Petition holding that the land is required for expansion of hospital buildings. Moreover, the learned Single Judge also observed that the appellant was running the shop in an un-hygienic manner.

3.The learned Counsel for the appellant would submit that the appellant is depending on the income generated from the shop for his livelihood right from the year 2007 onwards and therefore prayed that at the least an alternate site should be provided to him and produced photographs of the appellant's shop which has been sealed.

4.A perusal of the records especially the impugned order dated 03.09.2007 would reveal that the appellant was running the shop in an un-hygienic manner. That apart, for expansion of buildings by putting up new construction in the hospital campus, the area in which the shop was occupied by the appellant is required. Once decision has been taken for construction of new building and when it is found that the appellant is selling the products in an un-hygienic manner, it is not in the interest of the public to permit the appellant to run the business.

5.Further, it is seen that permission has been granted from the year 2006-2007 and for more than a decade, interim order was enjoyed by the appellant for twelve times of the period granted, even though license had been given for one year. Therefore, this Court is not inclined to accept the arguments of the learned Counsel for the appellant.

6.Further, in the interest of patients, new building is sought to be erected and therefore, the order passed by the learned Single Judge cannot be interfered with and the same is confirmed. Hence, the appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

- 1.The Government of Tamil Nadu,
Rep. by its Commissioner and Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.
 - 2.The Director of Medical and Rural Health,
Chennai - 600 006.
- +1 CC to Mr.K.M.Venugopal, Advocate sr 87042.
+1 CC to Govt. Pleader sr 87379.

W.A.No.3244 of 2019
and
C.M.P.No.20505 of 2019

BS(CO)
SP(19/11/2019)