

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.03.2019
CORAM
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.No.28522 of 2018
and
W.M.P.Nos.33270 & 33274 of 2018

K.Natarajan

...Petitioner

Vs.

1. The Director of Medical & Rural Health Service,
3rd Floor,
DMS Complex, Anna Salai,
Teynampet,
Chennai - 600018.
 2. The Joint Director Health Service,
Nilgiri District,
Udhagamandalam,
The Nilgiris.
 3. The Superintendent of Government
Head Quarters Hospital,
Udhagamandalam,
The Nilgiris.
 4. The Assistant Executive Engineer,
Public Works Department, (Medical)
PWD Office Road, Cherringcross,
Udhagamandalam,
The Nilgiris.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the proceedings of the impugned order dated 23.10.2018 passed by the 2nd respondent in Na.Ka.No.1814/TV/2015 and quash the same, consequently, direct the respondents to permit the petitioner to run the Kiosk in the 3rd respondent premises by providing alternative place in case of demolition of building.

For Petitioner : Mr.K.Thilageswaran

For Respondents : Mr.R.Govindasamy
Special Government Pleader

O R D E R

This Writ Petition is filed challenging the order dated 23.10.2018 issued by the 2nd respondent, wherein and whereby, the petitioner was called upon to vacate the two coffee shops being run by him at Government Head Quarters Hospital, Udhagamandalam, The Nilgiris on the reason that the said space is required for putting up additional construction for the hospital.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. It is contended by the petitioner that he is running the coffee shops for more than 35 years in the said place without making any hindrance to the public coming to the hospital or to the activities being carried on by the hospital. It is further stated that the presence of the coffee shops would only serve the public who come to the hospital. Therefore, it is contended that the petitioner has to be permitted to continue the coffee shops in the said hospital.

4. On the other hand, the counter affidavit is filed by the respondents wherein, it is stated that the petitioner was issued with the license only for a period of one year from 08.02.2014 to 07.02.2015 and when the term of the license already got expired, the continuance of the petitioner in the said premises is without any authority. It is further contended by the respondents that Rs.6 crores has been allotted for renovation/construction of Maternal and Child Health Wing attached to Government Head Quarters Hospital, Ooty by the National Health Mission, Chennai-6 through the proceedings dated 08.06.2018 and for which purpose, construction work has been commenced and now for want of additional space, the petitioner's coffee shops have to be removed immediately.

5. The learned counsel for the petitioner reiterated the contentions raised in the writ petition and submitted that the petitioner need not be disturbed.

6. On the other hand, the learned Special Government Pleader submitted that the construction work has commenced already and only because of the interim order granted by this Court, the space occupied by the petitioner is left as such for completing the construction, after disposal of the writ petition. He further submitted that the 3rd respondent-Hospital is not permitting anyone to have the coffee shops inside the premises.

7. There is no dispute to the fact that the petitioner is running the two coffee shops in the 3rd respondent-Hospital only under the license issued by the concerned authority.

8. Needless to say that when the 3rd respondent-Hospital is sought to be renovated and put up with additional construction for the benefit of the public, the petitioner cannot stall such development just for his sake to continue the business in the said place. As it is stated that already the sufficient fund has been allotted for Renovation/construction of Maternal and Child Health Wing attached to 3rd respondent-Hospital, the petitioner has to immediately vacate and handover the vacant possession to the respondents so as to enable them to complete the construction possibly at the earliest. Therefore, the impugned order was rightly passed by the 2nd respondent asking the petitioner to vacate and hand over the premises. Accordingly, I find no ground to interfere with the said order and consequently, the writ petition is dismissed. However, if the 3rd respondent is intending to allow any coffee shop inside the premises, the same shall be notified and thereafter, it is open to the petitioner to make application for locating the coffee shop before the concerned authorities. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

sni/vri

To

1. The Director of Medical & Rural Health Service,
3rd Floor,
DMS Complex, Anna Salai,
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2. The Joint Director Health Service,
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3. The Superintendent of Government
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PWD Office Road, Cherringcross,
Udhagamandalam,
The Nilgiris.

+1 cc to Government Pleader SR.NO. 29128

W.P.No.28522 of 2018

A.SK(08/05/2019)



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