

OTHE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4326 OF 2004

ORDER:

This Writ Petition is filed questioning the notice issued in Form No.4, dated 13.02.2004, whereunder the petitioner was demanded to pay a sum of Rs.16,64,896/- towards arrears of Excise duty due by his late father, failing which it was stated that the land to an extent of Ac.1.23 guntas and house bearing No.2-14 and 2-15 situated at Bandaraviryla Village of Hayathnagar Mandal, Ranga Reddy District, shall be attached. The petitioner was given opportunity to submit his explanation.

2. Aggrieved by the said notice, the petitioner rushed to this Court contending that his father is no more and the arrears of Excise duty, as mentioned in the demand notice, is in relation to the licence granted to his father for the year 1988-1989; further his father has not left any property and that the demand notice is time barred.

3. A detailed counter-affidavit is filed by the respondents asserting that the petitioner's father, who is an arrack shop licence holder, fell in arrears of amount and as a matter of fact, in terms of G.O.Ms.No.320, Rev (Ex-II) Department, dated 10.06.2002, an opportunity was given to the defaulters for waiver of interest on payment of principal amount under one-time settlement. Neither the petitioner nor his father has availed the said opportunity. Further the petitioner's father has declared the property in issue as

his own property at the time of obtaining licence and therefore, there is no merit in the writ petition and the same is liable to be dismissed.

4. Heard Sri B.Sai Ram Goud, learned counsel for the petitioner and learned Government Pleader for Excise appearing for the respondents.

5. It is not in dispute that earlier the petitioner approached this Court by filing W.P.No.4839 of 2003 raising similar contentions, mainly asserting that no enquiry was made on earlier occasion as to whether there was any property in the name of licence holder i.e., the his late father. This Court, while disposing of the said Writ Petition, observed that the petitioner is not personally liable to pay the arrears demanded under the impugned notice in relation to his father, the licence holder, but directed the respondents to proceed against the property/estate of the father of petitioner, if any, for recovery of the excise arrears under the Revenue Recovery Act. Thereafter, the present impugned notice is issued specifically stating that the property details set out in the notice is the property of the petitioner's father and the petitioner being the son, has no objection to submit explanation in terms of Section 17 of the A.P.Revenue Recovery Act, 1864. The petitioner instead of submitting the explanation, had rushed to this Court by filing the present Writ Petition.

6. Though learned counsel for the petitioner submits that the petitioner is not in touch with him, however, stated that the writ

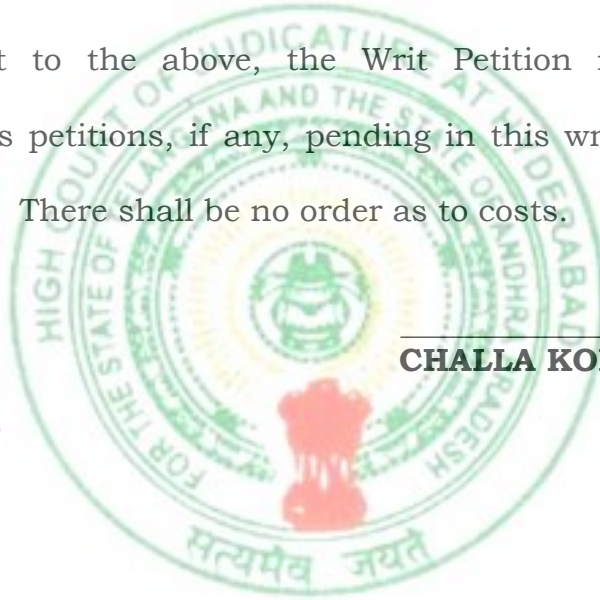
petition may be disposed of giving an opportunity to the petitioner to submit his explanation.

7. In the facts of the present case, whether the property is the petitioner's self-acquired property or ancestral property to the notice, dated 13.02.2004, the petitioner shall submit his explanation within three (3) weeks from today and thereafter, the same shall be considered and after passing a reasoned order, the respondents shall be entitled to proceed further in accordance with law.

8. Subject to the above, the Writ Petition is disposed of. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

JUNE 11, 2018
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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM



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Date:11.06.2018

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