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W.P.(MD)NO.14638 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14638 of 2020 and

W.M.P.(MD)No.12288 of 2020

Latha,
Proprietor,
M/s.Latha Hollow Block,
W/o.Gopalakrishnan,
56, Mill Road,
Nazareth - 628 617,
Thoothukudi District.

... Petitioner

Vs.

Nazareth Town Panchayat,
Nazareth - 628 617,
Thoothukudi District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the respondent dated 05.10.2020 in Na.Ka.No.335/2020 and quash the same.

For Petitioner : Mr.N.Dilip Kumar
For Respondent : Mrs.S.Srimathy,
Special Government Pleader

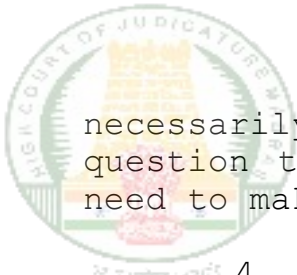
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O R D E R

Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondent Panchayat.

2. The petitioner has set up a hollow block manufacturing unit at Survey No.1058/2 in Nazareth. It appears that a neighbour had raised an objection and that had triggered issuance of the impugned notice dated 05.10.2020. The impugned communication though styled as a notice is a final order. This is because the respondent had informed the petitioner to close down the unit within a period of three days from the date of receipt of the notice.

3. The impugned notice is liable to be quashed on the ground of violation of principles of natural justice. But then, if the impugned notice is quashed on that ground, then I have to



necessarily remand the matter to the file of the respondent. The question that arises for my consideration is whether there is any need to make such an order of remand.

4. The learned counsel appearing for the petitioner submitted that the petitioner does not burn bricks and therefore, it will not fall within Schedule-V of the Tamil Nadu District Municipalities Act, 1920. Section 249 of the Tamil Nadu District Municipalities Act, 1920 states that no place within municipal limits or at a distance within three miles of such limits shall be used for any one or more of the purposes specified in Schedule V without the licence of the executive authority and except in accordance with the conditions specified therein.

5. The learned Standing counsel appearing for the respondent draws my attention to Schedule-V(g) of the Tamil Nadu District Municipalities Act, 1920 which reads as follows:-

"Schedule-V

Purposes for which premises may not be used
without a licence under Section 249

(a) ..

(b) ..

(c) ..

(d) ..

(e) ..

(f) ..

(g) making soap, dyeing, boiling or pressing
oil, burning bricks, tiles, pottery or lime;"

6. The learned counsel appearing for the petitioner wants me to bear in mind the legislative history. The expression that read as "making bricks" was substituted and amended as "burning bricks". If the original expression had continued to remain in the statute book, then certainly license would be required. But then, the expression had been amended and we now have the expression "burning bricks". The petitioner's counsel categorically stated that they do not use fire to manufacture bricks. Since the "burning" process is not involved, I am of the view that the purpose for which the petitioner is making use of the petition mentioned place falls outside Schedule-V(g). Therefore, the notice impugned in this writ petition is quashed.

7. At this stage, the petitioner's counsel on instructions states that the Tamil Nadu Pollution Control Board has laid down certain parameters for running such a hollow block brick making unit. The petitioner gives an assurance before this Court that she would strictly adhere to the procedure laid down by the Tamil Nadu Pollution Control Board.



8. Recording the said submission, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

Nazareth Town Panchayat,
Nazareth - 628 617, Thoothukudi District.

+1 CC to M/s.GP (SR-1179[F] dated 19/01/2021)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-1466[F] dated 20/01/2021)

W.P.(MD)No.14638 of 2020
18.01.2021

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MJ(CO)

KK(29.01.2021) 3P 4C