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W.P.No.21547 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21547 of 2017

And

W.M.P.Nos.22526 and 22527 of 2017

1.M.Vijayalakshmi
2.T.R.M.Muthukrishna
3.R.Suresh
4.S.A.Vinodh

... Petitioners

Vs.

1.The Tahsildar
Office of the Tahsildar,
Tiruppur North,
Tiruppur.

2.The Chief Commercial Manager,
Head Quarters Office,
Southern Railway,
Chennai.

3.S.Pandiyan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the first respondent made in Na.Ka.No.1729/2017/A5 dated 10.07.2017 and quash the same.



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For Petitioners : Mr.Jeremiah
for M/s.N.Subbarayalu

For Respondents : Mr.U.Baranidharan for R1
Additional Government Pleader
Mr.P.T.Ramkumar for R2
R3 – No Appearance

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorari, calling for the records of the first respondent made in Na.Ka.No.1729/2017/A5 dated 10.07.2017 and to quash the same.

2.The learned counsel appearing for the petitioners submitted that without interfering with the order impugned in this writ petition, this Court may permit the petitioners to approach the Tahsildar for appropriate remedy.

3.The learned Standing Counsel appearing for the second respondent submitted that the third respondent obtained licence from the second respondent for running mobile catering service in the train for a period of five years, however, the entire licence fee was not paid by the third respondent. Hence, the second respondent passed an order dated 11.04.2017 and the same was communicated to the



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District Collector for collecting the balance amount of Rs.5,06,300/-, pursuant to which the District Collector issued direction to the first respondent to collect the licence fee by invoking the Tamil Nadu Revenue Recovery Act, pursuant to which, the impugned notice was issued.

4.The learned Standing Counsel appearing for the second respondent further submitted that this Court vide order dated 11.08.2017 made in W.P.No.21547 of 2017 and W.M.P.No.22526 of 2017, granted interim injunction on condition that the petitioners paying a sum of Rs.2,50,000/- before the first respondent. Aggrieved by the conditional amount, the petitioners filed W.A.No.1015 of 2017 before the Hon'ble Division Bench of this Court and the Hon'ble Division Bench of this Court vide judgment dated 29.11.2017 dismissed the said writ appeal by extending the time for complying the conditional order for a further period of two weeks. Even thereafter, the petitioners did not comply the condition. Hence, the petitioners are not entitled to be heard by the Tahsildar until they pay the conditional amount.

5.The learned Standing Counsel appearing for the second



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respondent further submitted that the petitioners taking advantage of the third respondent's community, included the third respondent as partner in their firm by way of partnership deed dated 19.01.2002 and they also issued conduct certificate dated 09.01.2000 in favour of the third respondent. Thereafter, licence was granted in favour of the third respondent based on the community status, however, the petitioners and the third respondent failed to pay the licence fee and the first respondent issued the demand notice after conclusion of the licence period and after issuance of the demand notice, the petitioners removed the third respondent from the partnership. Since the petitioners mentioned third respondent's name and address in the licence form, based on the community status, licence was issued. Hence, the petitioners did not approach this Court with clean hands.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. Perusal of records reveal that the third respondent was a partner in the petitioners firm and he obtained licence from the second respondent for running mobile catering service in the train for a period of five years, however, the entire licence fee was not paid.



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Hence, the impugned notice was issued by the first respondent to collect the licence fee by invoking the Tamil Nadu Revenue Recovery Act. Challenging the same, this writ petition has been filed.

8.This Court vide order dated 11.08.2017 made in W.P.No.21547 of 2017 and W.M.P.No.22526 of 2017, granted interim injunction on condition that the petitioners paying a sum of Rs.2,50,000/- before the first respondent.

9.It is brought to the notice of this Court by the learned Standing Counsel appearing for the second respondent that challenging the order dated 11.08.2017 in W.M.P.No.22526 of 2017, the petitioners filed W.A.No.1015 of 2017 before the Hon'ble Division Bench of this Court and the Hon'ble Division Bench of this Court vide judgment dated 29.11.2017 dismissed the said writ appeal by extending the time for complying the conditional order for a further period of two weeks. Even thereafter, the petitioners did not comply the condition.

10.It is the contention of the learned Standing Counsel appearing for the second respondent that the petitioners taking



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advantage of the third respondent's community, included the third respondent as partner in their firm by way of partnership deed dated 19.01.2002 and they also issued conduct certificate dated 09.01.2000 in favour of the third respondent. Thereafter, licence was granted in favour of the third respondent based on the community status, however, the petitioners and the third respondent failed to pay the licence fee and the first respondent issued the demand notice after conclusion of the licence period and after issuance of the demand notice, the petitioners removed the third respondent from the partnership. Since the petitioners mentioned third respondent's name and address in the licence form, based on the community status, licence was issued, which clearly reveals that the petitioners did not approach this Court with clean hands.

11.Perusal of records reveal that the petitioners are well aware of the licence granted in favour of the third respondent since they issued conduct certificate in favour of the third respondent and after completion of the licence period, the petitioners removed the third respondent from the partnership inorder to evade the licence fee. Further, the condition imposed in the interim order granted by this Court was also not complied by the petitioners. Hence, the relief



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sought for in this writ petition cannot be considered.

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12.This writ petition is accordingly dismissed. No costs.

Consequently, the connected miscellaneous petitions are closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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