
(1994) 02 MAD CK 0029

In the Madras High Court

Case No : Writ Petition No. 2552 of 1994

V.G. Sakuntala

APPELLANT

Vs

State of Tamil Nadu and others

RESPONDENT

Date of Decision : 17-02-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1995 Mad 193

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

Advocate : V. Ramajagadeesan, for the Appellant; Ramabadran, Government Advocate, for the Respondent

Judgement

Bakthavatsalam, J.—The writ petition is for the issue of a writ of mandamus forbearing the respondents 1 to 3 from permitting the 4th

respondent from running the liquor shop at No. 67, Santhome High Road, Madras 28 on the strength of the interim stay granted by the first

respondent in letter No. 20841/P and E VI/93-I, dt. 7-1-1994.

2. The petitioner is the owner of the building/premises bearing door No. 67, Santhome High Road, Madras-28, by virtue of the sale deed dated

16-2-1981 and is residing there along with her family in the up stair portion. The 4th respondent who became the tenant under the erstwhile owner

B. P. Pillay, from whom the petitioner has purchased the property in question in 1981, was originally carrying on liquor shop business is carrying

on pharmacy business even though there is no fresh tenancy agreement between the petitioner and the 4th respondent. It is further alleged in the

affidavit filed herein that the petitioner had filed a civil suit in O.S. No. 2859/88 on the file of the City Civil Court, Madras for an injunction against

the 4th respondent from running a liquor shop in the premises in question and later withdraw the same. Thereafter, on 29-4-93, the petitioner sent objection petition to the Collector of Madras, Commissioner of Prohibition and Excise and Secretary to Government, Home Department, Government of Tamil Nadu, objecting to the grant of any fresh licence to the 4th respondent to run liquor shop. Thereafter, it appears that the petitioner has filed W.P. No. 10794/93 for a mandamus forbearing the respondents 2 and 3 from permitting the 4th respondent from running a liquor shop along with W.M.P. No. 16508; 93 for an order of interim injunction and Janarthanam, J. dismissed the said interim petition holding that the prayer in the main writ petition and interim petition are one and the same. Thereafter, the 2nd respondent granted a licence for a period of six months by his order dt. 7-6-1993. Subject to the 4th respondent obtaining No Objection from the landlady. As against the said order, the 4th respondent filed an appeal before the Commissioner of Prohibition and Excise and the same was dismissed on 6-12-1993. However, it is alleged, that the period of licence granted to the 4th respondent had expired by 9-12-1993. Thereafter, on the 4th respondent filing a revision before the 1st respondent, an order of interim stay of the operation of the order of the Commissioner of Prohibition and Excise dt. 6-12-1993, was granted and on the strength of the said interim stay order, the 4th respondent is now running the liquor shop without any licence. Therefore, it is alleged that the respondents" 1 to 3 should be directed to prevent the 4th respondent from running the liquor shop in the premises in question.

3. After hearing Mr. Rama Jagadeesan, learned counsel for the petitioner and after perusing the affidavit and other material papers placed before this Court and also after hearing the learned Government Advocate, who takes notice, I do not see any substance to entertain the writ petition at all. Admittedly the matter is pending before the Government in the form of revision filed by the 4th respondent and there is an order of interim stay of the operation of the order of the Commissioner of Prohibition and Excise, Madras, dt. 6-12-1993. If the petitioner is aggrieved against the interim order of the stay passed by the Government it is open to the petitioner to move the revisional authority for necessary relief and that alone will be the appropriate remedy for the petitioner and certainly the petitioner cannot straightway invoke The extraordinary jurisdiction of this Court

under Art. 226 of the Constitution of India. Hence giving liberty to the petitioner to move the 1st respondent by way of necessary petition 10

vacate the interim order passed by the Commissioner of Prohibition and Excise, Madras if she is so advised, this Writ Petition shall stand

dismissed. No costs. As and when petitioner files a petition to vacate the interim order before the Government, I do hope that the same will be

disposed of within four weeks from the date of receipt of the said petition, after giving due opportunity to the 4th respondent.

4. Petition dismissed.