

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2016

CORAM

THE HONOURABLE MR. JUSTICE **M.M.SUNDRESH**

Contempt Petition No.2326 of 2016
and

Sub Application (OS) No.490 of 2016

M/s.AR Bachawat Trading Pvt. Ltd.,
Rep. By Mr.Dinesh,
Authorised Signatory,
No.27/5, Erulappan Street,
Chennai 600 079.

...Petitioner

Vs

Mrs.Amutha,
The Commissioner,
Food and Safety,
5th Floor, DMS Building,
359, Anna Salai, DMS Campus,
Teynampet, Chennai 600 006.

...Respondent

Prayer: This Contempt Petition filed under Section 11 of the Contempt of Courts Act 1971 to punish the respondent for disobeying and failing to implement the order of this court dated 30.10.2015 in M.P.No.1 of 2015 in W.P.No.34737 of 2015.

For Petitioner :: M/s.Paul and Paul

For Respondent :: Mr.K.V.Dhanapalan
Special Government Pleader

ORDER

This contempt petition is filed inter alia alleging that the interim order passed by this court on 30.10.2015 in M.P.No.1 of 2015 in W.P.No.34737 of 2015 has been disobeyed by the respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Learned counsel appearing for the petitioner submits

that though the respondent has complied with the similar orders passed in both interim as well as final, the present order has not been complied with.

3. Learned Special Government Pleader appearing for the respondent/contemnor submits that the goods have been seized by the police and thereafter, the same was handed over to the office of the respondent. Admittedly, the sale has been effected by the petitioner with respect to a product known as chewing tobacco. He further submitted that the report of the King Institute Food Analysis Laboratory reiterates the same. The Hon'ble Apex Court has held in S.L.P (C) No.16308 of 2007 that in such a case, a product which contains tobacco/nicotine would come under the purview of the Food Safety and Standards (Prohibitions & Restrictions On Sales) Regulations, 2011 and that all the connected writ petitions are likely to be posted before the appropriate court. Therefore, the contempt petition shall be closed.

4. This court is of the view that the order was passed taking into consideration of the earlier order passed by this court. Now the respondent has misplaced the lines of the apex court. This is the matter to be decided either while disposing of the injunction petition or in the main writ petition. But the order has been passed exparte.

This court does not find any wilful disobedience, as according to the respondent, the product of the petitioner

does come under the purview of the Food Safety and Standards (Prohibitions & Restrictions On Sales) Regulations, 2011 as held by the Apex Court. In such a view of the matter, nothing to indicate that the earlier order has been passed by taking into consideration of the order passed in SLP No.16308 of 2011 suffice it to state this court does not find any wilful disobedience. The contempt petition is closed. The parties are at liberty to argue the matter on merits in the injunction application or in the main writ petition. It is made clear that the observation made in this petition will not have any bar in deciding the injunction petition or main writ petition. The connected sub application is closed.

SD/-

JOINT REGISTRAR(OS)

vri

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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SM/CO/03/01/2017

To
Mrs.Amutha,
The Commissioner,
Food and Safety,
5th Floor, DMS Building,
359, Anna Salai, DMS Campus,
Teynampet, Chennai 600 006.