

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

W.A.Nos.470 to 472 of 2008
and
M.P.Nos.1 & 2 of 2008

W.A.Nos.470 & 471 of 2008

V.Gandhimathi .. Appellant

Vs.

1.The Excise Commissioner,
Government of Puducherry,
Puducherry.

2.The Deputy Commissioner of Excise,
Karaikal.

3.S.Santhosam

4.N.Ganesan

5.Geetha Joy

6.G.Kumaresan

7.S.Muthuraj

8.R.Jayapraksh

.. Respondents

W.A.No.472 of 2008:

V.Ganthimathi

.. Appellant

Vs.

1.The Excise Commissioner,
Government of Puducherry,
Puducherry.

2.The Deputy Commissioner Excise,
Karaikal.

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3.M/s.Shanmuga Wines,
rep. by its Managing Partner
K.Kumaresan,
No.3, Poraiyar Road,
Karaikal.

.. Respondents

Appeals filed under Clause 15 of Letters Patent against the order dated 19.03.2008 in W.P.Nos.36697, 33247 & 20263 of 2007 on the file of this Court.

W.P.33247 of 2007: This writ petition is filed under Article 226 of constitution of India praying this court to issue a writ of certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent dt 25.9.2007 and quash the same and consequently directing the 2nd respondent to renew the FL1 Licence of the liquor vending business at No.3 MainRoad Kottucherry Karaikal in the name of the petitioner individually.

W.P.36697 of 2007: This writ petition is filed under Article 226 of constitution of India praying this court to issue a writ of Mandamus forbearing the 2nd respondent herein from permitting the respondents 3 to 8 to run the liquor shop in respect of licence No. 4/2007-2008 pursuant to the orders of the 2nd rspondent in his proceedings dated 4.12.2007 pending final orders inW.P Nos 20263 of 2007 and 33247 of 2007 on th file of this Honourble High Court

W.P.20263 of 2007: This writ petition is filed under Article 226 of constitution of India praying this court to issue a writ of certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent in Excise MP No.1 of 2006 dt 10.5.2007 and quash the same consequently forbearing the respondents or their men or agents in any manner interfering with the rights of the petitioner to carry on liquor vending business as per the licence in the licensed premises No.3 Main Road Kottucherri Karaikal without passing a final order as directed in W.A.No.1280 of 2006 batch dt 22.11.2006 and interim orders in W.P.No.15822 of 2007 dt 27.4.2007.

For Appellant .. Mr.S.P.Harikrishnan
for M/s. LA LAW

For Respondents .. Mr.M.Govindaraj
Govt. Pleader (Pondy) for R1 & R2

Mr.S.Dhayalesswaran
for R3 to R8 in W.A.470 & 471/2008
and R3 in W.A.472/2008

COMMON JUDGMENT

(Judgment of the Court was made by The Hon'ble Chief Justice)

Multifarious proceedings have been initiated by the appellant on account of the dispute which she has with the Partnership Firm/respondent No.3 in W.A.No.472 of 2008. The dispute pertains to the liquor licence, as the appellant sought to claim, while the business was of the Firm, that she alone was the licensee. The Licensing Authority has, however, opined to the contrary.

2. It is an admitted position that civil proceedings are pending inter se the parties.

3. In the impugned order, it has also been opined that findings given by the Licensing Authority in favour of the Firm are also not fatal to the appellant, as the same have been held to be applicable for the time being till, however, the Court determines the rights and obligations of the parties.

4. We are of the view that the dispute being in the nature of a Partnership, it is only the Civil Court which would determine the inter se rights and if prosecuted properly, those rights would be determined by now, as the issue is eight years old, even from the date of filing of the appeals. The licence which was given for 2007-2008 was thus in the name of the Partnership Firm with seven partners.

5. We are thus of the view that the impugned order cannot be faulted and the final rights would be determined in the civil proceedings.

6. The writ appeals are dismissed. No costs. Consequently, M.P.Nos.1 & 2 of 2008 are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Excise Commissioner,
Government of Poducherry,
Poducherry.

2.The Deputy Commissioner of Excise,
Karaikal.

1 cc to Government Pleader SR.44136, 44133

1 cc to M/s. La Law, Advocate SR.43887

W.A.Nos.470 to 472 of 2008

VSN(CO)
EU 30.08.16



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