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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No.22736 of 2021

Arumugam

.. Petitioner

Vs

1. The Commissioner of Corporation
The Greater Chennai Corporation
Rippon Building
Ponnamallee High Road
Periamet, Chennai.

2. The Assistant Revenue Officer,
Zone IX
Greater Chennai Corporation
Lake View Road, Nungambakkam
Chennai 600 034.

3. P.Ashok

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the petitioner's representation dated 15.07.2021 and to take action against the 3rd respondent for illegally carrying on catering business without any approval or permission from the respondents 1 and 2.

For Petitioner : Mr.S.Sivaraman

For Respondents : Ms.P.T.Ramadevi for R1 & R2
Standing counsel

ORDER

Ms.P.T.Ramadevi, learned standing counsel, takes notice on behalf of the respondents 1 and 2.

2. This writ petition has been filed for the issue of a writ of mandamus directing the respondents 1 and 2 to consider the representation made by the petitioner on 15.07.2021 and to



take action against the third respondent for illegally running the catering unit in the subject property.

3. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents 1 and 2.

4. It is seen from records that on an earlier occasion, the second respondent had issued a notice to the third respondent and directed him to immediately stop running the catering unit since the third respondent had not obtained any license from the first and second respondents. Since the same was not complied with, the property was also put under lock and seal. Aggrieved by the same, the third respondent approached this Court and filed W.P.No.4236/2020. While filing the writ petition, the third respondent took the following stand at Paragraph No.13 of the affidavit and the same is extracted hereunder:

"13.I humbly submit while maintaining that I have not commenced any commercial activity at the premises. I am not questioning the action taken by the 2nd respondent, but only challenging the inaction on the part of the 2nd respondent pursuant to my representation and undertaking dated 19.08.2019. I state that the action taken against me only purports to prevent business from being run illegally or without necessary clearance and the moment action is taken, the action of sealing the premises cannot be continued. I crave leave of this Hon'ble Court to consider the issue in the light of the perspective of my livelihood."

5. In view of the specific stand taken by the third respondent, the respondent Corporation proceeded to remove the lock and seal. This was informed to the Court on 21.02.2020 and the writ petition was disposed of as infructuous.

6. It is also seen from the advice given by the learned standing counsel appearing on behalf of the Corporation of Chennai through letter dated 21.02.2020 that the third respondent had given an undertaking that he will not use the premises as a catering unit without getting proper permission from the Corporation and that is the only reason why the lock and seal should be removed.

7. The grievance of the petitioner is that after the lock and seal was removed, the third respondent took advantage of the same and he continued to run the catering unit. This was



brought to the notice of the second respondent through letter dated 15.07.2021. Since the same was not acted upon, the present writ petition has been filed seeking for appropriate directions.

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8. In the considered view of this Court, there are two limbs to the relief sought for by the petitioner. The first limb is with regard to the eviction of the third respondent from the subject premises. This relief has to be worked out by the petitioner only before the appropriate Court by filing an eviction petition. This cannot be done by the first and second respondents. Therefore, liberty is given to the petitioner to work out his remedy before the appropriate Court and seek for eviction of the third respondent.

9. The second limb of the relief sought for by the petitioner is with regard to running the catering unit illegally without getting any license or permission from the respondent Corporation. The respondent Corporation already took action against the third respondent and had put the lock and seal in the premises, since the third respondent was carrying on the business without getting any permission. The third respondent had specifically undertaken that he will not carry on with the catering business in the subject premises without the permission/license issued by the respondent Corporation. It is only based on this undertaking, the lock and seal was removed from the subject property. This was also brought to the notice of this Court, when the earlier writ petition was filed by the third respondent in W.P.No.4236/2020.

10. If after the removal of the lock and seal, the third respondent is misusing the given situation and is again carrying on with the catering business, immediate action has to be taken by the second respondent. Such immediate action is required since the third respondent made the respondent Corporation believe that he will not carry on with the business. That apart, he also gave an undertaking before this Court in the earlier writ petition that he will not carry on his business without getting appropriate permission/license from the respondent Corporation. Now the third respondent is said to have gone back on the undertaking given and therefore, it requires immediate action.

11. This writ petition is disposed of with a direction to the second respondent to immediately conduct an inspection of the subject property. If it is found that the third respondent is carrying on with the catering unit without obtaining any permission or license, action shall be immediately initiated and if required, the property shall be kept under lock and seal again. Such stringent action is required, since the third



respondent is said to have violated the undertaking given before the Corporation and before this Court. No costs.

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Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

RR

To

1. The Commissioner of Corporation
The Greater Chennai Corporation
Rippon Building
Ponnamallee High Road
Periamet, Chennai.
2. The Assistant Revenue Officer,
Zone IX, Greater Chennai Corporation
Lake View Road, Nungambakkam
Chennai 600 034.

+1cc to M/s.S.Sivaraman, Advocate, S.R.No.54781

+1cc to M/s.P.T.Ramadevi, Advocate, S.R.No.54405

W.P.No.22736 of 2021

CP (CO)
SU (22/11/2021)