



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.20920 of 2017

and

W.M.P. (MD)No.17224 of 2017

R.Rajangam

... Petitioner

-Vs-

1. The Commissioner of Prohibition of Excise
Ezhilagam Main Road,
Chepauk,
Chennai 600 005.
2. The District Collector,
Dindigul District.
3. The Assistant Commissioner,
Prohibition and Excise Department,
Dindigul,
Dindigul District.

4.N.Vanjimuthu

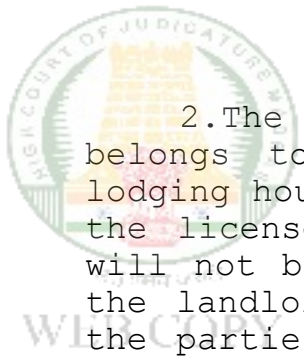
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to renew his FL 3 in respect of the petitioner's lodge namely Gowri Tourist Home situated at Batlagundu, Dindigul District for the period 2016-17 and 2017-18 and consequently, direct the respondents 2 and 3 to supply the liquor bottles to the petitioner's lodge.

For Petitioner	: Mr.B.Saravanan
For R1 to R3	: Mr.M.Rajarajan
	Additional Government Pleader
For R4	: Mr.Janakiramulu

ORDER

Heard the learned counsel appearing for the petitioner and learned Additional Government Pleader appearing for R1 to R3 and the learned counsel appearing for R4.



2.The petitioner is a tenant occupying the premises that belongs to the fourth respondent. The petitioner is running a lodging house. The petitioner had obtained FL.3 license also. When the license period expired, the authority took the stand that it will not be renewed, unless the petitioner obtained the consent of the landlord. In the meanwhile, the cordial relationship between the parties had broken down and the petitioner had also filed an injunction suit against the landlord in O.S.No.105 of 2005 on the file of the Principal Sub Court, Dindigul. The matter was decided in favour of the petitioner herein vide order dated 29.02.2008 in W.A.No.216 of 2008 by the Hon'ble First Bench sitting in the principal seat. The Hon'ble First Bench had held that the consent of the landlord is not required for granting renewal of FL.3 license. The said order appears to have become final.

3.Be that as it may, following the order passed by the Hon'ble Supreme Court, location of the liquor outlet within five hundred meters from the National Highway came to be banned. Therefore, the petitioner's attempt to get renewal of the license for the period 2016-17 came under a cloud. In the meanwhile, the respondent herein filed W.P.(MD)No.17356 of 2017 for restraining the authorities from granting FL3 license in favour of the petitioner herein. The said writ petition was dismissed on 14.09.2017. Only in paragraph No.5 of the said order, the following observations were made:

"5.According to this Court, this writ petition itself is not maintainable, since the petitioner's earlier writ petition came to be dismissed as infructuous, pursuant to the clarificatory order passed by the Hon'ble Supreme Court in Arrive Safe Society of Chandigardh Vs. The Union Territory of Chandigarh and another (Special Leave Petition (Civil) No.10243 of 2017, decided on 11.07.2017). Further, the fourth respondent's writ petition in W.P.(MD)No.22585 of 2016, seeking renewal of FL.3 licence for the year 2016-17 also came to be dismissed. It is pertinent to mention here that once the renewal of lease for the year 2016-17 was not accepted by the petitioner, then, the question of granting FL.3 license for the year 2017-18 in the absence of lease deed, does not arise at all."

4.Since these observations adversely affected the petitioner's right, the petitioner is said to have filed an application for recall. The stand of the petitioner is that the writ petition was disposed of at the admission stage and behind his back. The prayer in the present writ petition is also for renewal of FL.3 license for the period 2016-17 and 2017-18. Since W.P.(MD)No.17356 of 2017 also pertains to 2016-17, I am of the view that it would not be proper on my part to give any direction in that regard. However, the petitioner is granted liberty to submit a fresh application seeking renewal of FL.3 license for the period from 2021-22.



5.The fact that during the last seven years, the petitioner was not having the benefit of FL.3 license will not be put against the petitioner herein. The competent authority will dispose of the petitioner's application on merits and in accordance with law and in the light of the order dated 29.02.2008 in W.A.No.216 of 2008. The petitioner's counsel states that the renewal application will be filed within a week from the date of receipt of a copy of this order. The competent authority will pass orders on the said application as indicated above within a period of three weeks thereafter subject to fulfilment of other formalities.

6.The learned counsel for the fourth respondent states that the fourth respondent has already filed R.C.O.P.No.14 of 2016 on the file of the District Munsif/Rent Controller, Nilakkottai for seeking eviction of the petitioner herein. The Rent Controller / District Munsif, Nilakkottai, is directed to dispose of the said eviction proceedings on merits and in accordance with law within a period of seven months from the date of receipt of a copy of this order. I must clarify that the pendency of the eviction petition will not be taken note of by the authority, while considering the renewal application.

7.The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Rmi

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

1.The Commissioner of Prohibition of Excise
Ezhilagam Main Road,
Chepauk,
Chennai 600 005.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The District Collector,
Dindigul District.

3. The Assistant Commissioner,
Prohibition and Excise Department,
Dindigul,
Dindigul District.

+1 CC to Mr.B.SARAVANAN, Advocate (SR-11670[F] dated 17/03/2021)

+1 CC to M/s.SPL GP (SR-12257[F] dated 18/03/2021)

+1 CC to Mr.V.JANAKIRAMULU, Advocate (SR-12240[F] dated
18/03/2021)

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VB (23.03.2021) 4P 7C