



WEB COPY



W.P.No.4244 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.02.2024

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.4244 of 2024
& WMP.Nos.4558 & 4559 of 2024

K.B.Premkumar

... Petitioner

Vs

1.The Assistant Director of Drugs Control
Salem Zone, Meyyanur
Salem,
Salem District – 636 004.

2.The Drug Inspector
Omalur Range
Office of Assistant Director of Drugs Control
Salem Zone, Pannangadu,
Salem -4
Salem District.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to order passed by the 1st respondent in reference No.866/D1/2023 dated 13.02.2024, quash the same.

For Petitioner : Mr.M.Elango

For Respondents: Mr.G.Nanmaran
Special Government Pleader



W.P.No.4244 of 2024

WEB COPY

ORDER

Mr.G.Nanmaran, learned Special Government Pleader accepts notice for the respondents and is armed with instructions to enable final and purposeful disposal of this Writ Petition, even at the stage of admission.

2. The petitioner is a holder of a drug licence and is carrying on the business & running a pharmacy under the name and style of Murali Drug House at Dharmapuri Main Road, Omalur. The licence was issued in 2000 in the name of his father and transferred to his name on 23.01.2002. The licence is being periodically renewed and is presently in force till 2026.

3. The pharmacy is being run in a joint family property, which, the petitioner states, belonged to his grand father. A suit has been filed as against the family members seeking partition of the joint family property in O.S.No.232 of 2016 on the file of Additional District Court, Salem.

4. There is acrimony among the family members in that several criminal cases have been defended by the petitioner, being CrI.O.P.Nos.6314, 6318 and 6319 of 2018 filed by his sister, which have been decided by this Court in favour of the petitioner on 27.01.2021. This order has attained finality.



W.P.No.4244 of 2024

5. The petitioner's father has also initiated police complaints as against the petitioner and one such complaint alleges that the petitioner had forged the signatures on the lease agreement in order to renew the drug licence for the medical shop. The petitioner had sought anticipatory bail in CrI.O.P.No.2307 of 2024 that was granted on 07.02.2024.

6. On a complaint initiated by his sister before the first respondent – Assistant Director of Drugs Control, Salem, proceedings have been initiated by him calling for the title document to the property in which the pharmacy is being run. The petitioner had duly responded bringing to his notice that the property is the subject matter of Civil Suit.

7. The present Writ Petition challenges show cause notice dated 13.02.2024 whereunder the first respondent calls upon the petitioner to show cause why drug licence dated 23.01.2002 should not be cancelled by exercise of powers vested in him under Rule 66(1) of the Drug Rules, 1945.

8. The substratum of the show cause notice is that the petitioner is conducting business without valid tenancy documents and without paying rent. It is relevant to note that the show cause notice does not make any allegation in regard to any other impropriety as regards the conduct of business itself or the products dealt with by the petitioner and the only case put forth against the



W.P.No.4244 of 2024

petitioner is that he is not a tenant and does not hold any valid tenancy document.

8. The Writ Court in W.P.No.16751 of 2017 has had occasion to consider a similar issue and by order dated 04.09.2017 has concluded that the first respondent cannot insist upon production of a valid lease deed for renewal of drug licence. The Court has referred to two decisions in arriving at this conclusion, being *K.Poruthammal and others V. Assistant Director, Drugs Control and others* (((2008) 4 MLJ 1151), and *S.Hammed Fathimal V. The Assistant Director, Drugs Control, Tirunelveli Zone, Maharaja Nagar, Tirunelveli* (2011 (2) CWC 257).

9. In light of the aforesaid and seeing as the impugned communication is only a show cause notice, the petitioner is permitted to file a reply within a period of two (2) weeks from today citing the decisions as aforesaid, as well. The petitioner should be heard, explanation considered, binding case law taken note of and orders passed by the first respondent within a period of four (4) weeks from date receipt of reply by the petitioner.

10. For a period of six (6) weeks or till orders are passed on the reply to be filed by the petitioner, whichever is earlier, let status quo, as on date, be maintained, that is, the petitioner shall not be disturbed from continuing the pharmacy business in the present premises.



W.P.No.4244 of 2024

11. This Writ Petition is disposed in the aforesaid terms. No costs.

WEB CONNECTED Miscellaneous Petitions are closed.

21.02.2024

Index : Yes / No

Speaking order

Neutral citations: Yes

sl



WEB COPY



W.P.No.4244 of 2024

DR.ANITA SUMANTH,J.
S1

To

- 1.The Assistant Director of Drugs Control
Salem Zone, Meyyanur
Salem,
Salem District – 636 004.
- 2.The Drug Inspector
Omalur Range
Office of Assistant Director of Drugs Control
Salem Zone, Pannangadu,
Salem -4
Salem District.

W.P.No.4244 of 2024
& WMP.Nos.4558 & 4559 of 2024

21.02.2024