

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P. No.12616 of 2019

Tamilselvan

...Petitioner

Vs.

1. The State
Rep by Inspector of Police
Tiruvannamalai East Police Station,
Tiruvannamalai.

2. Joint Director,
Health Service,
Tiruvannamalai,
Tiruvannamalai District.

....Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 2nd respondent to de-seal the petitioner house at No.474/V, Ponnusamy Nagar, Tiruvannamalai- 606 601.

For Petitioner : Mr. G.Sakthivel

For Respondents: Mr.C.Raghavan
Government Advocate

ORDER

This writ petition has been filed seeking for direction to the second respondent to de-seal the house of the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner and his family were residing at No.474/V, Ponnusamy Nagar, Tiruvannamalai- 606 601. The petitioner is working as Junior Engineer at Tamil Nadu Housing Board and

he is also suffering from partial disablement and undertaking treatment. While so, the second respondent gave a complaint to the first respondent on the ground that the wife of the petitioner is illegally and without any authorization running a Diagnostic Centre in the above said premises and is disclosing the sex of the child in the womb of the women who come to the premises for diagnosis. Based on the complaint an FIR was registered in Crime No.1689 of 2018 for various offence both under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, and also under the Indian Penal Code.

3.The learned counsel for the petitioner further submitted that pursuant to the registration of the FIR, the house of the petitioner was sealed by the second respondent and as a result of the same the entire family is forced to live outside. Left with no other option, the present writ petition has been filed seeking for de-sealing the petitioner's house.

4.The learned Government Advocate appearing on behalf of the respondents submitted that the petitioner and his wife were illegally running a Diagnostic Centre in the premises. He further submitted that the petitioner had approached this Court seeking to quash the FIR and this Court was not inclined to entertain the petition and had dismissed the same.

5.The learned Government Advocate further submitted that if the petitioner and his wife are again permitted to take possession of the property, they will continue to run the Diagnostic Centre illegally. Therefore, the learned Government Advocate opposed the de-sealing of the property.

6.This Court has carefully considered the submissions made on either side and also the materials placed on record.

7. This Court is of the considered view that if the petitioner and his family are merely permitted to reside in the premises without allowing them to run any Diagnostic Centre, no prejudice will be caused to any party. By keeping out the petitioner and his family from the premises, the same virtually prevents, the petitioner and his family from residing in their own property, which will go against the right of life protected under Article 21 of the Constitution of India. In view of the

same, this Court is inclined to direct the second respondent to de-seal the house of the petitioner.

8. In the result, this writ petition is allowed and the second respondent is directed to de-seal the house of the petitioner within a period of one week from the date of receipt of a copy of this order. While doing so, the petitioner and his wife are directed to give a specific undertaking that they will not carry on with any of the activities concerning the Diagnostic Centre in the premises till the completion of the criminal proceedings. The house shall be de-sealed only after taking this undertaking from the petitioner and his wife. If in future the undertaking is violated, it is always open to the respondent to proceed further in accordance with law. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msrm/vs

To

1. The Inspector of Police
Tiruvannamalai East Police Station,
Tiruvannamalai.

2. The Joint Director,
Health Service,
Tiruvannamalai,
Tiruvannamalai District.

+1 CC to Mr. G. Sakthivel, Advocate sr 45291.

W.P.No.12616 of 2019

VGII(CO)
SP(11/06/2019)

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