

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2020

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.35519 of 2019
and
W.M.P.No.36361 of 2019

G.Aurangazeb

... Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600003.
2. The Zonal Officer,
Zone - X,
Greater Chennai Corporation,
Kodambakkam,
Chennai - 600024.
3. The Assistant Revenue Officer,
Corporation of Chennai,
Zone - 10, Division No.159,
Kodampakkam,
Chennai - 600024.
4. The Sanitary Inspector,
Zone - 10,
Corporation of Chennai,
Saligramam,
Chennai - 600093.

5. Saraswathi

6.M.K.Balasundaram

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus to direct the respondents 1 to 4 to de-seal the petitioner's shop situated at No.6/4, Dhasaradhapuram 1st Street, Dasaradhpuram, Saligramam, Chennai - 600093 which is situated in Division No.159, Zone - X of Greater Chennai Corporation.

For Petitioner : Mr.A.Ilayaperumal

For Respondents : Mrs.Karthikaa Ashok

Standing Counsel [R1 to R4]

Mr.M.Rajamani [R5 & R6]

O R D E R

(The case has been heard through video conference)

This writ petition has been filed for the issue of Writ of Mandamus, directing the respondents 1 to 4 to de-seal the shop of the petitioner.

2. The case of the petitioner is that he is the tenant in the property owned by the fifth respondent. According to the petitioner, he took the property on lease in the year 2016. The petitioner also applied for a license to the Corporation to run a chicken and mutton shop in the premises. Admittedly, the petitioner has not obtained any license till date and even according to the petitioner, this application is pending before the Corporation of Chennai.

3. It is also seen from record that the fourth and fifth respondents have initiated eviction proceedings against the petitioner in RCOP.No.243/2017 seeking for eviction and the Rent Control has also passed an order dated 27.04.2019, directing the petitioner to vacate and handover possession of the property. As against the said order, the petitioner has filed an appeal and according to the petitioner, the order of the Rent Controller has been stayed by the Appellate Authority on 15.07.2019 and the appeal is pending adjudication.

4. In the meantime, the Corporation of Chennai proceeded to seal the property on the ground that the petitioner does not possess any license to run the business. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The learned counsel appearing for the petitioner submitted that the Corporation of Chennai did not follow the procedure before proceeding to seal the premises. It was further submitted that the application that was submitted by the petitioner on 24.10.2016, seeking for grant of license is pending and no final decision was taken. The learned counsel further submitted that the premises has to be de-sealed and the Corporation of Chennai must be directed to de-seal the property and a time limit must be fixed for disposing of the application given by the petitioner for license.

6. Per contra, the learned standing counsel on behalf of Chennai Corporation submitted that the petitioner was running the mutton shop without any license and that by itself is a ground to seal the premises under Section 309 of the Chennai City Municipal Corporation. The learned standing counsel further submitted that till the license is granted, no one has the right to run the shop and therefore, there is no ground to interfere with the decision taken by the Corporation to seal the premises.

7. The learned counsel appearing on behalf of respondents 5 and 6 submitted that the petitioner was running a shop without license and infact the eviction proceedings itself was initiated on the ground of act of waste and owner's occupation and the petition was allowed on the ground of act of waste. Therefore, the learned counsel submitted that the Corporation of Chennai took the right decision to seal the premises in order to prevent the petitioner from conducting the business.

8. This Court has carefully considered the submissions made on either side and materials available on record.

9. It is an admitted case that the petitioner has only submitted an application to run a chicken and mutton shop and no license has been granted by the Corporation of Chennai. Since license is not granted, no one has the right to run a chicken and mutton shop and the Corporation has rightly exercise its powers under Section 309 of the Chennai City Municipal Corporation Act, 1919. Insofar as the landlord tenant dispute is concerned, the same has to be agitated independently before the concerned Court in which the appeal is pending.

10. It is brought to the notice of this Court that the application given by the petitioner on 24.10.2016 is pending with the Corporation of Chennai. It is not known as to why the petitioner did not follow up to get the license. The petitioner must not be under the impression that he will keep quiet after submitting an application to the Corporation of Chennai and that will automatically give him a right to run the shop. The petitioner must have followed up and obtained a license before running a chicken and mutton shop. It is therefore, left open to the petitioner to follow up the application seeking for license from the Corporation of Chennai. At this length of time, the petitioner cannot be following up an application given in the year 2016. The petitioner must necessarily apply by submitting a fresh application to Corporation of Chennai and the same will be considered by the Corporation of Chennai strictly in accordance with law. It is made clear that this Court is not going into the issue of possession of the property, since it is a subject matter before the Rent Control Appellate Authority. This Court is only concerned about the sealing of the property by the Corporation of Chennai.

11. This writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

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Saligramam,
Chennai - 600093.

+1 cc to Mr.A.Ilayaperumal, Advocate,sr.25673

+1 cc to Mr.Rajamani, Advocate,sr.25620

sks(co)
krd 24/8

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