

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.8.2015.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1215 of 2015 against W.P.No.14249/15

V.S.Priya

Appellant/Petitioner

vs.

1. The Deputy Commissioner (Excise)
Chennai Collectorate,
Singaravelan Maligai,
Chennai 600 001.

2. The District Collector,
Chennai Collectorate,
Chennai District.

Respondents/Respondents

Writ Appeal against the order dated 2.6.2015 passed in
W.P.No.14249 of 2015.

This Writ Petition is filed under Article 226 of the constitution of India praying to issue a Writ of mandamus directing the respondents to furnish copies of the documents mentioned in Paragraph No.10A to 10Y and such further or other documents in connection with and related to the proceedings pertaining to determination of claim of the alleged dues of the petitioner father pertaining to the license of Arrack Shop in A.S. No.4/81-82 5/81-82 and 17/81-82 within a period of two weeks.

For appellant : Mr.Rahul Balaji
For Respondents : Mr.M.S.Ramesh, AGP

JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

This appeal arises out of an order passed by the learned Judge in a Writ Petition filed by the appellant seeking a mandamus to the respondents to furnish copies of certain documents.

2. Heard Mr.Rahul Balaji, learned counsel for the appellant and Mr.M.S.Ramesh, learned Additional Government Pleader appearing for

the respondent.

3. It appears that the petitioner's father was the licensee of an arrack shop way back in the early 1980s. On the ground that the licence fee was not paid, proceedings for recovery of a sum of Rs.15,77,685/- were initiated. The petitioner's father died and the properties in Kerala were sought to be proceeded against.

4. The petitioner moved a writ petition in W.P.(C) No.24633 of 2009 on the file of the High Court of Kerala for quashing the proceedings for recovery. The writ petition was dismissed by a learned Judge by an order dated 21.7.2014. The said order was also confirmed by a Division Bench of the High Court of Kerala in W.A.No.1527 of 2014. Therefore, the right of the respondents to proceed with the revenue recovery has attained finality.

5. Thereafter, the petitioner seems to have sought copies of certain documents, to defend herself against the recovery proceedings, on the short ground that she was a minor at the time when her father was said to have incurred this alleged liability. The documents having not been furnished by the respondents, the petitioner moved a writ petition in W.P.No.14249 of 2015. The writ petition was dismissed by a learned Judge, by an order dated 2.6.2015 on the ground that after having allowed the challenge to the recovery proceedings to attain finality, the petitioner was not entitled to re-agitate the issue on a different ground. Aggrieved by the said order, the appellant is before us.

6. What the appellant challenged before the Kerala High Court was completely different from what the appellant now seeks. Before the Kerala High Court, the petitioner unsuccessfully challenged the very initiation of the recovery proceedings. Now, what the appellant wants, in this proceedings, is a copy of certain documents, on the basis of which liability has been fastened upon her father, so as to answer the claim. Therefore, we are of the considered view that the appellant cannot be denied the benefit of furnishing of copies of the documents, solely on the basis of dismissal of the proceedings before the High Court of Kerala.

7. The list of documents sought for by the appellant from the respondents are as follows:-

Sl.N o.	DATE	DISCRETION	ADDRESSOR
A	22.10.1981	Proc.G/29163/81	Taluk Excise Officer, Mambalam-Guindy Taluk
B	23.12.1981	Proc.G2/29163/81	Taluk Excise Officer, Mambalam-Guindy Taluk

Sl.N o.	DATE	DISCRETION	ADDRESSOR
C	23.12.1982	Notice-G2/29163/81	Taluk Excise Officer, Mambalam-Guindy Taluk
D	20.06.1983	Notice-G2/29163/81	Taluk Excise Officer, Mambalam-Guindy Taluk
E	10.10.1986	Letter No.L1/50238/81	Deputy Commissioner (Excise)
F	24.04.1994	Letter No.L1/50238/81	District Collector, Chennai.
G	28.04.1994	Letter No.K.Dis.2791/Z1	District Collector, Coimbatore
H	15.02.1995	Certificate U/s.3(1) of R.R. Act 1890 - L1/50238/81	Collector, Madras.
I	13.02.1995	Letter No.L1/50238/81	Deputy Commissioner (Excise)
J	07.01.1998	Letter No.L1/50238/81	Asst. Commissioner (Excise)
K	20.03.1998	Letter No.L1/50238/81	Asst. Commissioner (Excise)
L	21.06.2003	Letter No.G3-39007/93	District Collector, Trissur.
M	26.02.2009	Letter No.G3/49951/07	District Collector, Trissur.
N	03.04.2009	Report No.G2/575/85	Taluk Excise Officer, Mambalam-Guindy Taluk
O	18.03.2009	Fax Message No.G3/49951/07	District Collector, Trissur.
P	18.03.2009	Letter No.L1/50238/81	District Collector, Chennai.
Q	16.04.2009	Letter No.L1/50238/81	District Collector, Chennai.
R	28.04.2009	Fax Message No.G3/49951/07	District Collector, Trissur.
S	May 2009	Certificate U/s.3(1) of R.R. Act, 1890- L1/50238/81	District Collector, Chennai.
T	11.05.2009	Fax Message No.G3/49951/07	District Collector, Trissur.
U	15.05.2009	Fax Message No.G3/49951/07	District Collector, Trissur.

Sl.N o.	DATE	DISCRETION	ADDRESSOR
V	19.05.2009	Letter No.L1/50238/81	Deputy Commissioner (Excise)
W	09.09.2009	Letter No.L1/50238/81	Deputy Commissioner (Excise)
X	12.12.2014	Letter No.R3/8747/2009	The Thasildar, Chavakkad
Y	20.02.2015	Rc.No.L1/50238/81	District Collector, Chennai.

8. Mr.M.S.Ramesh, learned Additional Government Pleader submitted that the documents at serial numbers A, B, C, D, F and L are not available with the respondents.

9. Therefore, we are of the considered view that the respondent should be directed to furnish copies of atleast the other documents to enable the appellant to face the enquiry in the revenue recovery proceedings.

10. In view of the above, the writ appeal is ordered setting aside the order of the learned Judge and directing the respondents to furnish copies of the available documents to the appellant within a period of two weeks from the date of receipt of copy of this order. Within a period of two weeks from the date of receipt of documents, the appellant shall file reply and participate in the enquiry. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

ssk.

To

1. The Deputy Commissioner (Excise)
Chennai Collectorate,
Singaravelan Maligai,
Chennai 600 001.

2. The District Collector,
Chennai Collectorate,
Chennai District.

1 cc to Mr.Rahul Balaji , Advocate Sr.No.44710

1 cc to Government Pleader.Sr.No.45193

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rj (co) pmk.15.9.2015