



WEB COPY

W.P.No.35061 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.No.35061 of 2022

and

W.M.P.No.34500 of 2022

A.S.Abdul Ali

... Petitioner

Vs.

1.The Assistant Commissioner of Police,
Vepery Range,
No.132, EVK Sampath Salai,
Vepery, Chennai – 7.

2.The Union of India,
Represented by its Secretary,
Ministry of Home Affairs,
(CTCR Division NI-MFO Station) North Block,
New Delhi – 110 001.

3.The Director General of Police,
National Investigation Agency,
New Delhi.

... Respondents

[R2 and R3 are suo motu impleaded as per order
dated 10.04.2024 in WP.No.35061 of 2022]



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare the sealing of the premises measuring an extent of 500 Sq.ft. at front portion, first floor, at No.29, New No.32/2, Barracks Road, Periamet, Chennai-3 is legal and consequently to direct the respondent to remove the seal fixed on 27.10.2022.

For Petitioner	: Mr.I.Abdul Basith
For R1	: Mr.E.Raj Thilak Additional Public Prosecutor
For R2	: Mr.A.Kumaraguru Senior Panel Standing Counsel
For R3	: Mr.R.Karthikeyan Special Public Prosecutor

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

Exhausting alternate remedy contemplated under the Special Enactment is of paramount importance. The very purpose and object of an alternate remedy provided under the Act is to ensure that the disputed facts are adjudicated in the manner contemplated and by following the procedures.



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2. Aggrieved persons get an opportunity to put forth their case effective before the Alternate Forum / Court constituted under the enactment.

Therefore, High Court at all circumstances has to relegate the parties to approach the Alternate Forum constituted under the Act for effective adjudication of issues.

3. The factual findings of the original authority and the District Court in the present case, would be of greater assistance to the High Court for the purpose of effective exercise of the powers of judicial review under Article 226 of the Constitution of India. In the absence of any concrete factual findings, there is a possibility of miscarriage of justice, if the disputed issues are decided merely based on certain Xerox copies of the documents filed by the litigants in the writ proceedings.

4. This exactly is the reason why, the Courts have consistently held that the alternate remedy contemplated under the Special Enactment are to be exhausted. The rule of exception is discreet, if any gross injustice has been noticed, but not otherwise.

5. In the present case, the property stands in the name of the father of



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the writ petitioner was sealed by the competent authority under Section 8(ii) of the Unlawful Activities (Prevention) Act, 1967. The authorities found that in the subject premises a band organisation was functioning. Thus, an action was initiated.

6. The learned counsel for the petitioner would urge that the authorities have no power to seal the properties. However, the learned counsel for the respondents would oppose by stating that the power conferred is exercised by following the due procedures and the appeal contemplated under Section 8(8) has not been exhausted by the petitioner.

7. Section 8(8) of the Unlawful Activities (Prevention) Act, 1967 provides “Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate— (a) for declaration that the place has not been used for the purpose of the unlawful association; or (b) for setting aside the order made under sub-section (3) or sub-section (4), and on receipt of the application the Court of



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the District Judge shall, after giving the parties an opportunity of being heard, decide the question”.

8. Section 9 stipulates that “Procedures to be followed in the disposal of application under this Act”. Therefore, exhaustive procedures are provided for an effective adjudication of issues raised under the Act. The District Court being a Judicial Forum, the High Court need not dispense with the alternate remedy contemplate. The petitioner will get an opportunity to adjudicate factual and legal issues before the District Court by presenting his case.

9. In view of the fact that an efficacious alternate remedy is contemplated under the Act. The petitioner is at liberty to approach the Jurisdictional District Court for redressal of his grievances. In the event of any such approach, the period during which the present writ petition is pending before this Court is to be taken into consideration for condoning the delay, if any.



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10. With these observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S., J.] [R.S.V., J.]
05.08.2024

Jeni
Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

To

- 1.The Assistant Commissioner of Police,
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No.132, EVK Sampath Salai,
Vepery, Chennai – 7.
- 2.The Secretary,
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