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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28625 of 2019

and

W.M.P. Nos. 28387 and 28390 of 2019

M/s. Hallmark Capital Pvt. Ltd.,
Rep. by its Director, Mr. Anand Jain,
Suite "A" United plaza,
No. 43, Usman Road,
T. Nagar, Chennai - 600 017.

... Petitioner

-vs-

1. The District Collector,
Kanchipuram District,
Kanchipuram, Tamil Nadu.
2. Hallmark Golden Country Apartments
Owners Welfare Association,
Rep. by its President, Mr. Bala Ramaswamy
Flat No. 206, C1 Block, Wing 7
Hallmark Golden County Apartments,
Gudalur Village, Karunilam Post,
Chengalpet Taluk, Kanchipuram District,
Tamil Nadu.
3. M/s. Hallmark Infrastructure Pvt. Ltd.,
Rep. by its Director, Mr. Anand Jain,
Suite "A" United plaza,
No. 43, Usman Road,
T. Nagar, Chennai - 600 017.
4. Srimarg Human Resources Pvt. Ltd.,
Rep. by its Director M. Asokan,
No.9, Muthu Nagar, Poonamallee,
Chennai - 600 056.
5. Blue Ocean Personnel and Allied Service Private Limited,
No.24, III Floor, Chamiers Road,
Nandanam, Chennai - 600 035.
(R4 and R5 impleaded as per order dated 01.11.2019 made
in W.M.P. No. 31139 of 2019 in W.P. No. 28625 of 2019) ...
Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent comprised in its impugned order in Na.Ka. No. 45/A1/2019 dated 19.06.2019, issued by the First Respondent and quash the same being arbitrary, illegal and consequently issue a Mandamus forbearing the First and Second Respondents, their officers, employers, subordinates, agents or any other persons claiming or acting under them from in any manner interfering with the peaceful possession and enjoyment of the Petitioner in respect of "Hallmark Golden County Apartment Complex" at S. Nos. 155/10 to 155/16, 155/18, 155/19, 155/23 and 93/1C, Gudalur Village, Chengalpet Taluk, Kancheepuram District admeasuring 26.91 acres.

For Petitioner : Mr. Rahul Balaji

For Respondents: Mr. R. Venkatesh
Government Advocate for R1
M/s. S.P. Arthi for R2
Mr. D.Muthukumar for
M/s. Paul & Paul for R4 and R5
R-3 Served-No Appearance.

O R D E R

Heard Mr. Rahul Balaji, Learned Counsel for the Petitioner, Mr. R. Venkatesh, Learned Additional Government Pleader appearing for the First Respondent, Ms. S.P. Arthi, Learned Counsel for the Second Respondent and Mr. D. Muthukumar for M/s. Paul & Paul, Learned Counsel for the Fourth and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Petitioner, certain apartments belong to Non-Resident Indians in Hallmark Golden County Apartment Complex at Survey Nos. 155/13, 155/14, 155/15 and 155/16 situated at Golden Country Phase-1, No. 79, Gudalur Village, Maraimalai Nagar, Chenglepet Taluk, Kancheepuram District and they have appointed the Petitioner as Property Management Agent to lease out the same, and in the exercise of that power, the Petitioner has entered into lease agreement with the Fourth and Fifth Respondents, who had in turn permitted various employees of companies of their clients to occupy and use those apartments.



3. The First Respondent by order Na. Ka. No. 45/A1/2019 dated 19.06.2019, on the complaint from the Second Respondent, held that the aforesaid arrangement carried out by the Petitioner amounts to violation of the provisions of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014, as necessary licence in terms thereof had not been obtained. The Petitioner has challenged the said order in this Writ Petition.

4. In this context, it would be necessary to refer to the decision of the Division Bench of this Court in K. Kathiresan -vs- The State of Tamil Nadu (order dated 31.01.2019 in W.P. (MD). No. 494 of 2019), while dealing with a Writ Petition to enforce 'the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014', had passed the following order:-

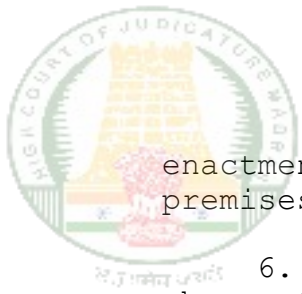
"8. The District Collectors of the concerned Districts are directed to process all the applications and dispose of the same on merits and as per law, as expeditiously as possible and in any case on or before 28 February, 2019.

9. We make it clear that no hostel, lodging house or homes for women and children shall function across the State from 01 March, 2019 without the licence issued by the statutory authority under the provisions of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014.

10. The District Collectors must ensure that the provisions of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014, are complied with by the hostel owners in its letter and spirit."

In view of the aforesaid binding decision of this Court, it would not be possible to permit any person to conduct a 'hostel' for women without requisite licence under the aforesaid enactment.

5. On receipt of notice in this Writ Petition, the Fourth and Fifth Respondents have appeared before this Court and filed affidavits stating that pursuant to the impugned order, they have instructed the inmates to vacate from the premises and the said process has commenced and would be completed latest by 15.12.2019, which is placed on record. It is made clear that if the inmates of the premises, which has been used as 'hostel', have not vacated by the said date, the concerned authorities shall promptly take necessary action in accordance with law to prevent the premises from being used as 'hostel' without the requisite licence. This shall not, however, preclude the rights of the Petitioner, if it is otherwise eligible and satisfies the requirements prescribed for the same, to apply for all the requisite licences and certificates under the relevant



enactments and till the same are obtained in entirety, the premises cannot be used as 'hostel'.

6. The Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kv/vjt

To

The District Collector,
Kanchipuram District,
Kanchipuram, Tamil Nadu.

+1cc to Mr.Paul and Paul , Advocate SR.No. 99512
+1 cc to Government Pleader Sr.No. 98949

W.P. No. 28625 of 2019

A.SK(07/01/2020)