

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.10.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.28005 of 2019

S.Suresh

...Petitioner

Vs.

1. The Commissioner of Prohibition and Excise,
O/o The Commissioner of Prohibition and
Excise Department, Chempauk,
Chennai - 600 005.
 2. The District Collector of Nilgiris,
Udhagamandalam,
Tamil Nadu.
 3. The Assistant Commissioner (Excise),
Excise & Prohibition Department,
Udagamangalam, Nilgiris District,
Tamil Nadu.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to issue 'No Objection Certificate' and 'No Due Certificate' based on the communication dated 17.04.2018 made in RC.F2.56912/2001 on the file of the 2nd respondent and also by considering the representations dated 13.12.2018 and 19.07.2019 made by the petitioner. सत्यमेव जयते

For Petitioner : Mr.P.K.Harinathbabu

For Respondents : Mr.D.Suryanarayanan,
Additional Government Pleader.

O R D E R

The petitioner seeks for a Mandamus to direct the respondents to issue 'No Objection Certificate' and 'No Due Certificate' based on the communication dated 17.04.2018 made in RC.F2.56912/2001 on the file of the 2nd respondent and also by

considering the representations dated 13.12.2018 and 19.07.2019 made by the petitioner.

2. It is claimed by the petitioner that he had taken an Arrack Shop bearing No.11 situated at Governor Shola, Udagai Taluk, during the year 1983-84 and remitted the entire amount payable to the Government in respect of the said Shop. It is further claimed by the petitioner that during the year 1984-85, another Arrack Shop No.16 was taken on auction by one L.S.Harindharanath, represented through his Power of Attorney namely, the petitioner herein and that the said L.S.Haridharanath defaulted in the payment of arrears to the Government. It is further claimed by the petitioner that the said L.S.Harindharanath appeared before the Divisional Excise Officer, Udagai, and gave a written undertaking that he hold full responsibility to clear the Government due in connection with Arrack Shop No.16 and the petitioner did not hold any accountability regarding the same. Therefore, it is contended by the petitioner that despite the fact that he paid the entire arrears in respect of Arrack Shop No.11, the respondents are not issuing No Due Certificate as well as No Objection Certificate so as to release the property that was attached prior to the payment of arrears. Ventilating such grievance, the petitioner made two representations dated 13.12.2018 and 19.07.2019. It is stated that those two representations have not been considered so far.

3. A counter affidavit is filed by the 3rd respondent wherein it is stated that arrears in respect of Arrack Shop No.16 which was taken by the petitioner as a Power of Attorney of one L.S.Harindharanath, has not been paid.

4. Heard both sides.

5. The limited prayer sought for in this Writ Petition is for a direction, directing the respondents to issue No Objection Certificate and No Due Certificate to the petitioner. It is seen that the petitioner has already made two representations on 13.12.2018 and 19.07.2019 requesting for issuance of those two certificates. Admittedly, no order has been passed on those two representations by the 3rd respondent. Though some reasons are stated in the counter affidavit, this Court, at this stage, is not expressing any view on the rival contentions of the parties, since the representations made by the petitioner are still pending and no order has been passed on the same. Therefore, without expressing any view on the merits of the claim made by

the respective parties, this Writ Petition is disposed of only by directing the 3rd respondent to pass orders on those representations on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. The 3rd respondent shall also give an opportunity of personal hearing to the petitioner before passing the order. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

vsi
To

1. The Commissioner of Prohibition and Excise,
O/o The Commissioner of Prohibition and
Excise Department, Chepauk, Chennai - 600 005.
2. The District Collector of Nilgiris,
Udhagamandalam,
Tamil Nadu.
3. The Assistant Commissioner (Excise),
Excise & Prohibition Department,
Udagamangalam, Nilgiris District,
Tamil Nadu.

+1 CC to The Govt. Pleader sr 90736
+1 CC to Mr.T. Shanmugam, Advocate sr 90161.

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KK(CO)
SP(25/11/2019)

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