

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.36631 of 2004
& W.P.M.P.No.43973 of 2004
& W.V.M.P.No.944 of 2006

M/s.E.I.D.Parry (India) Limited,
"DARE HOUSE"
234, N.S.C.Bose Road,
Chennai - 600 001.

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department, Fort St. George,
Chennai - 600 009.
2. The Collector,
Chennai District,
Office of the Collector,
Rajaji Salai,
Chennai - 600 001.
3. The Tashildar,
Port-Tondiarpet Taluk,
Chennai - 600 003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorari, calling for the records relating to the impugned notice bearing No.B2/28062/2004 dated 03.09.2004 on the file of the third respondent and to quash the same.

For Petitioner : Mr.G.Masilamani,
Senior counsel for
M/s.G.M.Mani Associates

For Respondents: Mr.S.Suresh Kumar
Government Advocate

O R D E R

The order impugned in the present writ petition is demand towards Lease Rent and Municipality Taxes from 10.10.1974 to 30.06.2004,

2. Though the petitioner had raised various grounds in the writ petition challenging the justification given by the respondents in their impugned notice, the learned senior counsel for the petitioner submitted that prior to the issuance of the impugned order no prior notice was issued to them and on that basis, the claim has been made.

3. On a perusal of the impugned order as well as the counter affidavit filed before this Court by the respondents, it is seen that prior to the issuance of the impugned order, no prior notice was issued, as pointed out by the learned Senior counsel for the petitioner. Since the claim is from the year 1974 onwards and also since the respondents allege that there was a Lease Deed between the parties, which aspect is disputed by the petitioner, it would have been appropriate for the respondents to have issued a prior notice calling for explanation and thereafter taken a decision, after conducting due enquiry. In the absence of the same, it can only be held that the impugned notice itself is in violation of the principles of natural justice. On this short ground, the writ petition deserves to be allowed.

4. The learned senior counsel for the petitioner also questioned the locus of the respondents to issue the impugned notice, as well as the existence of the Lease Deed itself.

5. In my view, such objections can be raised before the appropriate authority, when an opportunity is given to the petitioner to put forth their objections.

6. In the light of the above observations, the order dated 03.09.2004 made in letter No.B2/28062/2004 on the file of the third respondent is set aside and the issue is remanded back to the third respondent herein. If the third respondent intends to proceed further, such an exercise shall be done, after giving prior notice to the petitioner and giving ample opportunity of written and oral enquiry. The petitioner is at liberty to raise all the grounds in the present Writ petition including the ground of the locus of the third respondent to make a demand.

Such exercise shall be completed as expeditiously as possible. The Writ petition shall be ordered accordingly. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department, Fort St. George,
Chennai - 600 009.
2. The Collector,
Chennai District,
Office of the Collector,
Rajaji Salai,
Chennai - 600 001.
3. The Tashildar,
Port-Tondiarpet Taluk,
Chennai - 600 003.

+1cc to the Government Pleader sr.34687

+1cc to M/S.G.M.Mani Associates, Advocate Sr.33285

सत्यमेव जयते

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srg 6/6/2019