

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.11.2020

Pronounced on : 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos.870, 3098 of 2020
and W.M.P.Nos.1047 & 1050 of 2020

WP No.870 of 2020

C.M.R.Varma

...Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, 1st Floor, Raja Muthiah Road,
Kannappar Thidal, Periyamet,
Chennai 600 003.
2. The Revenue Officer,
Corporation of Chennai.,
Chennai.
3. The Assistant Revenue Officer Zone 9,
Greater Chennai Corporation,
No.1, 4th Cross street,
Lake Area, Nungambakkam,
Chennai 600 034.
4. The Zonal Officer - IX
Corporation of Chennai,
Chennai.
5. License Inspector Zone 9
Greater Chennai Corporation,
No.1, 4th Cross Street,
Lake Area, Nungambakkam,
Chennai 600 034.

6. Mr.Palanivel

...Respondents

WP No.3098 of 2020

S.Palanivel

...Petitioner

Vs.

1. The Commissioner,
Office of the Commissioner,
Corporation of Chennai,
Chennai.
2. The Zone Commissioner,
Office of the Assistant Commissioner,
Chennai Corporation, Zone 9,
4th Cross Street Lake Area,
Nungambakkam, Chennai 34.
3. The Assistant Revenue Officer,
Office of the Assistant Revenue Officer,
Chennai Corporation, Zone 9,
4th Cross street, Lake Area,
Nungambakkam, Chennai 34
4. C.M.Varma

....Respondents

Prayer in WP No.870 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records sequel to sealing the Medical shop by affixing impugned notice bearing No.M.A.VA.THU.NA.KA.EN.AAR2/14980/2019, dated 18.12.2019 affixed by the 4th respondent and to quash the same consequently direct the 2nd respondent to grant Trade license without insisting no objection certificate from the landlord for enable the petitioner to carry the business of medical shop namely Ideal Pharmacy at Door No.50/107, G.N.Chetty Road, T.Nagar, Chennai.

Prayer in WP No.3908 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to forbear from removing the seal affixed in the premises bearing Door No.50/107 G.N.Chetty Road, T.Nagar, Chennai 17 dated 18.12.2019 in proceeding No.Na.Ka.No.R2/14980/19 without obtaining license from the second respondent.

For Petitioner : Mr.R.Thirumoorthy
in WP No.870 of 2020

For Petitioner : Mr.C.B.Muralikrishnan
in WP No.3098 of 2020

For Respondents: Mrs.Karthiga Ashok
in both Wps Standing Counsel
for Corporation of Chennai

COMMON ORDER

The issue involved in both these writ petitions are common and hence, this common order is passed.

2. The petitioner in WP No.870 of 2020 is the tenant in the subject property. The petitioner in WP No.3098 of 2020 is the landlord of the subject property. The petitioner in WP No.870 of 2020 has challenged the sealing of the medical shop through the impugned notice dated 18.12.2019 and for a consequential direction to the 2nd respondent to grant trade license without insisting for a No objection Certificate from the landlord in order to enable him to carry on with the business in the Medical shop.

3. The petitioner in WP No.3098 of 2020 has sought for the issue of writ of Mandamus forbearing the 2nd respondent from removing the seal from the subject property and not to permit the tenant from doing the business without the trade license.

4. For the sake of convenience, the parties shall be identified as per the rank assigned in WP No.870 of 2020.

5. Heard Mr.R.Thirumoothy, learned counsel for the petitioner and Mrs.Karthika Ashok, learned Standing Counsel appearing on behalf of Corporation of Chennai and Mr.C.B.Murali Krishnan, learned counsel appearing on behalf of the 6th respondent (Petitioner in WP No.3098 of 2020).

6. The case of the petitioner is that he was inducted as a tenant in the subject property in the year 1985 and was running a Medical shop. There was a dispute with the landlord which resulted in the filing of eviction petition. The matter ultimately reached this Court in CRP (NPD) No.3506 of 2009. The parties entered into a compromise and the terms of settlement was recorded and an award was passed in the Lok Adalat on 05.09.2011. As per the terms of settlement, the petitioner has to pay a rent of Rs.8,500/- and according to the petitioner, this rent was paid without any default.

7. Some time later, there was a dispute between the petitioner and the 6th respondent. The 6th respondent seems to

have made a representation to the Corporation of Chennai to the effect that the petitioner is running the shop without a license. This representation was acted upon and the petitioner was issued with a notice and the shop was sealed on 18.12.2019.

8. The learned counsel for the petitioner submitted that the petitioner has applied for the renewal of the trade license and the same was not acted upon on the ground that the petitioner did not get a No objection certificate from the landlord.

9. The learned counsel appearing on behalf of the 6th respondent submitted that there is no existing tenancy agreement between the petitioner and the 6th respondent and therefore, the petitioner is not entitled for trade license to carry on with the business. The learned counsel further submitted that the building is in a very dilapidated condition and it will not be safe to run the business in the subject property.

10. The respondent Corporation has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder :-

5. It is submitted that the petitioner having run the shop for more than 35 years without any trade license, had applied for the trade license to this Respondent Corporation for the first time on 27.12.2019, after the issuance of Notice under Section 287 of the CCMC Act, 1919 calling the petitioner for apply for License paying the scheduled license, along with the required documents and subsequent notice U/s.379A (1) for closure and sealed on 21.12.2019. Despite the receipt of the notice U/s.287 the petitioner had not submitted the Application for issuance of License, hence this Corporation had placed the Petitioner shop in the list, before the Authority to obtain closure orders. It is pertinent here to say that the Petitioner shop was once among more than 50 shops identified for various irregularities U/s.287 of the CCMC Act.
6. It was after the notice U/s.287 the petitioner had approached the owner for No Objection by which the owner had acquired the knowledge of trade license and had objected for issuance of trade license to the petitioner. The Authority, the Commissioner had issued orders for closure of the shop for non-compliance of the notice issued under Section 287 of the CCMC Act 1919. Therefore, the notice issued under Section 379-A (1) of the CCMC At, 1919 had been issued on

20.12.2019 and the trade was closed and sealed on 21.12.2019. It is after the closure of the trade, the application was submitted by the petitioner on 27.12.2019 which was taken up as a file and found to be inconsistent for not furnishing the Rental Agreement and NOC from the owner. Immediately, it was intimated to the petitioner and called him to furnish the same.

11. The learned Standing counsel appearing on behalf of Corporation of Chennai submitted that the petitioner will have to submit the relevant documents for obtaining trade license as per the requirements of the resolution passed by the Corporation and the book-let of procedure adopted by the Corporation. The learned counsel submitted that the Corporation will not go into the landlord and tenant dispute and if the petitioner submits all the documents, the same will be considered in accordance with law. The learned Standing Counsel also made it clear that the Corporation will insist for No objection certificate from the landlord only when a fresh application is submitted for trade license. Insofar as the renewal of trade license is concerned, no such certificate is insisted and it is enough if all the other documents are submitted.

12. It is seen from records that the petitioner originally had trade license to run the medical shop and it was also renewed from time to time. The entire dispute started only after the petitioner and the 6th respondent came to loggerheads. The action of the Chennai Corporation in sealing the medical shop, was taken since the petitioner did not have a live trade license as on the date on which the shop was locked and sealed. Neither the Corporation of Chennai nor this Court can go into the landlord tenant dispute between the parties and the same has to be agitated only before the appropriate forum. The Corporation of Chennai has taken a very clear stand that they will not insist for No objection certificate from the landlord in case of renewal of license. It is enough if all the other documents are submitted along with the application seeking for renewal of trade license. Obviously, the petitioner cannot run the medical shop without getting the trade license from the Corporation of Chennai. Therefore, this Court does not find any ground to interfere with the action taken by the Corporation of Chennai in locking and sealing the premises.

13. In view of the above, it is left open to the petitioner to make a fresh application to the 2nd respondent along with all the relevant documents seeking for trade license and the 2nd respondent shall consider the same strictly in accordance with the Rules without insisting for a No Objection certificate from the Landlord. The 2nd respondent shall take a decision within a

period of four weeks from the date of submission of the application by the petitioner seeking for trade license. As and when the petitioner gets the trade license, he will always be entitled to run the medical shop. The orders passed by this Court will not stand in the way of the 6th respondent taking appropriate action for the eviction of the petitioner in accordance with law, if he so decides.

14. Both the writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rka

To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, 1st Floor, Raja Muthiah Road,
Kannappar Thidal, Periyamet,
Chennai 600 003.
2. The Revenue Officer,
Corporation of Chennai.,
Chennai.
3. The Assistant Revenue Officer Zone 9,
Greater Chennai Corporation,
No.1, 4th Cross street,
Lake Area, Nungambakkam,
Chennai 600 034.
4. The Zonal Officer - IX
Corporation of Chennai,
Chennai.
5. License Inspector Zone 9
Greater Chennai Corporation,
No.1, 4th Cross Street,
Lake Area, Nungambakkam,
Chennai 600 034.

6.The Zone Commissioner
Chennai Corporation Zone 9
4th cross street lake area
Nungambakkam, Chennai-34

+2ccs to Mr.Muralikrishnan, Advocate, Sr.No. 36288 & 36287
+1 cc to M/s.Karthika Ashok, Advocate Sr.No. 36550
+1 cc to M/s.Thirumoorthy, Advocate Sr.No. 36358

W.P.Nos.870, 3098 of 2020
and W.M.P.Nos.1047 & 1050 of 2020

MG (CO)
RMP (10/12/2020)



WEB COPY