

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32718 of 2013 &
M.P.No.1 of 2013

C.Ramadoss

.. Petitioner

v.

1.The District Collector
Tiruvallur District

2. The Divisional (Excise) Officer
Divisional (Excise) Office
Tiruvallur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the second respondent in his proceedings dated 05.03.2012 and notices in Sa.Ka.No.28/84-85, dated 13.02.2012 and in Sa.Ka.No.58/84-85, dated 10.06.2012 and quash the same.

For Petitioner : Mr.N.Kolandaivelu

For Respondents : Mr.J.Pothiraj,
Special Government Pleader

ORDER

Heard Mr.N.Kulandaivelu learned counsel appearing for the petitioner and Mr.J.Pothiraj, learned Special Government Pleader, appearing for the respondents.

2. The petitioner, who was the successful bidder in respect of an arrack shop for the Excise year 1984-85 was granted licence by proceedings dated 18.06.1984. The petitioner had remitted Rs.6,500/- being 50% of the privileged fee along with other charges. However, the petitioner was

unable to run the shop and immediately surrendered the same. The surrender was accepted and the shop was once again brought for auction and allotted to a third party by proceedings of the second respondent dated 21.08.1984. After 24 years, the impugned notices have been issued. The petitioner has challenged the same before this Court.

3. Though the Writ Petition was entertained and an order of interim stay was granted and the matter is pending since 2013, the 2nd respondent has not filed any counter.

4. Firstly, the impugned notices are bereft of particulars, as to the date on which the petitioner has surrendered the shop and the date on which the shop has been allotted to a third party. Further, the impugned notices did not give any details and straight-away distraint order has been passed. That apart, for 24 years, no action was initiated against the petitioner and it would be harsh on the petitioner to now proceed against him for the alleged loss caused on account of the surrender of the shop. It was well open to the second respondent to make recovery as and when the petitioner surrendered the shop. Having not done so, the question of directing the second respondent to proceed with the impugned proceedings cannot be entertained. For the above reasons the writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rj
To

1.The District Collector
Tiruvallur District

2. The Divisional (Excise) Officer
Divisional (Excise) Office
Tiruvallur District.

+1cc to Mr.N.Kolandaivelu, Advocate sr.no.35931

W.P.No.32718 of 2013 &
M.P.No.1 of 2013

nr 20/06/2018