



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.02.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No. 16741 of 2021
and
WMP(MD)No.13637 of 2021

K.B.Saminathan

... Petitioner

Vs.

1. The Tahsildhar,
Palani Taluk,
Palani, Dindigul District.

2. The Inspector of Police,
Palani Adivaram Police Station,
Palani, Dindigul District.

... Respondents

Prayer : This petition is filed under Article 226 of Constitution of India, to call for the records of the first respondent dated 25.08.2021 in Na.Ka. No.4275/2021/A1 and quash the same and consequently direct the first respondent to remove the seal in Mahalakshmi Lodge situated in S.F.No.957, 948/2, Survey Ward 3, Block 23, Doc. No.37, Ward No.3, Ayyampulli Road(Now Jawahar Street), Adivaram, Palani

For Petitioner	: Mr.S.Karthik
For Respondents	: Mr.B.Thanga Aravindh
No.1 & 2	Government Advocate(Crl.Side)

ORDER

This Petition has been filed to call for the records of the first respondent dated 25.08.2021 in Na.Ka. No.4275/2021/A1 and quash the same and consequently direct the first respondent to remove the seal in Mahalakshmi Lodge situated in S.F.No.957, 948/2, Survey Ward 3, Block 23, Doc. No.37, Ward No.3, Ayyampulli Road(Now Jawahar Street), Adivaram, Palani.

2. The case of the petitioner is that the petitioner and his family members are running hotel in the name and style of "Balu Iyer Hotel" in Ground Floor NS First Floor of the building is lodge in S.F. No.957,948/2, Survey Ward 3, Block 23,Doc. NO.37, Ward No.3, Ayyampulli Road (Now Jawahar Street)Adivaram Palani and the said building was leased to one Eswaran from 02.09.2020 for a period of



five years. The lessee is running a lodge in the name and style of 'Mahalakshmi Lodge' and the entire lodge business is closed due to covid.19. The petitioner has paid all requisite dues in respect of the said building such as tax, and trade license fess and all statutory dues. While being so, due to wreck vengeance one Murgan Inspector of police, of the second respondent police station herein filed false case against the petitioner's building for the offence under Sections 3(1),4(2)(c), 5(1)(a),7(2)(c) of the Immoral Traffic Prevention Act, 1956 in Crime No.355 of 2021 and arrested his brother Venkatesh and lodge Tenant's Manager Sadayappan and remanded to judicial custody. The petitioner is a social worker and filed so many writ petitions against the statutory authorities due to which the said Murugan, Inspector of Police, Palani Adivaram had grudge over the petitioner and filed the present false complaint. On 26.08.2021 without any notice the lodge premises was sealed by an impugned order dated 25.08.2021.

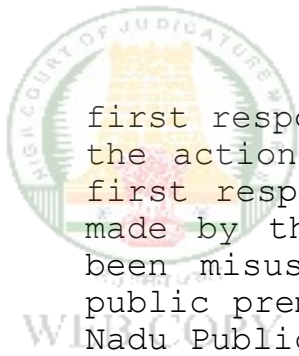
3. The learned counsel for the petitioner would submit that even before issuance of impugned order the lodge premises was sealed as early as on 26.08.2021 and thereafter the impugned order was passed, anti dated 25.08.2021 and signed on 31.08.2021. It was served by affixture using the seal in the lodge using power under Section 15 of the Tamil Nadu Public buildings (Licensing) Act. 1965. Even according to the said provision before sealing the premises, the first respondent ought to have served notice. That apart there is provisions and power to prohibit the use of the public building in certain cases alone, therefore the said act is not applicable to the present case registered by the second respondent in Crime No.355 of 2021.

4.The learned Government Advocate(Crl.Side)would submit that in respect of secret information about prostitution at Mahalakshmi lodge it was informed to the Deputy Superintendent of Police, and made search and in the said search it was found that the lodge was run by the first accused namely the brother of the petitioner herein. He along with the second accused is running the business of prostitution in the lodge, therefore the case was registered in Crime No.355 of 2021 for the offences under Sections under Sections 3(1),4(2)(c), 5(1)(a),7(2)(c) of the Immoral Traffic Prevention Act, 1956.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.Side)appearing for the respondent.

6. In pursuance to the registration of the First Information Report, vide letter dated 25.08.2021, the second respondent requested the first respondent to seal the premises and if the lodge premises is open, the same business will continue.

7. A perusal of the impugned order shows that immediately after the receipt of the request from the second respondent , the



first respondent issued notice on 21.08.2021 to the petitioner about the action to be taken against the lodge premises. Thereafter the first respondent perused all the documents and also on the request made by the second respondent found that the lodge premises has been misused for commercial purpose without proper license under public premises license. As per the under Section 15 of the Tamil Nadu Public buildings (Licensing) Act. 1965, if the premises is used for any unlawful activities and the authority concerned is satisfied upon investigation of a public building such authority without prejudice to any other action taken under this Act, by written order, prohibit forthwith the use of public building as a public building. Infact the owner of the building was issued notice on 21.08.2021 and thereafter the first respondent passed order dated 25.08.2021 and that order dated 25.08.2021 was signed on 31.08.2021. Though the petitioner pleaded that the lodge premises was sealed on 26.08.2021 itself mainly before the issuance of the order, there is absolutely no evidence to show that the lodge building was sealed on 26.08.2021. Subject premises has no license to run lodge business, therefore the Government authorities has power to pass order and seal the premises under Section 15 of Tamil Nadu Public Buildings (Licensing) Act, 1965, which reads as follows:

"15. Power to prohibit the use of the public building in certain cases-

(1) If the appellate authority mentioned in Section 11, in any case pending before it or if the competent authority, in any other case, is satisfied upon inspection of a public building otherwise-

(i) that the said building is in ruinous state; or

(ii) that there is reason to apprehend imminent danger to life or property; or

(iii) that there is no licence, such authority shall, without prejudice to any other action taken under this Act, by written order, prohibit forthwith the use of the public building as a public building."

That apart the lodge building was used for immoral traffic offence by the petitioner's own brother who is arraigned as A1 and now the investigation is still pending on the file of the second respondent.

8. Therefore, this Court is of the view that there is no infirmity or illegality in the impugned order passed by the first respondent and the petition is devoid of merits and liable to be dismissed.



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9. In the result, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Tahsildhar,
Palani Taluk,
Palani, Dindigul District.
2. The Inspector of Police,
Palani Adivaram Police Station,
Palani, Dindigul District.

+1 CC to M/s.S.KARTHIK, Advocate (SR-5817[F] dated 14/02/2022)

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