



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.01.2015
CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

WEB COPY

Crl.R.C.(MD)NO.31 of 2015
and
M.P.(MD)No.1 of 2015

M/s Venchra Foods & Beverages(India)Pvt. Ltd.,
represented by its Managing Director,
S.Venkateshan.

.. Revision Petitioner

Vs.

1. The District Collector,
Dindigul District,Dindigul.
2. The Revenue Divisional Officer,
Dindigul.
3. The Tahsildar,
Dindigul East,Dindigul.
4. The Deputy Superintendent of Police,
Dindigul Rural,
Dindigul.

... Respondents

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records of the second respondent issued in his proceedings Na.Ka.Na.6931/2014 and dated 08.01.2015 and set aside the order.

For Petitioner : Mr.S.Kanagarajan
for Mr.K.Muthumalai

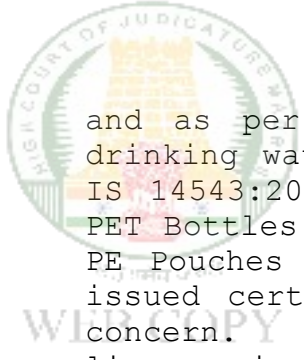
For Respondents : Mr.P.Kandasamy
Government Advocate(Crl.side)

ORDER

By consent, this Criminal Revision Case is taken up for final disposal at the stage of admission itself.

2. The petitioner, aggrieved by the impugned order passed by the second respondent, dated 08.01.2015 purported to be under Section 145 of the Code of Criminal Procedure, in and by which, the petitioner was directed to close its concern, on or before 31.01.2015, has filed this Criminal Revision Petition.

3. The learned Counsel appearing for the petitioner would submit that the petitioner has obtained necessary certificate from the Bureau of Indian Standard (BIS), dated 26.02.2014 and it is valid upto 23.02.2015



and as per the said licence, the petitioner can manufacture packaged drinking water (other than Packaged Natural Mineral Water) conforming to IS 14543:2004 to be filled in Colourless and transparent PET Jars 20L, PET Bottles 2L, 1L, 500ml & 300ml conforming to IS 15410:2003 and Flexible PE Pouches 250ml conforming to IS 15609:2005. The local body has also issued certificate that the land in question belongs to the petitioner concern. The attention of this Court was also invited to FORM "C" licence issued by the Tamil Nadu Food Safety and Drug Administration Department (Food Safety Wing), which is valid upto 05.05.2019.

4. It is the submission of the learned Counsel appearing for the petitioner that the Chief Engineer of PWD, WRD, State Ground and Surface Water Resources Data Centre, Tharamani, Chennai-113, in his proceedings, dated 27.08.2014, has refused to grant 'No Objection Certificate' for erection of the plant, as the area is located at over exploited area. The said letter came to be issued on the basis of G.O.Ms.No. 52 Public Works Department, dated 02.03.2012 and G.O.Ms.No.142 Public Works Department, dated 23.07.2014 and challenging the legality of G.O.Ms.No.142 Public Works Department, dated 23.07.2014, the petitioner filed W.P.(MD)No.18417 of 2014, on the file of this Court and on 06.01.2015, has obtained an order of interim stay of the said G.O. and without taking note of the fact, the second respondent has passed the impugned order on 08.01.2015, straight away directing the petitioner to close the concern on or before 31.01.2015.

5. On the legal plea, it is the submission of the learned Counsel for the petitioner that if at all any order is to be passed, it could be only under Section 147 of the Code of Criminal Procedure and not under Section 145 of the Code of Criminal Procedure. Even for the sake of argument that the second respondent is entitled to invoke Section 145 of the Criminal Procedure Code, admittedly no preliminary order has been passed and it is obligatory on the part of the second respondent to record the satisfaction before arriving at a decision to pass an order under Section 145 of the Code of Criminal Procedure and therefore, for the said legal plea, prays for quashing the impugned order.

6. Per contra, the learned Government Advocate (Crl.Side) for the respondents would contend that the second respondent has taken into consideration the fact that the area in which the petitioner is running his operation, is over exploited area and taking into consideration the environmental aspect and public interest, the second respondent has passed the impugned order and prayed for dismissal of this Revision.

7. This Court has carefully considered the rival submissions made by the learned Counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) for the respondents and perused the materials available on record.

8. Even for the sake of argument that the impugned order is the one passed under Section 145 of the Code of Criminal Procedure, admittedly no preliminary order has been passed and it is obligatory on the part of the second respondent to arrive at the grounds of satisfaction before proceeding further in terms of the said provision, but the impugned order does not disclose it.



9. Section 147 of the Code of Criminal Procedure speaks about the dispute concerning the right of use of land or water. In the considered opinion of this Court, the second respondent, while passing the impugned order, has failed to follow the mandatory procedures cast upon him and hence, on that sole ground, the impugned order is set aside and the matter is once again remitted to the second respondent to pass fresh order strictly in accordance with law.

10. In the result, the Criminal Revision Case is partly allowed and the impugned order dated 08.01.2015 passed by the second respondent is set aside and the matter is once again remitted to the second respondent for fresh adjudication strictly in accordance with law and he shall pass orders as expeditiously as possible, after affording opportunity to the persons concerned and not later than 20.02.2015. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Per.Admn)

\\True copy\\

Sub Assistant Registrar

To

1. The District Collector, Dindigul District,Dindigul.
2. The Revenue Divisional Officer, Dindigul.
3. The Tahsildar, Dindigul East,Dindigul.
4. The Deputy Superintendent of Police,
Dindigul Rural,Dindigul.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO M/S.K.MUTHUMALAI, ADVOCATE SR.NO.4273

Cr1.R.C.(MD)NO.31 of 2015
and
M.P.(MD)No.1 of 2015
30.01.2015

SSL

NA/09/02/2015/P3/7C