

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.10.2019

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.16995 of 2004
and WPMP.No. 20149 of 2004

J. Umamaheswari

... Petitioner

vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Information & Tourism Department,
Fort St. George, Chennai - 9.

2. Tamil Nadu Tourism & Development,
Corporation rep. by its Manager,
Tamil Nadu Tourism Complex,
Wallajaha Road, Chennai - 600 002.

3. The Tahshildar (EN),
Taluk Office,
Egmore - Nungambakkam Taluk,
Chennai - 600 031.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorari, to call for the records of the 3rd respondent in his
letter No.C6/10225/2004 dated 01.06.2004 and quash the same.

For Petitioner : Ms. Preethika Ravichandrababu
for Mr.K.Harishankar

For Respondents: Mr.I.Sathish,
Additional Govt. Pleader [R1 & R3]
Mr.N.Sivakumar [R2]

ORDER

This writ petition has been filed challenging the order dated 01.06.2004 passed by the 3rd respondent in his letter No. C6/10225/2004 and quash the same.

2. According to the petitioner, she is a woman entrepreneur, organizing and conducting exhibitions and fair in various places in Tamil Nadu. Earlier, the petitioner was allotted with small area for putting up a stall in an exhibition conducted by respondent as "Summer Family 2004 Exhibition" between 06.05.2004 to 23.05.2004. In the order granting permission, there is a condition that the petitioner should pay a sum of Rs.10,000/- per day towards the Chief Minister's Public Relief Fund, for the period from 06.05.2004 to 23.05.2004. However, the site was handed over to the petitioner only on 12.05.2004, and she has run the stall only from 14.05.2004 to 30.05.2004. Even in those period also, the petitioner was unable to run the show, incurred heavy loss and she was not in a position to pay the amount payable to the Chief Minister's Public Relief Fund.

3. Thereafter all of a sudden, without any notice or without any enquiry whatsoever, the 3rd respondent has issued the impugned notice dated 01.06.2004 under the 'Tamil Nadu Revenue Recovery Act, 1864' (hereinafter referred to as 'Revenue Recovery Act') demanding a sum of Rs.1,70,000/-, which is payable to the Chief Minister's Public Relief Fund. Now challenging the above said notice, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would contend that the 3rd respondent has no power to invoke the provisions of Revenue Recovery Act, for recovery amount due to the Chief Minister's Public Relief Fund. The amount payable to the Chief Minister's Public Relief Fund cannot be considered as a land revenue or arrears of revenue, and the respondent cannot invoke the provisions of Revenue Recovery Act. That apart, the petitioner is also disputing the amount payable by her. When the amount is in dispute, the respondent cannot invoke the Revenue Recovery Act for recovery. That apart, no notice has been issued to the petitioner and no enquiry was conducted before initiating the recovery proceedings on that ground also, the impugned proceedings is liable to be set aside.

5. Per contra, the learned counsel appearing for the respondents would contend that the petitioner was handed over with a site to conduct exhibition with a condition that the petitioner should pay a sum of Rs.10,000/- per day to the Chief

Minister's Public Relief Fund and the petitioner agreed for the same and entered into the contract. Thereafter, she has conducted the exhibition and failed to pay the amount. Moreover, the amount demanded from the petitioner is going to be used for public purposes, hence the respondents have invoked the Revenue Recovery Act to recover the amount and there is no illegality in it.

6. I have considered rival submissions. The question arises for consideration is whether the respondent can invoke Revenue Recovery Act to recover the amount payable to Chief Minister's Public Relief Fund.

7. The Public Revenue has been defined under Section 1 of the Act, which is as follows:

Public Revenue_ Public revenue due on land shall, for the purposes of this Act, be taken to include

(a) assessment, quit rent, ground rent or other charge upon the land payable to the State Government.

(aa) cesses or other dues payable to the State Government on account of water supplied for irrigation; and

(b) pattom due on Kandu Krishi lands in the Kanyakumari district."

8. Considering the above provision, it could be seen that, the amount payable to the Chief Minister's Public Relief Fund cannot be considered as Public Revenue, and for recovery of such dues the respondent cannot invoke the Revenue Recovery Act.

9. That apart, the learned counsel appearing for the petitioner would contend that even though the exhibition was scheduled to be held from 14.05.2004 to 30.05.2004, the exhibition commenced only on 20.05.2004 and the writ petitioner was permitted to run the show for only 7 days. Even assuming that any amount is payable, the petitioner has to paid only for those 7 days, but the respondent sought to recover the amount for entire 21 days, and the learned counsel disputed the liability of the petitioner. It is settled law that when liability is disputed, the authorities cannot invoke Revenue Recovery Act to recover the disputed amount, on that ground also impugned order is liable to be set aside.

10. Accordingly, the notice dated 01.06.2004 is set aside. However, it is made clear that, if at all the respondents want to recover any amount from the petitioner, it is always open to them to recover the same in the manner known to law.

In the result, this writ petition stands allowed. No costs.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Information & Tourism Department,
Fort St. George, Chennai - 9.
2. The Manager,
Tamil Nadu Tourism & Development,
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Tamil Nadu Tourism Complex,
Wallajah Road, Chennai - 600 002.
3. The Tahshildar (EN),
Taluk Office,
Egmore - Nungambakkam Taluk,
Chennai - 600 031.

+2cc to Mr.K.Harishankar, Advocate sr.87117 & 87142
+1cc to Government Pleader SR.NO. 87388
+1cc to Mr.N.Sivakumar, Advocate sr.87584

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and WPMP.No. 20149 of 2004

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nr 17/12/2019

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