

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.26442 of 2016

and

W.P.M.P.Nos.22654 and 22655 of 2016

S.Kasturi

... Petitioner

vs.

- 1.Union Territory of Pondicherry,
rep.by The Chief Secretary to Government(Excise),
Government of Puducherry,
Secretariat,
Beach Road,
Puducherry-605 001
- 2.The Commissioner(Excise),
Government of Puducherry,
Office of the Excise Commissioner,
Excise Department,
Pondicherry-605 013
- 3.The Deputy Commissioner(Excise),
Government of Puducherry,
O/o.the Deputy Commissioner(Excise),
Puducherry.
- 4.S.Abel Rozario
The Deputy Commissioner(Excise),
Government of Puducherry,
O/o.the Deputy Commissioner(Excise),
Puducherry.
- 5.The Registrar of Firms for Puducherry,
Office of the Registrar of Firms for Puducherry,
Illango Nagar,
Puducherry.
- 6.S.Indhumathi

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to impugned order vide No.3004/DCE/S2/FL.2/1999-2000/Vol.II/593 dated 21.07.2016, passed by the third respondent and quash the same as highly illegal, unlawful, arbitrary, ultravires, unconstitutional as it as it clear violation of cardinal principle of natural justice "Audi Alteram Partem"(No man shall be punished unheard) and also on the grounds that it crystal clearly malafide attitude on the part of the 3rd respondent and hence consequently direct the respondents to pay compensation sum of Rs.10,00,000/- (Rupees ten lakhs) to the petitioner towards mental agony, loss of reputation and loss of business.

For Petitioner :Mr.A.Prakash Adiapadam

For Respondents :Mr.A.Tamilvanan,G.A.for
M/s.Reena Ishwariya, A.G.P.(Pondy)
for R1 to R4
Mr.T.S.Baskaran for R7
Mr.Balavijayan for R6

ORDER

Heard Mr.Prakash Adiapadam, learned counsel for the petitioner and Mr.A.Tamilvanan, learned Government Advocate, appearing for Ms.Reena Ishwariya, learned Additional Government Pleader (Pondy) appearing for R1 to R4, Mr.T.S.Baskaran, learned counsel for R7 and Mr.Balavijayan, learned counsel appearing for R6.

2. The petitioner has challenged the order dated 21.07.2016, passed by the third respondent, in exercise of his powers conferred under Section 28 of the Pondicherry Excise Act, 1970, suspending the FL.2 licence of M/s.S.Bar, Puducherry.

3. The matter was listed for admission on 28.7.2016 and the Court heard the elaborate submissions of the learned Senior counsel for the petitioner as well as the learned Additional Government Pleader for the official respondents. In fact, this writ petition was taken up along with two other connected matters, namely, W.P.No.12190 of 2016, filed by the same petitioner and W.P.No.12324 of 2016, filed by the 7th respondent. After elaborately hearing the parties, the Court passed the following order.

"Heard Mr.A.R.L.Sundaresan, learned Senior Counsel for the petitioner, Mrs.Reena Ishwariya, learned Additional Government pleader appearing

for the official respondents and the learned counsels appearing for the private respondents.

2.The matter concerns a Liquor licence issued by the Government of Puducherry. The petitioner and the private respondents are all blood relatives and it is stated that a Suit for Partition is pending before the Additional Sub-Court, since 1999, and the liquor licence, which is subject matter of these Writ Petitions is also one of the schedule of properties, which is the subject matter of partition.

3. During the pendency of the Suit, it appears that some interim arrangements were arrived at and by virtue of the same, the writ petitioner was entitled to operate the liquor licence and to render accounts. The private respondents have raised objections to the Government stating that the petitioner is not running the business, which was objected to by the petitioner and it has ultimately resulted in an order being passed by the official respondents, suspending the licence.

4.The learned Additional Government Pleader points out that the basis of the impugned order is not only solely based upon the complaint given by the private respondents, but also from the information obtained from the Registrar of Companies.

5.This Court made a suggestion to the learned counsels appearing for the petitioner and the private respondents that if the private parties enter into an arrangement among themselves, this Court can consider passing some orders, so that the business can be commenced. However, if there is no consensus, then this Court will consider these Writ Petitions along with one more Writ Petition being W.P.No.12324 of 2016, filed by the 7th respondent in W.P.No.12190 of 2016.

6.Hence, Registry is directed to list W.P.Nos.12190 and 26442 of 2016 along with W.P.No.12324 of 2016, on 22.08.2016. If the parties agreed to arrive at some consensus, it is open to them to place the same before this Court on the next hearing date or else, all of them shall complete their respective pleadings three

days before the hearing date.

4. After the above order was passed, the learned counsel for the writ petitioner mentioned before this Court seeking permission of this Court to withdraw this writ petition to enable him to approach the Commissioner of Excise, Puducherry, by way of appeal. Therefore, the matter was directed to be listed under the caption 'for being mentioned' and accordingly today it is listed.

5. The learned counsels appearing for the respondents do not object to the prayer sought for by the petitioner.

6. Hence, the writ petition is dismissed as withdrawn, leaving it open to the petitioner to workout his remedies under the provisions of the Pondicherry Excise Act, 1970. No costs. Connected miscellaneous petitions are dismissed.

msk

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

TO

1. The Chief Secretary to Government (Excise),
Government of Puducherry,
Secretariat,
Beach Road,
Puducherry-605 001

2. The Commissioner (Excise),
Government of Puducherry,
Office of the Excise Commissioner,
Excise Department,
Pondicherry-605 013

3. The Deputy Commissioner (Excise),
Government of Puducherry,
O/o. the Deputy Commissioner (Excise),
Puducherry.

4. S. Abel Rozario
The Deputy Commissioner (Excise),
Government of Puducherry,
O/o. the Deputy Commissioner (Excise),
Puducherry.

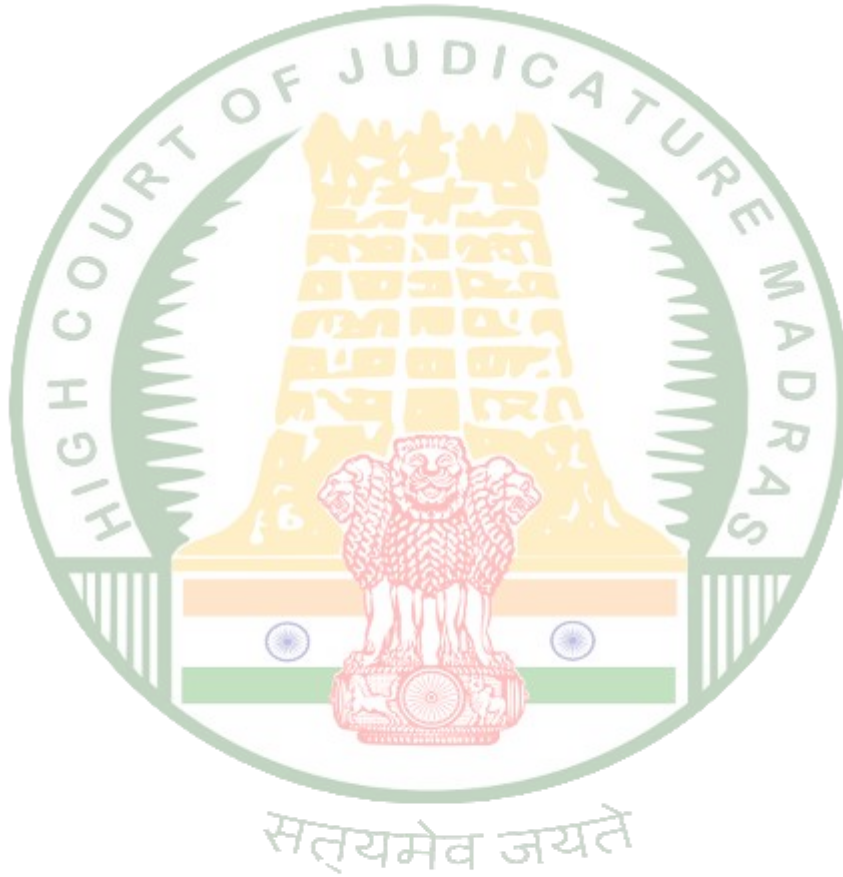
5.The Registrar of Firms for Puducherry,
Office of the Registrar of Firms for Puducherry,
Illango Nagar,
Puducherry.

+ 1 CC TO Mr.A.PRAKASH ADIAPADAM, ADVOCATE SR 43111

+ 1 CC TO MR.T.S.BHASKARAN, ADVOCATE SR 43155

KR/29/7/16

W.P.No.26442 of 2016



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