

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.32249 of 2018
and W.M.P.No.37501 of 2018

M.Madhavan

...Petitioner

Vs

1.The Commissioner,
Avadi Municipality
No.215, New Military Road
Avadi, Chennai-600 054.

2.The Inspector of Police,
T-10, Thirumullaivoyal Police Station,
Thirumullaivoyal, Chennai-600 062.

3.G.Sugumar

4.Subburaj

....Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the first respondent to evict the unauthorised Kitchen run by the fourth respondent from the residential area based on the petitioner's so many representations more particularly his representation dated 26.12.2017.

For Petitioner : Mr.S.Kumara Devan

For Respondents: Mr.P.Srinivas for R1

Mr.V.Shanmugasundar, Spl.GP for R2

Mr.E.Vinothkumar for R3

Mr.V.Karunakaran for R4

O R D E R

This writ petition has been filed by the petitioner for a direction to evict the unauthorised Kitchen run by the fourth respondent from the residential area, based on his representation dated 26.12.2017, on the ground that the same is run illegally and it causes air pollution and respiratory diseases.

2. According to the petitioner, the Kitchens for preparing bakery and the sweets by the fourth respondent are being run without obtaining any license from the competent authority.

3. It is seen that there is a shop run by the fourth respondent in Door No.26 and a kitchen in Door No.45, First Main Road, Jayalakshmi Nagar, Thirumullaivoyal, Chennai-600 062. Counter affidavit has been filed by the respondents 1, 2 and 4 separately.

4. In so far as the kitchen in Door No.45 is concerned, it is stated in the counter affidavit filed by the first respondent Municipality, that the fourth respondent has not obtained any license from the competent authority for operating the same.

5. In so far as the shop in Door No.26 is concerned, the Commissioner, Avadi Municipality, has stated that the fourth respondent has obtained a license from the Municipality and the same was valid only till 31.03.2018 and thereafter no application has been submitted by the fourth respondent for renewal of the license.

6. It is further stated in the counter that the petitioner has not submitted any representation to the first respondent till date, in respect of the allegations made in the writ petition and only on filing this writ petition, they came to know about the kitchen run by the fourth respondent. It is also stated in the counter that as the fourth respondent is not maintaining the kitchen in a proper manner, notice under Sections 41(7), 42, 43, 44 and 134(1) of Public Health Act has been issued to him. Further, the fourth respondent has been given seven days time to rectify the defects as pointed out by the Municipality, in respect of running of the kitchen and to obtain license under the Tamil Nadu District Municipalities Act. It is also stated that notice under Sections 249 and 250 of the Tamil Nadu District Municipalities Act has also been issued to the fourth respondent for his failure to obtain the trade license for the sweet shop in Door No.26.

7. Recording the aforesaid statements made in the counter affidavit, it is made clear that in respect of kitchen in Door No.45, without obtaining proper license, the fourth respondent is not entitled to operate the same. Further, in respect of the shop in Door No.26, unless the license is renewed, the petitioner shall not be permitted to run the same. In this connection, the first respondent Municipality shall take necessary action against the fourth respondent, for any non-compliance of the norms as contemplated under the Tamil Nadu District Municipalities Act.

8.With the above observations, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

KM

To

1.The Commissioner,
Avadi Municipality
No.215, New Military Road
Avadi, Chennai-600 054.

2.The Inspector of Police,
T-10, Thirumullaivoyal Police Station,
Thirumullaivoyal, Chennai-600 062.

+1 CC to Mr.V.Karunakaran, Advocate sr 17965.

+1 CC to Mr.E.Vinothkumar, Advocate sr 17941.

+1 CC to Govt. Pleader sr 17657.

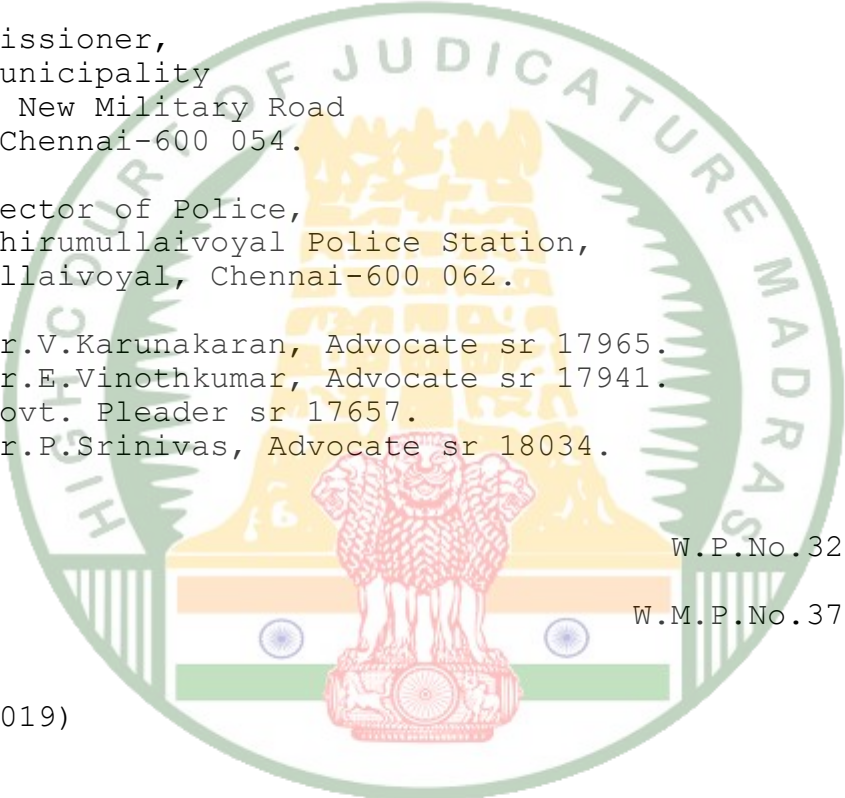
+1 CC to Mr.P.Srinivas, Advocate sr 18034.

W.P.No.32249 of 2018

and

W.M.P.No.37501 of 2018

SSV(CO)
SP(20/03/2019)



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