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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.5939 of 2022 &
WMP.No.6025 of 2022

1.D.Sulochana
2.Sucharitha Sekar

... Petitioners

Vs

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.
- 2.The Director of Medical & Rural Health Services,
359, Anna Salai,
Teynampet,
Chennai- 600 006.
- 3.The Joint Director of Medical,
Rural, Health Services and Family Welfare,
Government Head Quarters,
Hospital Road,
Nellikuppam,
Cuddalore-607 001.
- 4.The Indian Medical Association,
Tamil Nadu State Branch,
IMA Tamil Nadu State Head Quarters Building,
Doctors' Colony vis Bharathi Nagar,
First Main Road,
Mudichur,
Chennai-600 045.
- 5.Sujatha Hospital,
Represented by Dr.G.P.Sekar,
No.78A, Kozhikaran Street,
Manjakuppam,
Cuddalore-607 001.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the
Constitution of India, praying for the issuance of a Writ of



Mandamus, directing the 2nd respondent to initiate the proceedings against the 5th respondent for cancellation of Registration as per Section 5 of the Tamil nadu Private Clinical Establishments (Regulation) Act, 1997.

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For Petitioner : Mr.P.Dinesh Kumar

For Respondent : Mr.C.Jayaprakash

Government Advocate - R1 to R3

O R D E R

Mr.C.Jayaprakash, learned Government Advocate accepts notice for R1 to R3 and is armed with instructions to proceed with the matter finally. Learned counsel for the petitioner makes an endorsement that the petitioner is not pressing this Writ Petition as against R4. Hence, this Writ Petition is dismissed as against R4.

2. In light of order passed in the paragraphs to follow, no notice is thought necessary to R5 at this juncture. Hence, by consent of learned counsel for the petitioner and learned Government Advocate, this Writ Petition is disposed finally even at the stage of admission.

3. The petitioner and R5 were related, P1 and R5, being husband and wife till they obtained a divorce by mutual consent in the year 2007. P2 is their daughter. They are all medical doctors. Since there are disputes in regard to the title to the property at No.78, Nethaji Road, Manjakuppam, Cuddalore - 607 001 (property in question), a suit had been filed in O.S.No.135 of 2010 on the file of I Additional Subordinate Court, Cuddalore, which had come to be decreed in favour of P1 on 08.02.2011. The decree has attained finality and had not been disturbed thereafter and hence, title to the property in question vests absolutely in P1.

4. While this is so, R5 appears to have obtained a certificate of registration for clinical establishment from R3/Joint Director of Medical Rural Health Services and Family Welfare, which operates to the effect that Sujatha Hospital, an entity which is stated to be a proprietary entity, R5 being the sole proprietor thereof, is authorised to operate from the premises in question.

5. Since the premises in question vests in the petitioners, they allege that the certificate has been obtained by suppression of the decree in the original suit. They thus seek a mandamus directing the second respondent/Director of Medical and Rural Health Services to initiate proceedings as



against R5 cancelling the registration in terms of the procedure set out under Section 5 of the Tamil Nadu Private Clinical Establishments (Regulation) Act, 1997 (in short 'Act').

6. Mr. Jayaprakash has obtained instructions and draws attention to Section 5 of the Act that provides for a comprehensive procedure in this regard. Upon initiation of a complaint, either suo motu or at the instance of the complainant, notice to show cause is to be issued to the alleged defaulter, as to why registration that has been granted under the Act not be suspended or cancelled.

7. In light of the prima facie position established by the petitioners in regard to the ownership of the property in question vesting in P1, I am of the considered view that an enquiry must be made by R2 and a proper decision arrived at in regard to the veracity or otherwise of the certificate dated 28.06.2019.

8. Instead of filing a request before the competent authority in this regard, the petitioner has issued a legal notice. The petitioner is permitted to follow the procedure as set out under the Act, specifically Section 5 thereof and make a representation/complaint before the competent authority. Such complaint, if and when filed, within a period of two (2) weeks from today, shall be disposed by R3 by passing of a speaking order after hearing the petitioner and R5 and taking note of all/any material that may be filed by the parties.

9. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Director of Medical & Rural Health Services,
359, Anna Salai,
Teynampet, Chennai - 600 006.



3.The Joint Director of Medical,
Rural, Health Services and Family Welfare,
Government Head Quarters,
Hospital Road, Nellikuppam,
Cuddalore-607 001.

+1cc to Mr.P.Dinesh Kumar, Advocate, S.R.No.18319

+1cc to the Government Pleader, S.R.No.18577 (10/05/2022)

W.P.No.5939 of 2022 &
WMP.No.6025 of 2022

AT (CO)
SB (05/05/2022)