

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.27540, 27541 AND 37025 OF 2003 &
W.V.M.P.NOS.1108, 1109 AND 1110 OF 2004 &

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| 1. V.Subramaniam | ...Petitioner in
W.P.No.27540 of 2003 |
| 2. K.Kumaravel | ...Petitioner in
W.P.No.27541 of 2003 |
| 3. K.Subramaniam | ...Petitioner in
W.P.No.37025 of 2003 |

Vs

- | | |
|--|-----------------------------|
| 1. The Tahsildar
Tirupur. | |
| 2. The Coimbatore Marketing Committee
Rep. By its
Secretary, Tiruchy Road,
Ramanathapuram,
Coimbatore - 641 045. | ...Respondents in all W.P's |

Prayer in W.P.No.27540 of 2003: PETITION filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from invoking the provisions of the Tamilnadu Revenue Recovery Act 1864, for the purpose of realising the sum of Rs.9,03,352/- as demanded in the demand notice dated 20.06.2003 on the file of the first respondent issued under the provisions of the Tamilnadu Revenue Recovery Act 1864.

Prayer in W.P.No.27541 of 2003: PETITION filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from invoking the provisions of the Tamilnadu Revenue Recovery Act 1864, for the purpose of realising the sum of Rs.2,47,696/- as demanded in the demand notice dated 20.06.2003 on the file of the first respondent issued under the provisions of the Tamilnadu Revenue Recovery Act 1864.

Prayer in W.P.No.37025 of 2003: PETITION filed under Article 226 of The Constitution of India praying for the issuance of a

Writ of Mandamus, forbearing the respondents from invoking the provisions of the Tamilnadu Revenue Recovery Act 1864, for the purpose of realising the sum of Rs.2,17,548/- as demanded in the demand notice dated 24.11.2003 on the file of the first respondent issued under the provisions of the Tamilnadu Revenue Recovery Act 1864.

For Petitioners in all W.P's : Mr.S.K.Rakhunathan

For Respondents in all W.P's : Mr.A.Zakkir Hussain
Government Advocate for R1
Mr.Saravanan for R2

COMMON ORDER

All these Writ Petitions are filed challenging the Demand Notices issued by the Tahsildar, Tirupur, under the provisions of the Tamil Nadu Revenue Recovery Act, 1864, to recover the dues from the writ petitioners on behalf of the Coimbatore Marketing Committee, who is the second respondent herein.

2. The writ petitioners are lessees and is in occupation of the premises belonging to the Coimbatore Marketing Committee.

3. The learned counsel appearing for the writ petitioners contended that the writ petitioners are paying rent properly and the arrears claimed by the second respondent was incorrect. The learned counsel further contended that the provisions of the Tamil Nadu Revenue Recovery Act, 1864, is not applicable in the present case, in view of the fact that the second respondent, Coimbatore, Marketing Committee is not a State and the dues to be paid to the Committee cannot be treated as a land revenue under the definition of the Tamil Nadu Revenue Recovery Act. Accordingly, the Tahsildar, Tiruppur has no jurisdiction to issue any notice, on behalf of the second respondent, namely Coimbatore Marketing Committee.

4. To meet out this legal ground, it is relevant to first consider the provisions of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987. Section 2 (1) defines "Agricultural Produce", means any produce of agriculture, whether processed or unprocessed, specified in the schedule. Sub Clause (3) defines "Board", means the Tamil Nadu State Agricultural Marketing Board established under Section 35. Sub section 11 defines "Marketing Committee" means any marketing committee established under sub-section 1 of Section 5. Chapter II of Section 5 provides "Establishment of market committee". Accordingly, the Government shall establish a market committee for every notified area. It shall be the duty of the market committee to enforce the provisions of this Act and the rules

and by-laws made under this Act such notified area. Section 10 deals with the "Constitution of market committee". What is relevant for the facts and circumstances of the present case on hand is Section 59 of the Act. Section 59 deals with recovery of sums which reads as follows:-

"All sums due from the Board to the Government and all sums due from a market committee either to the Government or to the Board, and all sums due to the Board or to a market committee either by way of fees or otherwise under this Act, the rules, the regulations or the by-laws, may be recovered in the same manner as arrears of land revenue."

5. When the Act itself contemplates that the dues to the committee shall be recovered by invoking the provisions of the Tamil Nadu Revenue Recovery Act, 1864, this Court is of the firm opinion that the Demand Notice issued by the Tahsildar, Tirupur, under the Revenue Recovery Act, cannot be considered as infirm and there is no illegality in the Demand Notices as contended by the learned counsel for the petitioners. When the Act provides that the provisions of the Revenue Recovery Act, shall be invoked for the purpose of recovering the revenue dues to the marketing committee, it is a proper course on the part of the Tahsildar, Tirupur, to issue the Demand Notices and accordingly the ground raised by the writ petitioners that the Tahsildar, has no jurisdiction, does not merit acceptance.

6. Secondly, the learned counsel for the petitioners urged before this Court that by way of this impugned Demand Notice the first respondent directed the writ petitioners to pay the entire arrears of amount. Therefore the petitioners have no opportunity to defend their case.

7. Mr.A.Zakkir Hussain, the learned Government Advocate, appearing for the first respondent, contended the fact, that it is a Demand Notice and on receipt of the Demand Notice, the writ petitioners ought to have submitted their objections / explanations if any, to the first respondent. Without submitting their objections / explanations to the first respondent, they have filed this writ petitions challenging the same. Therefore, the writ petitioners cannot raise this contention by stating that, they have not provided with any opportunity by the first respondent.

8. The learned Government Advocate further contended that the point of jurisdiction raised by the writ petitioners have no force in law, in view of Section 59 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987, and therefore the writ petitions are liable to be dismissed and the Demand Notices issued by the Tahsildar, Tirupur, under the Revenue Recovery Act, would very well be maintainable and all the dues to the Marketing Committee has to be recovered by the Tahsildar, Tirupur, under the Revenue Recovery Act, 1864.

9. The learned counsel appearing for the second respondent also reiterated the same point by supporting the contention raised by the first respondent.

10. I have heard the learned counsel appearing for the petitioners, learned Government Advocate appearing for the first respondent and the learned counsel for the second respondent and perused the entire materials available on record.

11. Considering the said submissions made by the learned counsel on either side, this Court is of the view that there is no infirmity in the demand notices issued by the first respondent against the writ petitioners with regard to the recovery of dues to the second respondent. Such being the factum of this case, this Court is not inclined to consider the other grounds raised in these writ petitions and accordingly the writ petitions are devoid of merits and stands dismissed.

12. However, it is for the writ petitioners to respond to the demand notices issued to them by the first respondent, by submitting their objections / explanations, if any, and the first respondent shall consider the same before passing an order of attachment based on the demand notices. With these observations, all the writ petitions stand dismissed. No costs. Consequently connected M.P's are closed.

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Sd/-
Asst.Registrar (CS III)

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Sub Asst. Registrar

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To

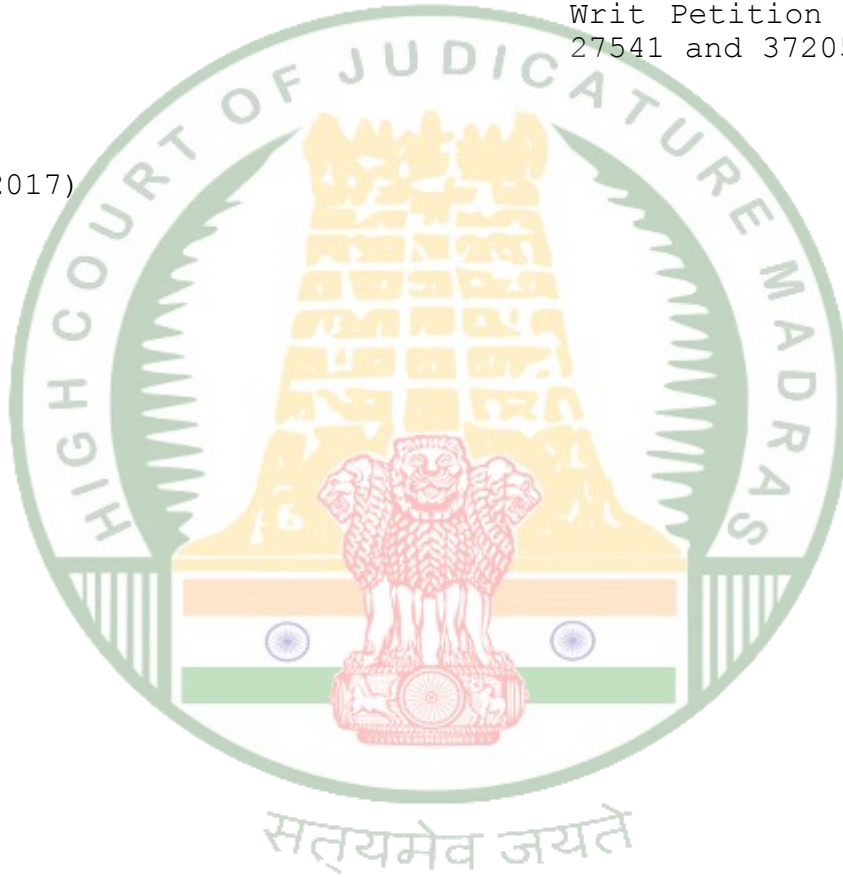
1. The Tahsildar
Tirupur.

+1cc to Mrs.K.Rakhunathan, Advocate Sr. 45052

+2cc in M/S.S.Saravanan, Advocate Sr. 45701, 45702

Writ Petition Nos.27540,
27541 and 37205 of 2003

SS (CO)
VR (24/07/2017)



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