

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.06.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.14249 of 2015 &
M.P.No.1 of 2015

V.S.Priya

...Petitioner

Versus

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

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

... Respondents

Prayer: 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's 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 Petitioner : Mr.Rahul Balaji

For Respondents : Mr.R.Lakshmi Narayanan,
Additional Government Pleader

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O R D E R

This Writ Petition has been filed seeking issuance of 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's father, pertaining to the license of Arrack Shop in A.S.Nos.4/81-82, 5/81-82 and 17/81-82, within a period of two weeks.

2. The learned Counsel appearing for the petitioner would submit that the petitioner's father by name V.K.Sreedharan died in the year 1995, while she was a minor. She being the only legal heir of her deceased father Sreedharan, received a copy of Letter No.G3-49951/07 dated 12.03.2009 addressed to the District Collector,

Thrissur. The said letter, inter alia, sought for the attention of the District Collector, Chennai, the 2nd respondent herein, to its first cited letter No.L1/50238/81 dated 24.05.1994, wherein the 2nd respondent herein, namely, the District Collector, Chennai, has requested the District Collector, Thrissur to recover an amount of Rs.15,77,685/- from the petitioner's father Late Mr.V.K.Sreedharan towards the realisation of Abkari dues. After coming to know about the alleged Abkari dues by her late father, she sent a letter dated 28.03.2009 to the 1st respondent, namely, the Deputy Commissioner (Excise), Chennai, requesting to furnish the details with regard to the said dues and to stop all further proceedings until the requested details were furnished. But there was no response. In the meantime, the Thasildar, Chavakkad issued a Revenue Recovery Notice dated 26.05.2009 for recovery of a sum of Rs.15,77,685/- along with interest at the rate of 12% per annum commencing from the year 1981-1982. As the petitioner was not aware about the alleged Abkari dues, she again wrote a letter dated 18.06.2009 to the District Collector, Thrissur and the Thasildar, Chavakkad to furnish details with regard to the said dues. Again, there was no response. Therefore, the learned Counsel for the petitioner prays to issue a direction to the respondents to furnish the details with regard to the Abkari dues by her deceased father V.K.Sreedharan.

3. It is also submitted by the learned Counsel for the petitioner that aggrieved by the Revenue Recovery Notice issued by the Thasildar, Chavakkad, the petitioner approached the High Court of Kerala at Ernakulam by filing W.P.(C).No.24633 of 2009 inter alia seeking the following reliefs:

'A. Issue a Writ of Certiorari or any other appropriate writ, order or direction quashing Exhibit P.3; and

B. Issue a Writ of Mandamus or any other appropriate writ, order or direction, directing the respondents to consider and pass appropriate orders on Ex.P4 series representation.'

The said Writ Petition was dismissed by order dated 21.07.2014 stating that though the recovery of arrears relating to the year 1981-1982 was initiated on the basis of the 1st respondent's requisition dated 09.09.2009, steps were taken well before that and moreover the dues being crown debt, no grounds of limitation could be raised.

4. As against the dismissal of the W.P.(C).No.24633 of 2009 dated 21.07.2014, the petitioner filed W.A.No.1527 of 2014 before a Division Bench of the High Court of Kerala at Ernakulam. The Honourable Division Bench of the High Court of Kerala at Ernakulam in its judgment dated 17.11.2014 in W.A.No.1527 of 2014 has also dealt with the said issue. The operative portion of the said judgment runs as follows:

"5. The learned Counsel for the appellant however contends that the particulars of the amounts have not been stated in the notice and therefore notice issued by the District Collector is bad in law.

6. Apparently, this is an instance where the

requisition had been made by the District Collector, Chennai under Section 3(1) of the Central Act, which reads as under:

"3. Recovery of public demands by enforcement of process in other districts than those in which that become payable: (1) Where an arrear of land revenue is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the Schedule, stating-

- (a) the name of the defaulter and such other particulars as may be necessary for his identification and
- (b) the amount payable by him and the account on which it is due"

In fact, Section 4 provides remedy to a person denying liability to pay the amount sought to be recovered. The petitioner did not avail of the opportunity available under Section 4. As far as the requisition issued by the Chennai Collector is concerned, it is received by the District Collector, Thrissur. Even under Section 69(5) of the Kerala Revenue Recovery Act, a demand made or received shall be conclusive proof as regards the amount due. Therefore, as far as the District Collector, Thrissur is concerned, the said authority cannot interfere with the recovery certificate issued by the District Collector, Chennai.

7. The learned Single Judge was justified in dismissing the writ petition, especially, due to the fact that the amounts due have been clearly indicated in the counter affidavit. Under such circumstances, we do not think that we will be justified in interfering with the recovery proceedings initiated against the property of the petitioner...."

8. In the light of the above, the learned Counsel for the petitioner would, however, submit that the dismissal of the above stated Writ Appeal by the Division Bench of the High Court of Kerala at Ernakulam would not deter the petitioner from making a new prayer and asking for clear particulars as to on what basis the Thasildar, Chavakkad has come to a conclusion that there has been a due of sum of Rs.15,77,685/- along with interest at 12%, commencing from the year 1981-1982 towards the Abkari dues as against the petitioner's father. I find no justification in the said argument for the reason that when similar set of arguments advanced by the learned Counsel for the petitioner before this Court were already dismissed by the High Court of Kerala at Ernakulam in the above mentioned judgment, without availing the appeal remedy in accordance with law against the said judgment, the petitioner has wrongly chosen to approach this Court by filing this Writ Petition, which is not maintainable. Therefore, I am of the view that it is unfair on the part of the petitioner to knock at the doors of this Court again for the same reason he had lost before the Hon'ble High Court of Kerala.

10. In view of the above reasons, the Writ Petition fails and the same is accordingly dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

tsi

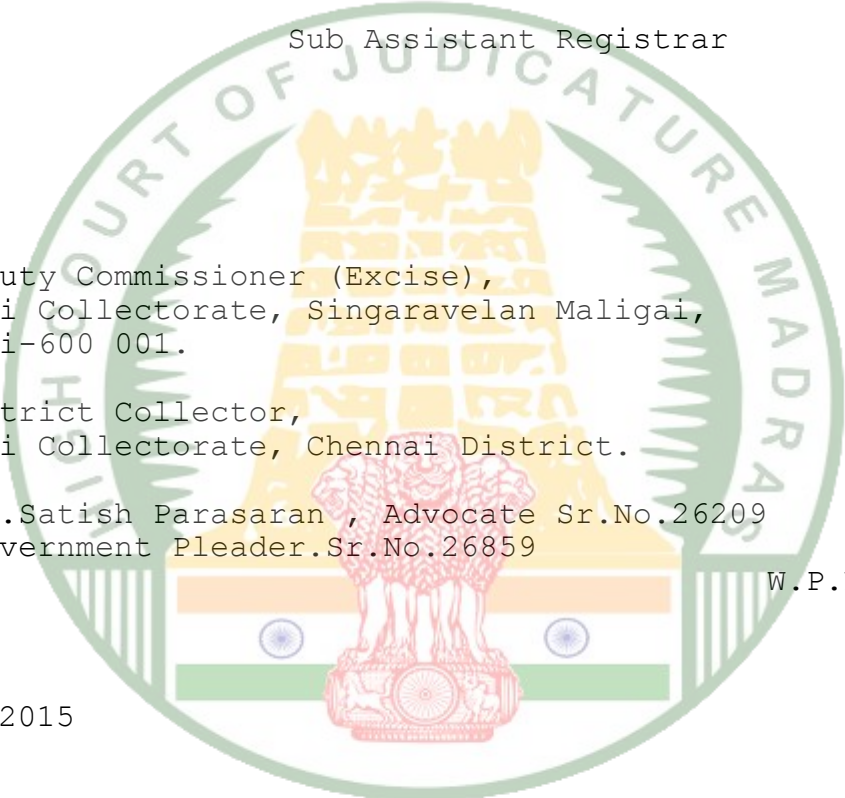
To

1. The Deputy Commissioner (Excise),
Chennai Collectorate, Singaravelan Maligai,
Chennai-600 001.
2. The District Collector,
Chennai Collectorate, Chennai District.

1 cc to Mr.Satish Parasaran , Advocate Sr.No.26209
1 cc to Government Pleader.Sr.No.26859

W.P.No.14249 of 2015

rsk(co)
pmk.4.8.2015



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