

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.8925 of 2015

and

M.P.No.1 of 2015

A.Zahir Hussain

... Petitioner

Vs

1. The Registrar
Debt Recovery Appellate Tribunal, Indian
Bank Circle Office Building, 4th Floor
Ethiraj salai, Chennai-8.
2. The Central Bank of India,
Rep. by its Branch Manager, Cantonment
Branch, 43/3A Promenade Road,
Cantonment, Trichy
3. The Recovery Officer,
Debt Recovery Tribunal, Madurai
4. K.Jamruth
5. S.M.D.Sheriff
6. S.M.Haja Mohideen
7. Mohammed Iqbal
8. A.Mubarak Ali

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorarified mandamus as stated therein.

For Petitioner : Mr.R.Ganesh Babu
For Respondents : Ms.G.Jayanthi
for Mr.F.B.Benjamin George for R.2
Ms.A.Parveen for RR.4 to 7

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner seeks for the relief of issuance of writ of certiorarified mandamus to call for the records relating to the order passed by the 1st respondent in I.A.No.29 of 2015 in A.I.R. No.296 of 2014 dated 23.2.2015 and quash the same and directing the 1st respondent to receive the conditional amount which was passed in I.A. No.703 of 2014 in A.I.R. No.296 of 2014 dated 14.8.2014.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. This Court, while considering the issue, in W.P.No.33182 of 2014, disposed of the writ petition on 9.1.2015 by observing as under:

"4. In view of that, we do not propose to pass any order on merits even on the question of extension of time. However, we deem it fit and proper to direct the Debts Recovery Appellate Tribunal to consider the petitioner's application dated 31.10.2014 in the light of the contentions made in the affidavit and also on the application for extension of time on its own merits and in accordance with law.

5. This writ petition stands disposed of accordingly. Consequently, M.P.No.1 of 2014 is closed. No costs."

4. Learned Chairman of the Debt Recovery Appellate Tribunal, it appears, that without paying any attention to our observation in the order dated 9.1.2015, has dismissed the application for extension of time without considering the contentions made by the petitioner in the affidavit and also the application for extension of time. We refrain ourselves from making more observations. However, it is expected that when an order is passed by the High Court, all the Tribunals, which are under supervisory control of the High Court, are required to comply with the observations and deal with the matter accordingly. We further expect that while reconsidering the application, the observations made in our Order dated 9.1.2015 shall be kept in mind and proper order shall be passed on merit and in accordance with law.

5. The Supreme Court in RBF RIG Corporation, Mumbai, Vs. Commissioner of Customs (Imports), Mumbai¹, in a case, wherein ,the Order passed by the High Court was not complied with by the subordinate Tribunal, held as under:

'23. The High Court, in the present case, has moulded the relief in such a manner to meet out justice to an aggrieved person. It is not open to the subordinate Tribunal to examine whether a direction issued by the High Court under its writ powers was correct and refuse to carry it out as such amounts to denial of justice and destroys the principle of hierarchy of courts in the administration of justice.

24. This Court in Bishnu Ram Borah v. Parag Saikia² has held: (SCC pp.496-97, para 11)

'11. It is regrettable that the Board of Revenue failed to realise that like any other subordinate tribunal, it was subject to the writ jurisdiction of the High Court under Article 226 of the Constitution. Just as the judgments and orders of the Supreme Court have to be faithfully obeyed and carried out throughout the territory of India under Article 142 of the Constitution, so should be the judgments and orders of the High Court by all inferior courts and tribunals subject to their supervisory jurisdiction within the State under Articles 226 and 227 of the Constitution. We cannot but deprecate the auction of the Board of Revenue in refusing to carry out the directions of the High Court. In Bhopal Sugar Industries Ltd. v. ITO³ the Income Tax Officer had virtually refused to carry out the clear and unambiguous directions which a superior tribunal like the Income Tax Appellate Tribunal had given to him by its final order in exercise of its appellate powers in respect of an order of assessment made by him. The Court held that such refusal was in effect a denial of justice and is furthermore destructive of one of the basic principles in the administration of justice based as it is in this country on the hierarchy of courts. The facts of the present case are more; or less similar and we would have allowed the matter to rest at that but unfortunately the judgment of the High Court directing the issue of a writ of mandamus for the grant of a liquor licence to Respondents 1 and 2 cannot be sustained.'

25. We hasten to add, if for any reason, the subordinate authority is of the view that the directions

1 (2011) 3 SCC 573

2 (1984) 2 SCC 488

3 AIR 1961 SC 182 = (1961) 1 SCR 474

issued by the Court are contrary to statutory provisions or well-established principles of law, it can approach the same Court with necessary application/petition for clarification or modification or approach the superior forum for appropriate reliefs.....''

6. Resultantly, we set aside the impugned order passed by the 1st respondent in I.A.No.29 of 2015 in A.I.R. No.296 of 2014 dated 23.2.2015 and remit the matter back to the Debt Recovery Appellate Tribunal, Chennai with a further direction to take up the application and pass order on merit and in accordance with law advertent to all the averments made in the affidavit and also on the application for extension of time in detail.

The writ petition stands allowed accordingly. No costs. Consequently the connected miscellaneous petition stands closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

usk

To

1. The Registrar
Debt Recovery Appellate Tribunal, Indian
Bank Circle Office Building, 4th Floor
Ethiraj salai, Chennai-8.
2. The Branch Manager,
Central Bank of India,
Cantonment Branch, 43/3A Promenade Road,
Cantonment, Trichy
3. The Recovery Officer,
Debt Recovery Tribunal, Madurai

+2cc's to Mr.A.Parveen, Advocate, S.R.No.19200

+1cc to Mr.C.Venkateswaran, Advocate, S.R.No.18891

+1cc to Mr.F.B.Benjamin George, Advocate, S.R.No.18815

W.P. No.8925 of 2015
and M.P.No.1 of 2015

SR(CO)
CA(15/04/2015)