

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.01.2017

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.42331 of 2016

Firos.C.M.

.. Petitioner

Vs

The Director,
The Directorate of Stationary and Printing,
Stationary and Printing Department,
No.110, Anna Salai,
Chennai 600 002. .. Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondent to issue necessary orders for the publication of a Gazette Notification of a Public Notice, on the request of the petitioner dated 28.11.2016.

For Petitioner : Mr.Mubarak Ahamed for
M/s.Ahmed Associates
For Respondent : Mr.S.Rajeswaran
Spl.Govt.Pleader

O R D E R

This writ petition has been filed to issue a writ of Mandamus directing the respondent to issue necessary orders for the publication of a Gazette Notification of a Public Notice, on the request of the petitioner dated 28.11.2016.

2. According to the petitioner, he is an unregistered partnership firm viz., M/s.Faruuzi. As a partnership having suffered loss and due to accrued rental dues, the landlord has terminated the lease. Therefore, merely to dissolve the firm, as per the resolution passed in the meeting of the partners dated 18.11.2016 and partnership business was stopped with effect from midnight of 20th and 21st november 2016. He sent notice of dissolution of the firm, as required under Section 43 of the Indian Partnership Act, 1932. The said notice was received by all the partners of the firm between 22.11.2016 and 24.11.2016. An information was given to the statutory authroity and also 3rd party creditors, apart from the Public Notice as contemplated, in the Vernacular Newspaper, made in Dinamalar Daily dated

25.11.2016, for dissolution of the firm. The petitioner wants to make the Public Notice in the Government Gazette but that has not been entertained. Hence he has come forward with the present writ petition.

3. In this connection, he would rely upon the Judgment of this Court reported in (2008) 2 MLJ Cr1.117, Meenakshi Sathish vs. Southern Petrochemical Industries Corporation Ltd., (SPIC), R.S.Puram Coimbatore 641 002 rep.by its Regional Manager L.Krishnakumar and Others, to substantiate, even in a case of unregistered partnership firm, Public Notice in the official Gazette in a mandatory one i.e. to give notice about the dissolution and the liability of the partners from the retirement of partnership. Therefore, he would contend that only for that purpose, he wants to make the Public Notice in the Government Gazette.

4. The learned Special Government Pleader appearing for the respondent would contend that since it is unregistered partnership firm the detail of the retirement of partnership in the Gazette, cannot be published. The petitioner should establish the details of the partners in the partnership and as the details of the unregistered firm does not disclose the existence of the original partnership it cannot be entertained.

5. Taking into consideration, the Judgment of this Court reported in (2008) 2 MLJ Cr1.117, even in a case of unregistered partnership firm to get absolve the liability unless the Public Notice in the Newspaper and in the Government Gazette is made the petitioner cannot absolve the liability from the 3rd party . It is extracted as hereunder:

''10. The conjoint reading of Section 45 and Section 72 of the Partnership Act, 1932 makes it clear that even in a case where the Partnership Firm was an unregistered one, in order to save the third parties who are dealing in business with the Partnership Firm, public notice in the official gazette and also in the local newspaper about the retirement of a partner is very much required for the purpose of putting the third parties to notice about its reconstitution and the cession of liability of the partner who had already retired.

11. In this case, as rightly pointed out by the learned Senior Counsel appearing for the complainant, the petitioner, who allegedly retired from the Partnership Firm on the basis of the unregistered deed of reconstitution, has not chosen to give any public notice as mandated

under Section 72 of the Partnership Act, 1932 to shirk her liability as contemplated under Section 45 of the said Act. Therefore, even assuming for the sake of argument that the fourth accused had already left the Partnership Firm, she is liable for the acts of the reconstituted Partnership Firm as her retirement was not published in terms of Section 72(b) of the said Act."

In this case, as the petitioner has also already published in the Vernacular News Paper and has also given the details as required, the authority will consider the request of the petitioner for Publication in the Government Gazette within a period of four weeks and pass orders.

This writ petition is accordingly disposed of . No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

The Director,
The Directorate of Stationary and Printing,
Stationary and Printing Department,
No.110, Anna Salai,
Chennai 600 002.

+1 cc to M/s.Ahmed Associates, Sr.4419

+1 cc to Govt.Pleader,sr.4347.

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krd 28/2

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