

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 3660 of 2013 and
M.P. No. 1 of 2013

G.Arun

... Petitioner

Vs

1.The District Collector,
Vellore District,
Vellore.

2.The Tahsildar,
Valajapet,
Vellore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, directing the Respondents not to initiate any action to recover any amount from the petitioner firm towards arrears payable by the erstwhile owners of the property viz, Misons Leather Ltd., and others.

For Petitioner : Mr.A.Sasidharan

For Respondents: Mrs.A.Shrijayanthy
Special Government Pleader
for RR1 & 2

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents not to initiate any action to recover any amount from the petitioner firm towards arrears payable by the erstwhile owners of the property viz., Misons Leather Ltd. and others.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is the auction purchaser and he purchased the said property through Debt Recovery Tribunal (DRT) auction. The contention of the petitioner is that he was not responsible for causing any

collusion in respect of the erstwhile industry, which was being done by the erstwhile previous owner, who committed default in repayment of loans. Therefore, the respondents cannot insist the writ petitioner to pay the damages or the charges for causing any collision, in violation of the rules in force. At the outset the learned counsel for the petitioner states that the respondents have not even passed an order fixing liability on the part of the erst while owner nor on the part of the writ petitioner. In the absence of conducting a proper adjudication in respect of the issues raised and passing final orders, no action can be initiated for recovery at all.

3. The Learned Special Government Pleader appearing on behalf of the respondents informed this Court that the show cause notice was issued to the writ petitioner in the year 2008 itself. However, the learned Special Government Pleader is unable to establish that a final order has been issued, pursuant to the show cause notice issued.

4. This Court is of an opinion that without passing final orders on merits, the recovery cannot be imposed. The aggrieved persons are entitled for an opportunity to participate in the adjudication and the competent authorities have to consider all those objections and pass orders. In the present case on hand, the writ petitioner claims that he is the auction purchaser and he is not responsible for causing any collision in that locality. Therefore, all such explanations / objections now submitted by the writ petitioner even before this Court has to be considered and adjudicated properly by the competent authorities while passing final orders. However, those merits now raised before this Court, cannot be considered in a writ proceedings, since the same requires, verification of documents and if necessary adducing evidences.

5. Under these circumstances, this Court is of an opinion that the respondents are bound to conduct an enquiry and scrutinise all the relevant documents and other factual details and thereafter take a decision and pass orders on merits and in accordance with law. In this view of the matter, the petitioner is directed to submit his objections/ explanations along with the documents, if any to the first respondent, within a period of four weeks from the date of receipt of a copy of this order. On receipt of such explanations / objections, the first respondent shall conduct an enquiry by affording reasonable opportunity to all the parties concerned and thereafter take a decision and pass orders on merits and in accordance with law within a period of twelve weeks thereafter. Till such time, the respondents shall not insist the petitioner to repay the damages or any other amount.

6. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

vsi-2/jas

To

1.The District Collector,
Vellore District,
Vellore.

2.The Tahsildar,
Valajapet,
Vellore District.

+1cc to Mr.A.Sasidharan, Advocate, S.R.No. 72086

+1cc to the Government Pleader, S.R.No. 72440

W.P.No.3660 of 2013

NMI (CO)
GN(26/11/2018)