

In the High Court of Judicature at Madras

Dated : 22.9.2017

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.25469 of 2017 & WMP.No.26910 of 2017

- 1.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Tuticorin, rep. by the Senior Intelligence
Officer, Directorate of Revenue Intelligence,
Chennai Zonal Unit, No.27, G.N.Chetty
Road, T.Nagar, Chennai-17.
 - 2.The Commissioner of Customs,
Customs House, Tuticorin.
 - 3.The Joint Director General of Foreign
Trade 1544, India Life Building,
(Annexe, I Floor), Trichy Road,
Coimbatore-611 018
 - 4.The Superintendent of Customs
(SIIB), Customs House, Tuticorin.
Pin : 628004.Petitioners
- Vs
- 1.M/s.Guruvayurappan Textiles Pvt.
Ltd. rep. by its Director Shri.R.
Gurusamy, C.94, KVR Street,
Gandhi Nagar, Udumalpet-642154.
Tirupur District
 - 2.The Additional Subordinate Judge,
District Court Complex, Laxmi Nagar,
Tirupur-641602.Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Prohibition to prohibit
the second respondent from entertaining or hearing or proceeding
with Original Suit No.156 of 2017 in manner whatsoever and
further direct the second respondent to dismiss Original Suit
No.156 of 2017 filed by the first respondent as not maintainable.

For Petitioners : Mr.V.Sundareswaran, SPC

O R D E R

This writ petition has been filed by the Senior Intelligence Officer of the Directorate of Revenue Intelligence along with three others.

2. In this writ petition, the petitioners seek to prohibit the second respondent namely the Additional Subordinate Court, Tirupur from entertaining or hearing or proceeding with the suit in O.S.No.156 of 2017.

3. Registry has raised an objection with regard to the maintainability of this writ petition. The petitioners placed reliance on the decision of the High Court of Chattisgarh in the case of Dr.Ram Sharan Lal Tripathi Vs. State of Chattisgarh [W.P.C.2113 of 2015 dated 01.12.2015] to support their stand that a Writ of Prohibition is maintainable when the civil court has exceeded in its jurisdiction in entertaining a matter, which is not within its domain. Hence, subject to maintainability, the writ petition was directed to be numbered. Hence, it is listed and heard today.

4. It is seen that the first respondent herein filed the said suit seeking a decree for permanent injunction to restrain the defendants therein/ petitioners herein from issuing any notices or summons and interfering or disturbing the plaintiff/first respondent's business in any manner except by due process of law. Along with the said suit, an application for interim injunction, which is identical to the prayer in the main suit, has been filed and it has been numbered as I.A.No.315 of 2017.

5. The Trial Court granted an order of interim injunction in the interlocutory application on 17.6.2017 till 23.6.2017. A hand written copy of the order dated 17.6.2017 has been filed in the typed set of papers, which shows that the order is to the following effect :

"Ad-interim injunction granted till
23.6.2017."

6. The learned counsel for the petitioners, on instructions, submits that the Trial Court did not assign any reasons for granting ex parte order of interim injunction and that in the docket, the learned Trial Judge endorsed that due to urgency, interim injunction is granted.

7. However, there is no record produced by the petitioners to prove such a stand. Be that as it may, the settled legal

principle is that while granting ex parte order of interim injunction, the civil courts are expected to record reasons. Prima facie, I find that there are no reasons recorded. This is only a prima facie conclusion because the certified copy of the fair order has not been produced before this Court so far. On 23.6.2017, the petitioners appeared before the learned Trial Judge and filed a written statement as well as a counter to the application for interim injunction. It appears that thereafter, the matter came up before the Trial Court on two occasions and the order of interim injunction was extended till 02.8.2017.

8. On instructions, the learned counsel for the petitioners submits that after 02.8.2017, the order of interim injunction has not been extended.

9. The petitioners, in the counter affidavit as well as in the written statement, have raised an objection with regard to the maintainability of the said suit. In this regard, the learned counsel for the petitioners has drawn the attention of this Court to Section 155 of the Customs Act and submitted that the said suit is not maintainable.

10. In any event, the petitioners having filed the counter to the interlocutory application as well as the written statement and the order of interim injunction having not been extended beyond 02.8.2017, this Court is inclined to direct the Additional Subordinate Court, Tirupur to dispose of the interlocutory application.

11. Accordingly, the writ petition is disposed of with a direction to the Additional Subordinate Court, Tirupur to dispose of I.A.No.315 of 2017 in O.S.No.156 of 2017 within a period of 15 days from the date of receipt of a copy of this order. This Court is informed that the case is listed on 20.10.2017. The Trial Court shall endeavour commencing the hearing of the interlocutory application on 20.10.2017 itself or at the earliest and conclude the proceedings and pass appropriate orders within a period of 15 days there from. It is made clear that this Court has not rendered any finding on the merits of the matter and it is for the Trial Court to consider the matter on merits and in accordance with law, including the question of jurisdiction of civil court to entertain the suit. It is needless to point out that the time frame fixed by this Court shall be strictly adhered to by the Trial Court. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

The Additional Subordinate Judge, District Court Complex,
Laxmi Nagar,
Tirupur-641602.

+lcc to Mr.V.Sundareswaran, Advocate in sr.no.70360 (25/09/2017)

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