



W.P.No.3744 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.3744 of 2023

1.M/s.Muthamil Medicals
Rep. by its Proprietor
S.M.Lakshmanan

... Petitioner

Vs

1.The Director of Medical Services
Teynampet, Chennai.

2.The Assistant Director of Drug Control
O/o. The Assistant Director of Drug Control
Zone-II Chennai - 600 006.

3.The Drug Inspector
Arumbakkam Range
Zone-II, Chennai - 600 006.

4.Rathna Gandhi Ammal

5.Muthu Kumaran

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari calling for the records of the Impugned show cause Memo dated 23.01.2023 Ref. No.2456/ADDC/ZII/2022 issued by the 2nd respondent and quash the same.

For the Petitioner : Mr.S.M.Nandhie Devhan

For the Respondents : Mr.T.Seenivasan,
Special Government Pleader,
for respondents 1 to 3



W.P.No.3744 of 2023

WEB COPY

ORDER

The writ petition has been filed questioning the show cause notice dated 23.01.2023 in Reference 2456/ADDC/ZII/2022 issued by the second respondent/Assistant Director of Drug Control, Zone 2, Chennai – 600006.

2. The petitioner, Muthamil Medicals, represented by its proprietor, S.M.Lakshmanan at Arumbakkam, at Chennai, had stated in his affidavit that he had been running the said medical shop for about 22 years. It is stated that the landlord was originally his own uncle Thiruvengadam.

3. It is also stated that he had obtained necessary license issued by the second respondent and the said license is valid till 28.04.2025. In the meanwhile, there appears to have been disputes with the fourth and fifth respondents who are his maternal uncle and his cousin with respect to tenancy.

4. The learned for the petitioner stated that owing to their instigation, the second respondent had issued the impugned show



W.P.No.3744 of 2023

cause notice. By the said show cause notice, the second respondent had called upon the petitioner to produce a copy of the property tax receipt, copy of legal tenancy affidavit and copy of the rental agreement.

5. It is stated by the learned counsel that the landlord being the maternal uncle there was trust reposed and the rental agreement had been retained by the maternal uncle/Thiruvengadam . It is therefore stated that the very fact that the petitioner was doing business for the past 22 years would show that there was a relationship based on trust and if the relationship had soured necessitating the fourth and fifth respondents to turn against the petitioner herein then they should institute necessary proceedings in accordance with law. If a complaint is given to the second respondent, the second respondent should only examine the basis on which the license was originally issued, and the declaration on which the license was originally issued and if the license is in force then, a reasonable presumption can be drawn that the petitioner is in occupation with consent. If the consent is withdrawn then it is a matter between the petitioner and the fourth and fifth respondents.



W.P.No.3744 of 2023

6. Let the petitioner explain all these aspects to the second respondent.

7. Learned counsel for the petitioner further stated that the second respondent had threatened that he would take steps to vacate the petitioner if the documents aforementioned are not produced. The second respondent should also realize that he should not exceed his jurisdiction. He can only examine the nature of possession of the petitioner of the premises and also examine whether the business of the petitioner is in conformity with the rules and regulations of the Drugs Act. But he cannot turn around to be a landlord and seek eviction of the petitioner without there being necessary grounds for the same.

8. Opportunity is granted to the petitioner to reply to the show cause notice and I am confident that the second respondent would take a prudent decision on the basis of the explanation given by the petitioner herein. It is also seen that the petitioner had independently instituted a suit seeking protection of possession. That fact itself shows that the petitioner is in possession of the building and has



W.P.No.3744 of 2023

reasonable grounds to hold that he is in lawful possession of the building. It is an issue only between the fourth and fifth respondents and the petitioner herein and neither the writ court nor the second respondent are the proper forums to examine their disputes. Let them go before the proper authority to resolve their issues. Time is granted to give a reply to the show cause notice by the petitioner till 13.03.2023. If the reply is so given, the second respondent may examine it and if required issue notice to the fourth and fifth respondents and then take a prudent decision.

9. The writ petition stands disposed. No costs. Consequently, WMP No.3820 of 2023 is closed.

09.02.2023

Index: Yes/no

mrn

To

1.The Director of Medical Services
Teynampet, Chennai.

2.The Assistant Director of Drug Control
O/o. The Assistant Director of Drug Control
Zone-II Chennai - 600 006.

3.The Drug Inspector
Arumbakkam Range
Zone-II, Chennai - 600 006.

5/6



WEB COPY



W.P.No.3744 of 2023

C.V.KARTHIKEYAN, J.
(mrn)

W.P.No.3744 of 2023

09.02.2023