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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9/7/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.1504 of 2018

G.Govindaraj

...Appellant/Petitioner

Vs

1. The Chairman
TASMAC
CMDA Tower - II, IV Floor
Gandhi Irwin Bridge Road
Egmore
Chennai 600 008.
 2. The Secretary
The Prohibition & Excise Department
Secretariat
Fort St. George
Chennai.
 3. Joint Commissioner (Health)
Health Department
Chennai Corporation
Rippon Building
Chennai 600 003.
 4. EMPEE Breweries Limited
rep. By its Managing Director
Kuthambakkam
Thiruvallur District 602 107.
 5. United Breweries Ltd
rep. By its Managing Director
UB Towers, UB City No.24
Vittal Malya Road
Bangalore 560 001.
- ...Respondents

WRIT Appeal filed under Clause 15 of Letters Patent against the order dated 17/10/2012 passed in W.P.No.28096 of 2012. Writ Petition filed U/A. 226 of the Constitution of India praying for the issuance of Writ Mandamus directing the respondents 1 and 2 to act upon petitioner representation dt 3.8.2012 within the time frame fixed by this Honourable Court



For appellant ... Mr.K.Seetha Ram
For respondents ... Mr.K.Balamurali
for M/s.Shivakumaran and
Suresh for R.5

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O R D E R

(Order of the Court was made by S.MANIKUMAR, J)

Challenge in this appeal, is to an order made in W.P.No.28096 of 2012, dated 17/10/2012, by which, the writ Court, has declined, to accept the contentions of the petitioner/appellant and issue a writ of mandamus, to direct the respondents 1 and 2 to act upon the petitioner's representation dated 3/8/2012.

2. Going through the impugned order, it could be deduced that the petitioner who had purchased two beer bottles of 'bullet' brand, was shocked to find foreign particles inside the beer bottle, which is manufactured by Empee Breweries Limited, fourth respondent herein. According to him, after the consumption, he fell sick. He made a representation, dated 3/8/2012, to the Chairman, TASMACH, Chennai and the Secretary to Government, Prohibition and Excise Department, Chennai, respondents 1 and 2, to take action. As no action was taken, he preferred W.P.No.28096 of 2012, to direct the respondents 1 and 2, to act upon the petitioner's representation, dated 3/8/2012.

3. Going through the material on record and submissions and by observing that there is a disputed question of law to be proved by evidence, vide order, dated 17/10/2012, writ Court declined to grant the relief sought for. While doing so, writ Court observed that it would be open to the petitioner/appellant to establish his claim before appropriate forum or authority, if so advised, in the manner known to law.

4. Though Mr.K.Seetharam, learned counsel for the appellant reiterated that writ Court failed to consider that respondents are bound to ensure public safety and health and duty bound to ensure that companies are not selling sub-standard, adulterated and contaminated eatable products that cause danger to public, sought for reversal of the order made in W.P.No.28096 of 2012, this Court is not inclined to accept the said contentions. There is no error in the order impugned and there is any case to interfere.

5. Accordingly, the Writ Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS-IX)

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mvs.

To

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Writ Appeal No. 1504 of 2018

VGII(CO)
EU(25/07/2018)