



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2020

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9525 of 2012

and

M.P.(MD)No.2 of 2012

A.R.Lakshmanan

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai - 2.

2.The Assistant Commissioner,
Zone 4,
Madurai Corporation,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of impugned distraint notice of the 2nd respondent passed on 29.06.2012 and quash the same and consequently forbearing the respondents from acting on the foot of the distraint notice in any manner.

For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.R.Murali

O R D E R

Heard the learned counsel on either side.

2.The petitioner is owning a commercial building in East Avanimoola Street in Madurai. The petitioner was served with the impugned distraint notice. The same is questioned in this writ petition.

3.The case of the petitioner is that the petitioner had earlier filed O.S.No.612 of 2004 before the District Munsif Court, Madurai, and the same was decreed on 26.04.2006. He contends that the impugned proceedings are in violation of the decree passed by the Civil Court.



4.The learned standing counsel for the respondent/corporation points out that what was challenged in the Civil Court was the distraint notice issued on 18.09.1998. The learned standing counsel clarifies that the impugned demand covers the period subsequent thereto. In other words, the period that was subject matter of the Civil Court decree has not at all been covered in the impugned proceedings. The said submission made by the learned standing counsel is recorded.

5.The learned standing counsel would also point out that the petitioner can as well file an appeal before the statutory tribunal. Since factual aspects are involved, I am not inclined to go into the same in exercise of writ jurisdiction.

6.The petitioner's counsel states that the petitioner would move the tribunal by filing an appeal within a period four weeks from the date of receipt of a copy of this order. If such an appeal is filed, the same will be entertained by the tribunal without reference to limitation. In the appeal, the petitioner can include all his claims upto date. It shall be a comprehensive appeal and the tribunal will decide the issue at one go.

7.This direction I am constrained to give because the learned standing counsel points out that the liability of the petitioner has mounted to almost Rupees Forty Five Lakhs.

8.The petitioner states that he will immediately remit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) towards his dues within a period of three weeks from the date of receipt of a copy of this order. The said undertaking is recorded. If the petitioner remits the aforesaid sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the corporation and if the appeal is filed within a period of four weeks from the date of receipt of a copy of this order, the same will be entertained by the tribunal without reference to limitation. The impugned proceedings will be kept in abeyance for a period of eight more weeks. Thereafter the petitioner has to necessarily workout his rights before the tribunal.

9.The writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:

- 1.The Commissioner,
Madurai Corporation,
Madurai - 2.
- 2.The Assistant Commissioner,
Zone 4,
Madurai Corporation,
Madurai.

+1 CC to M/s.R. MURALI, Advocate (SR-16432[F] dated
10/09/2020)

W.P. (MD)No.9525 of 2012

09.09.2020

NR (17.09.2020) 3P 4C