

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

Writ Appeal No. 163 of 2018
and
C.M.P. Nos. 940 and 941 of 2018

The Madras United Club
represented by its Honorary Secretary
No.3, Frazer Bridge Road
Park Town
Chennai - 600 003

.. Appellant

Versus

1. The Government of Tamil Nadu
represented by its Secretary
Fort St. George
Chennai - 600 009

2. The Tahsildar
Purasawalkam Taluk
Chennai - 600 003

3. The Commissioner of Prohibition & Excise
Chepauk, Chennai - 600 005 .. Respondents

Appeal filed under Clause 15 of Letters Patent against the
Order dated 19.12.2017 passed in W.M.P. No. 34630 of 2017 in
W.P. No. 26764 of 2017 passed by this Court.

PRAYER IN WMP.34630/17:

Writ Miscellaneous Petition filed praying the suitably modify
the order dated 20.11.17 in WMP.28502/17 IN WP.26764/17.

PRAYER IN WMP.28502/17:

WMP is filed to stay all further proceedings pursuant to the
order of the 2nd respondent ending with proceedings
Na.Ka.No.B2/22792/2015 dated 11/08/2017 and 26.09.2017

PRAYER IN WP.26764/17:

Writ Petition filed Under Article 226 of the Constitution of India praying the issue a writ of certiorari calling for the records of the 2nd respondent ending with the order of the 2nd respondent in proceedings RC.No.26.09.2017.

For Appellant : Mr. A.L. Somayaji, Senior Advocate for
M/S.S.Raghunathan,

For Respondents : Mr. Vijay Narayan, Advocate General
assisted by Mr. A.N. Thambi Durai
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. SUBBIAH, J.)

This intra-court appeal is filed by the appellant questioning the correctness and validity of the order dated 19.12.2017 passed in W.M.P. No. 34630 of 2017 in W.P. No. 26764 of 2017 passed by this Court. In and by the said order dated 19.12.2017, the learned single Judge, while modifying the earlier order dated 20.11.2017 passed in W.M.P. No. 28502 of 2017 in WP No. 26764 of 2017, directed the appellant herein to set apart a sum of Rs.2 crores to be kept in any interest accruing fixed deposit scheme in any Nationalised bank and it shall be deposited on or before 31.12.2017.

2. The learned Senior Counsel appearing for the appellant would contend that the respondents have demanded a huge sum of Rs.57,42,96,371/- towards alleged arrears of rent upto 10.06.2017 without taking note of the fact that the appellant is paying Rs.50,000/- per month towards lease rent from April 2013 till August 2017 in addition to payments made prior to April 2016. It is further contended that in identical case filed by Tamil Nadu Cricket Association in WP Nos. 29236 and 29685 of 2017, by order dated 24.11.2017, this Court has given a direction to the petitioner therein to deposit only 1% of the amount claimed by the respondents towards lease rent due, on the basis of the concession given by the learned Advocate General, but the same was not considered by the learned single Judge while passing the order dated 19.12.2017. The learned Senior counsel for the appellant would further contend that the learned single Judge did not take into account the resourcefulness or otherwise of the appellant to deposit such a huge amount and therefore, he prayed for allowing this writ appeal.

3. The learned Advocate General would contend that in respect of the writ petition filed by Tamil Nadu Cricket Association in WP Nos. 29236 and 29685 of 2017, such concession was given to deposit 1% of the amount demanded since the amount due and payable by the petitioner therein was to the tune of

Rs.225 crores. In the present case, the liability of the petitioner has been assessed at Rs.57,42,96,371/- and therefore, the same yardstick cannot be followed. Therefore, having regard to the quantum of amount due and payable by the petitioner, the learned single Judge has rightly directed the appellant to set apart Rs.2 crores to be kept in any interest accruing fixed deposit scheme and it shall be deposited before 31.12.2017 and such an order does not call for any interference by this Court.

4. We have heard the learned Senior counsel for the appellant and the learned Advocate General appearing for the respondents. We have perused the records placed before us, including the order passed by the learned single Judge, which is impugned in this writ appeal.

5. Earlier, by order dated 20.11.2017, the learned single Judge passed an order in WMP No. 28502 of 2017 in WP No. 26764 of 2017 directing the appellant herein to pay 1/3 of the amount demanded by the respondents namely Rs.19,14,32,124/-. Thereafter, the petitioner has filed WMP No. 34680 of 2017 seeking to modify the order dated 20.11.2017 on the ground that in identical cases, this Court passed an order directing the petitioner therein (Madras Cricket Club) to deposit 1% of the amount demanded by the respondents. The learned single Judge taking note of the facts and circumstances of the case, directed the appellant to set apart Rs.2 crore to be kept in any interest accruing fixed deposit scheme in any Nationalised bank and it shall be deposited on or before 31.12.2017. It is this order dated 19.12.2017 which is questioned in this writ appeal on the ground that the petitioner club is only in receipt of subscription amount from the members and that it has no wherewithal or resourceful enough to pay such a huge amount of Rs.2 crores. The learned Senior counsel for the appellant therefore prayed for interference with the order passed by the learned single Judge.

6. Having regard to the submissions of the learned counsel for both sides, without going into the merits or otherwise of the contentions raised in this writ appeal, we modify the order dated 19.12.2017 passed by the learned single Judge in W.M.P. No. 34630 of 2017 in W.P. No. 26764 of 2017 and direct the appellant to set apart a sum of Rs.1 crore and the said sum shall be deposited in any interest accruing fixed deposit scheme in a Nationalised bank on or before 28.02.2018. After such deposit, the xerox copy of the Fixed Deposit receipt shall be handed over to the respondents. On such deposit, the respondents shall not take any coercive action to recover the arrears of lease rent. In all other respects, the order passed by the learned single Judge shall remain unaltered.

We dispose of the writ appeal accordingly. No costs.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rsh

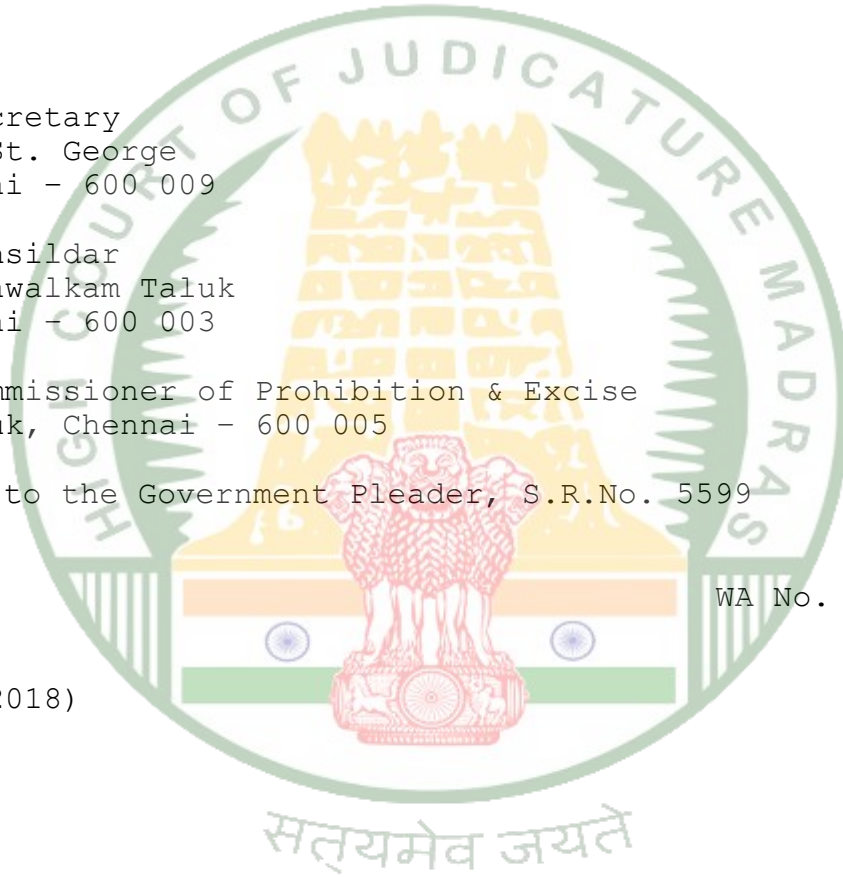
To

1. The Secretary
Fort St. George
Chennai - 600 009
2. The Tahsildar
Purasawalkam Taluk
Chennai - 600 003
3. The Commissioner of Prohibition & Excise
Chepauk, Chennai - 600 005

+1cc to the Government Pleader, S.R.No. 5599

WA No. 163 of 2018

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