

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition No.40420 of 2002

S & S Industries and Enterprises Ltd.,
Represented by its Director and Secretary,
A-3 First Main Road,
Ambattur Industrial Estate,
Chennai - 600 058

... Petitioner

Vs

1. The District Collector,
Nagapattinam Quaid-E-Milleth District
2. The Revenue Divisional Officer,
Mayiladuthurai
3. The Tahsildar, Sirkali
4. The Village Administrative Officer,
Radhanallur Village, Sirkali

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the third respondent in Na.Ka.No.3987/93/A2 dated 03.10.2002 by issuing notice along with Form Nos.27, 7 and 7A by invoking the Tamil Nadu Revenue Recovery Act, 1864, pursuant to the attachment order dated 05.08.2002 for the collection of dues and to quash the same, as the third respondent has not obtained any prior consent from BIFR.

For Petitioner : Mr. B.Natarajan

For Respondents: Mr. P.Sanjai Gandhi,
AGP.,

O R D E R

Mr.P.Sanjai Gandhi, learned Additional Government Pleader, takes notice for the respondents. By consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal.

2. By way of this writ petition, the petitioner has challenged the Revenue Recovery Proceedings and its non-compliance of the order passed requiring it to pay the amount payable by treating the possession as one of the lessee, though it was an encroacher by paying B Memo charges.

3. The learned counsel appearing for the petitioner submitted that the proceedings under Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter will be referred to as "the SICA") against the petitioner is still pending. A further submission has been made to the effect that no procedure has been followed in initiating the Revenue Recovery Proceedings. According to the learned counsel, an appeal petition has been filed by the petitioner before the District Collector, namely, the first respondent herein, and the entire proceedings have been initiated against the principles of natural justice.

4. The learned Additional Government Pleader appearing for the respondents submitted that the appeal filed by the petitioner is with respect to Fasli 1411 alone; the petitioner, being an encroacher, is bound to pay the lease amount atleast. Therefore, the learned Additional Government Pleader submitted that no interference on the impugned order is required.

5. On an enquiry, the learned Additional Government Pleader has submitted before this Court that, subsequently, the possession of the land-in-question has been taken from the petitioner and now the same lies with the Government.

6. The said statement of the learned Additional Government Pleader appearing for the respondents is recorded.

7. A perusal of the counter affidavit filed by the first respondent would go to show that the respondents have woken up belatedly after the objection raised by their Audit Department and it was followed by the demand notice, against which, the petitioner has filed an appeal, though belatedly. The demand was made, by treating the said amount as the one of lease, though the request made by the petitioner was rejected.

8. This Court is not willing to go into the merits of the case. Admittedly, the petitioner has preferred an appeal before the first respondent, on 10.10.2002, which is pending. Whether it is for the subsequent Fasli or for the earlier one, is the issue to be decided by the first respondent. Similarly, the question of applicability of Section 22 of the SICA is also a matter to be considered and decided by the first respondent.

9. Thus, the writ petition stands disposed of, by directing the first respondent to issue notice to the petitioner to show cause as to why the amount demanded shall not be directed to be paid, followed by the proceedings under the Revenue Recovery Act. On a reply to be given by the petitioner, a detailed order will have to be passed by the first respondent. The said exercise will have to be done within a period of eight weeks from the date of receipt of a copy of this order. It is

made clear that the petitioner will have to co-operate with the pending proceedings before the first respondent, failing which, it is open to the said authority to pass appropriate orders based upon the available records. No costs.

Srk

Sd/-

Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

To

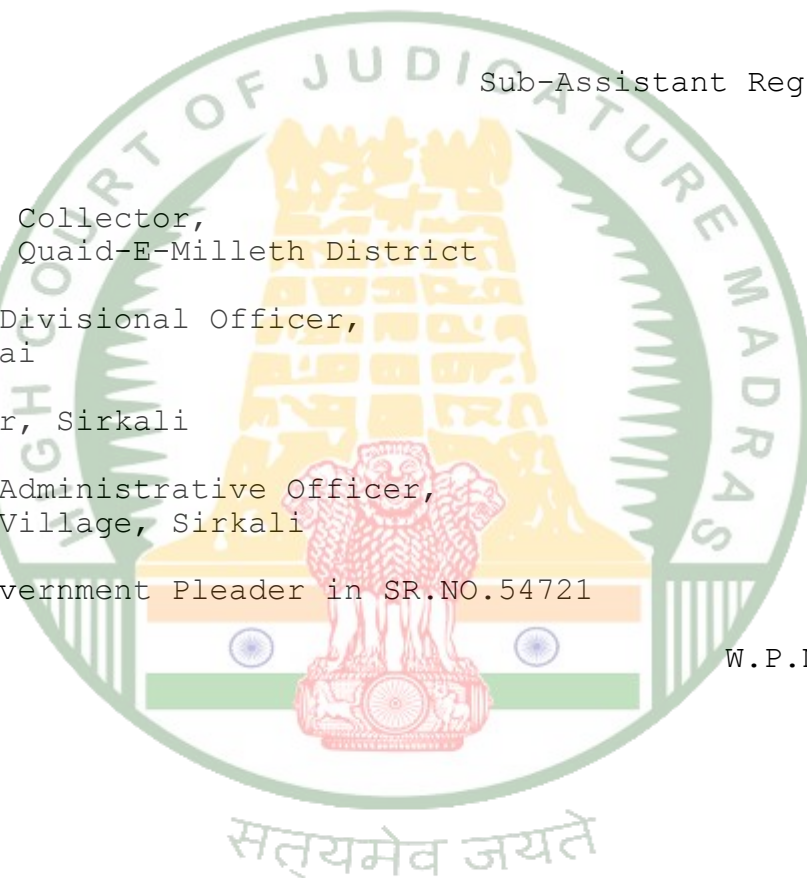
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+1 C.C. Government Pleader in SR.NO.54721

W.P.No.40420 of 2002

CTK(CO)

sd : 19/10/2015



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