

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2015

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.11396/2015 & MP.No.1/2015

G.Rukmani

..Petitioner

Vs

1.The Executive Officer
Selection Grade Town Panchayat
Harur, Dharmapuri District.

2.The Designated Officer
Tamilnadu Food Safety & Drug Administration
Department, Vennampatty Road,
Dharmapuri 636 701.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus to quash the impugned notice dated 06.04.2015 issued by the 1st respondent in Na.Ka.No.219/2012/A3 and consequently, direct the 1st respondent to permit the petitioner to sell "not drinking water" as per the C-Form license issued by the 2nd respondent.

For petitioner Ms.K.Subhashini for
M/s.Chennai Law Associates

For respondents ... Mr.R.Lakshmi Narayanan, AGP

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O R D E R

Heard the learned counsel for the petitioner ;
Mr.R.Lakshmi Narayanan, learned Additional Government Pleader
appearing for the respondents and with their consent, the writ
petition is taken up for final disposal.

2 The petitioner challenges the impugned notice dated 06.04.2015 by which the 1st respondent has imposed certain conditions in respect of the petitioner's right to draw water from her bore well. According to the petitioner, she is a poor, uneducated lady eking her livelihood by drawing water for non-drinking purpose and supplying to the neighbouring locality. Therefore, it is stated that she is not carrying on any commercial activity.

3 Learned counsel for the petitioner referred to the license issued by the Tamilnadu Food Safety & Drug Administration Department, wherein the petitioner has been granted license for manufacture of water not for drinking purposes. Armed with the license, now the petitioner's claim that she will be entitled to draw water for such purposes and the impugned notice is unsustainable. Earlier, the petitioner had approached this Court and filed a writ petition in WP.No.11935/2013, wherein the petitioner sought for a writ of mandamus to direct the 1st respondent herein to permit the petitioner to sell ground water after verification of all the certificates and licenses obtained by her. The said writ petition was allowed by this Court vide order dated 05.07.2013 imposing certain conditions. At this stage, it is beneficial to refer to the operative portion of the order dated 05.07.2013, which reads thus:-

"4. The learned counsel for the petitioner during the course of hearing, on instructions, submitted that the petitioner would be satisfied in case, a direction is given to the fourth respondent to remove the seal fixed to the bore well and permit her to take water for personal use.

5. The allegation against the petitioner appears to be the extraction of ground water for the purpose of sale. The petitioner now wanted the fourth respondent to permit her to take water for her personal use. The fourth respondent being the local panchayat cannot restrain the petitioner from taking water for her personal use. In case the petitioner indulges in commercial sale of water, it is open to the fourth respondent to take action as per law.

6. The fourth respondent is directed to remove the seal fixed to the bore well, so as to enable the petitioner to extract water for her personal use.

7. However, it is made clear that in case, the petitioner indulges in commercial exploitation of water, appropriate action can be taken by the fourth respondent once again to seal the bore well.

8. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed."

4 Thereafter, the petitioner obtained license from the Food Safety and Drug Administration Department and it appears that she was carrying on the activity of drawing the water when the impugned notice has been issued.

5 After hearing the learned counsel for the petitioner and perusing the materials placed on record, it is clear that the impugned proceedings is perfectly valid since the petitioner has not obtained any license for drawal of ground water for commercial purpose though it may not be for drinking purposes. Furthermore, the petitioner is bound by the conditions imposed by this Court in the earlier writ petition. That apart, the license issued by the Food Safety and Drug Administration Department is of little avail and that cannot be a license to draw underground water for any purpose which is not meant for personal use. Therefore, no ground has been made out by the petitioner to quash the impugned proceedings.

6 Accordingly, the writ petition is dismissed. No costs. However, this will not prevent the petitioner from applying to the appropriate authority for drawal of ground water for non-drinking purpose to be used for commercial purpose. Consequently the connected miscellaneous petition is also dismissed.

Sd/
ASSISTANT REGISTRAR (CS-II)

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SUB-ASSISTANT REGISTRAR

AP

To

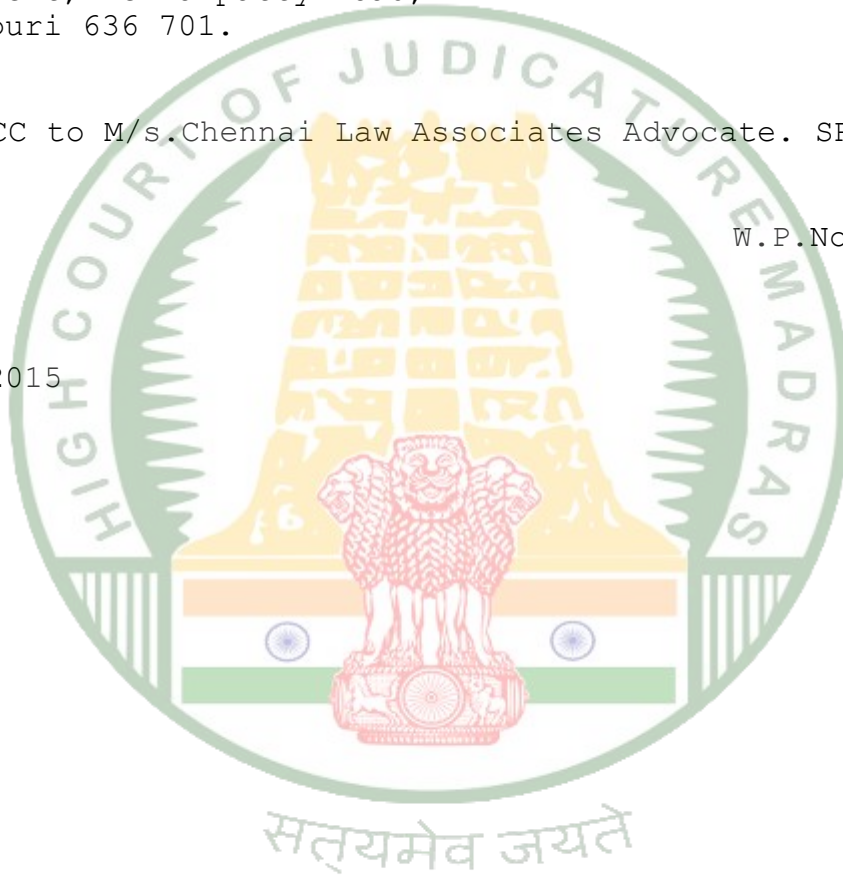
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+2 CC to M/s.Chennai Law Associates Advocate. SR.NO.66817

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JD 22/12/2015



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