

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.13959 of 2020

and

WMP Nos.17343 and 17344 of 2020

T.S.Sivalingam

...Petitioner

Vs.

The Commissioner
Office of the Commissioner
Salem.

...Respondent

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the respondent's public notice Na.Ka.No. L8 / 378 /2020 and quash the same consequently, to permit the petitioner to run their business.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.S.Sathish
Standing Counsel

ORDER

This Writ Petition has been filed challenging the public notice issued by the respondent, wherein the respondent had directed all those persons, whose shop has been closed and sealed, to remove all the articles lying inside the shop, failing which the Corporation will remove those articles and proceed further to conduct the auction to lease those shops.

2. The respondent has filed a counter affidavit. It will be relevant to extract para-13 in the counter affidavit hereunder:-

"13. I respectfully submit that the petitioner is a defaulter and has an arrear of rent amounting to Rs.1,25,400/- in addition to GST amount of Rs.22,572/-, the total of which is Rs.1,47,922/- pending between April 2019 and October 2020. Without paying arrears, the petitioner has approached this Hon'ble Court and hence, has come with no clean hands. The petitioner is running a shop without any interference by the Corporation. The impugned

notice is only concerned with shops that are sealed. At the time of sealing, some of the shop License/lessees locked the shop and took away the keys. Now the shops are going to public auction. Therefore, only as a precautionary measure, the Corporation has issued the impugned Notice. Since the petitioner is running his shop, the impugned notification has nothing to do with the petitioner."

3. Heard Mr.A.Saravanan, learned counsel for the petitioner and Mr.S.Sathish, learned Standing Counsel for the respondent.

4. A specific stand has been taken by the respondent to the effect that the petitioner is running the shop without any interference from the Corporation and the impugned notice was issued only with regard to those shops, which were sealed. Therefore, according to the respondent, the impugned notice will not apply to the petitioner, who is running the shop.

5. The stand taken by the respondent is hereby recorded and it is made clear that insofar as the recovery of arrears of rent is concerned, it is always open to the respondent to independently initiate action in accordance with law.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mra

To
The Commissioner
Office of the Commissioner
Salem.

+1cc to Mr.A.Saravanan, Advocate SR.35996

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SS (CO)
CB(11/12/2020)