



W.P.(MD)No.25761 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.25761 of 2022
and W.M.P(MD).No.19872 of 2022

1.Noorjahan Begum

2.Nagoorammal

... Petitioners

Vs.

1.The District Collector/The District Magistrate,
Virudhunagar District, Virudhunagar.

2.The Revenue Sub-Divisional Executive Magistrate/
Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

3.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

4.The Superintendent of Police,
Virudhunagar,
Virudhunagar District.

5.The Inspector of Police,
Virudhunagar Bazar Police Station,
Virudhunagar District.



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6. The Superintendent of Police,
National Investigation Agency,
10, Miller's Road,
Purasaiwakkam, Chennai.

... Respondents

*(*R6 is suo motu impleaded vide order dated 01.03.2024 made in W.P(MD).No.25761 of 2022*)*

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent vide R.Dis.No.C1-18/01/2022 dated 26.10.2022 and quash the same as illegal and consequently, direct the respondents to remove the lock and seal that is put on the building premises in Door No.42/2A, Pavali Road, Virudhunagar Town dated 29.10.2022 in pursuance of the impugned proceedings and consider the representation dated 02.11.2022 and remove the same.

For Petitioner : Mr.G.Mariappan

For Respondents : Mr.AR.L.Sundaresan
Additional Solicitor General of India
for R6
Mr.B.Nambiselvan
Additional Public Prosecutor
for R1 to R5



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ORDER

This Writ Petition has been filed challenging the impugned order passed by the first respondent dated 26.10.2022, in and by which, the second respondent was directed to seal the building premises located at No.42/2-Bawali Road, near Pallivasal, Virudhunagar District and for a consequential direction to the respondents to remove the lock and seal that has been put on the aforementioned building premises, on the basis of the representation dated 02.11.2022 made by the petitioners.

2. The case of the petitioner is that the second petitioner is the owner of the subject property and she had leased out the building on monthly rental basis to one Mohammed Althap Hussain of Virudhunagar Town to run an office for the political party for a period of 11 months. On 28.09.2022, he informed the second petitioner that he was going to vacate the office as political organization was banned by the Government of India and thereafter, he vacated the premises and handed over the key to the second petitioner. On 28.09.2022, the local Jurisdictional Police



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Official came to the building and confirmed that the said person has vacated the premises. While so, on 29.10.2022, the local Revenue Officials asked the petitioners to come to the building and they went to the building, where the second respondent and other Police Officials along with the Revenue Officials were present. They conducted inspection in the building and found no materials or documents available in the building. However, they informed the petitioners that they were going to put lock and seal in the premises. Subsequently, vide the impugned order dated 26.10.2022, the first respondent had directed the second respondent to seal the premises, in pursuance of which, the second respondent has put the lock and sealed the premises. Challenging the same, this Writ Petition has been filed.

3. The learned counsel appearing for the petitioners would submit that admittedly, the second petitioner is the owner of the subject building and she has leased out the building in favour of Mohammed Althap Hussain for a period of 11 months. For the mischief played by some other person, the subject building sealed by the respondents vide the



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impugned order dated 26.10.2022, is not sustainable one and in fact, no criminal case is pending against the petitioners. The entire articles available in the building were taken by the respondents. Even then, non-removal of lock and seal put up by the respondents is not sustainable one.

4. The learned Additional Solicitor General of India appearing for the newly impleaded sixth respondent submits that as against the impugned order passed by the first respondent, there is an effective remedy available under Section 8(8) of the Unlawful Activities (Prevention) Act, 1967 before the District Court. Without exhausting the remedy available under Section 8(8) of the said Act, the petitioner has filed this Writ Petition straight away. In support of his contention, the learned Additional Solicitor General of India placed reliance on the order of this Court dated 16.03.2023 passed in W.P(MD).No.29001 of 2022. Hence, he prays for dismissal of this petition.



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5. When there is an effective remedy available against the impugned order, under Section 8(8) of the said Act, as contended by the learned Additional Solicitor General of India appearing for the newly impleaded sixth respondent, the petitioners should have exhausted such remedy first and without exhausting the same, they cannot file this Writ Petition straight away. Hence, liberty is granted to the petitioners to file an appropriate application before the concerned District Court against the impugned order, under Section 8(8) of the said Act, within a period of two weeks from the date of receipt of a copy of this order. If such an application is filed by the petitioners, the concerned District Court shall entertain the application and decide the same on merits and in accordance with law, after providing an opportunity to the petitioners and pass appropriate orders within a period of 12 weeks from the date of filing of the application by the petitioners. The period during which this Writ Petition was pending shall be excluded for the purpose of limitation.



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6. With these directions, this Writ Petition is disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

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ssb

NCC:Yes/No

Index:Yes/No

Internet:Yes/No



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M.DHANDAPANI,J.

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