

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.11.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.17255 of 2018

and

W.M.P.Nos.20533 and 20534 of 2018

Womens Centre and Hospitals Pvt.Ltd.,  
represented by its Administrative Officer  
G.Ramesh Ram  
Door No.146B, Mettupalayam Road,  
Coimbatore-43.

.. Petitioner

/versus/

1.The Zonal Officer,  
Micro and Small Enterprises Facilitation Council,  
Chennai Region,  
Regional Joint Director of Industries and Commerce,  
Thiru Vi Ka Industrial Estate,  
Guind, Chennai 600 032.

2.M/s I Building Automation Private Limited,  
New No.12/1, Old No.27/1, New No.92<sup>nd</sup> Street,  
18<sup>th</sup> Avenue, Ashok Nagar, Chennai 600 083.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the proceedings in MSEFC/CR/43/2017 pending on the file of the 1<sup>st</sup> respondent, quash the same.

For Petitioner :Mr.N.Elumalai

For Respondents:No appearance for R1

Mr.Christopher Manoharan for R2

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ORDER

This writ petition is filed challenging the notice issued by the 1<sup>st</sup> respondent/Zonal Officer, Micro and Small Enterprises Facilitation Council(in short "MSEFC") in respect of the petition filed by the 2<sup>nd</sup> respondent alleging belated payment.

2. The petitioner herein contends that a civil suit is pending between the petitioner and the 2<sup>nd</sup> respondent regarding deficiency of service and breach of contract. While so, by making a false allegation that there is a delay in payment of the contractual money, the 2<sup>nd</sup> respondent has approached the first respondent/MSEFC. In turn, without considering the dispute between the parties before the civil Court, notice has been issued by the 1<sup>st</sup> respondent and hence, it has to be quashed.

3. On reading of the affidavit averments and documents enclosed, this Court finds that initially, the petitioner herein has filed a suit before the Sub Court, Coimbatore in O.S.No.412 of 2013 against the 2<sup>nd</sup> respondent and others for damages and interest. It appears that after written statement filed by the 2<sup>nd</sup> respondent, the said suit has been dismissed for default and the petitioner herein

has taken steps to restore the said suit. Meanwhile, the 2<sup>nd</sup> respondent has approached the first respondent/MSEFC for default in payment. Pursuant to that, the notice has been issued to the petitioner for enquiry, which is under challenge in this writ petition.

4. The learned counsel appearing for the petitioner would submit that the 2<sup>nd</sup> respondent ought not to have approached the first respondent-MSEFC, when there is a dispute pending adjudication before the civil Court.

5. The learned counsel for the 2<sup>nd</sup> respondent states that the suit filed by the petitioner dismissed long back and not restored till date. There is not bar for MSEFC to hear the application.

6. Without adverting to the merits of the respective parties, this Court records that it is only the notice served to the petitioner herein by the 1<sup>st</sup> respondent-MSEFC to participate in the enquiry. Whatever documents and merits in his favour, the petitioner can be placed before the first respondent/MSEFC and can agitate his right before the first respondent-Facilitation Council. The writ jurisdiction can not be invoked to stale the duly initiated legal proceedings before the competent authority and this Court has time and again

held that the show cause notice or summons cannot be quashed as a matter of right unless and until such notice is devoid of authority and issued with malafide intention.

7.As far as this case is concerned, the impugned notice does not fall under any of the above categories to the power of this Court under Article 226 of the Constitution of India. Hence, this Writ Petition is liable to be dismissed.

8.Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.11.2019

Index:yes/no  
Speaking order/non speaking order  
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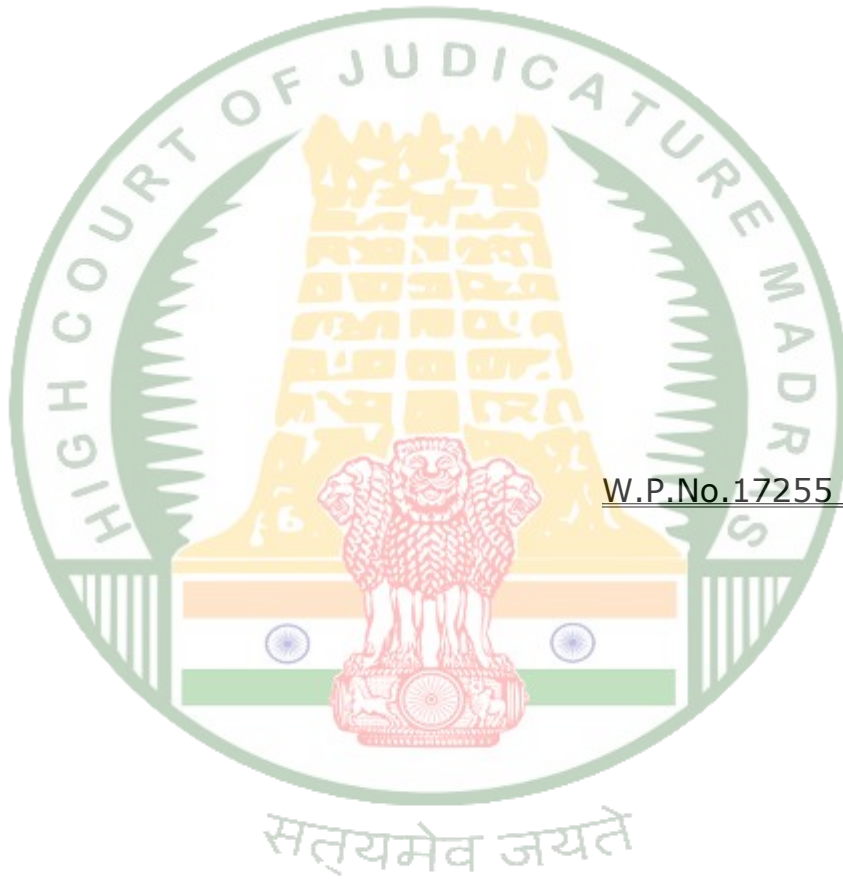
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