



WEB COPY

WA(MD)No.216 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD)No.216 of 2011

and

M.P.(MD)No. 1 of 2011

M.Gnanaprakasam

... Appellant/Petitioner

Vs.

1.The Tamil Nadu Civil Supplies Corporation Ltd.,
Gopalapuram,
Chennai - 600 086.

2.The Senior Manager,
The Tamil Nadu Civil Supplies Corporation Ltd.,
Trichy Region,
Trichy.

3.The Tahsildar,
Trichy.

4.The Village Administrative Officer,
Trichy.

...Respondents /Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.8938 of 2008, dated 02.12.2010 and allow the Writ Appeal as prayed for.

Prayer in WP(MD). 8938/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent herein relating to the Dstraint Order of dt. 10/09/08 under Sec. 8 in Form No. 1 demanding a sum of Rs. 28,02,922/- from the petitioiner and quash the same and forbear the respondents from, in any manner resorting to proceedings under the Revenue Recovery act for the said alleged liability.

For Appellant : Mr.A.L.Ganthimathi

For Respondents : Mr.G.Mohan Kumar, - RR1 & 2

Mr.Kannan, - RR3 & 4

Additional Government Pleader

**JUDGMENT****R. SUBRAMANIAN, J.****AND****N. SATHISH KUMAR, J.**

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Challenge in the Writ Appeal is to the order of the Writ Court, dismissing the W.P.(MD) No.8938 of 2008 filed by the petitioner, challenging the notice issued by the third respondent under the Tamil Nadu Revenue Recovery Act.

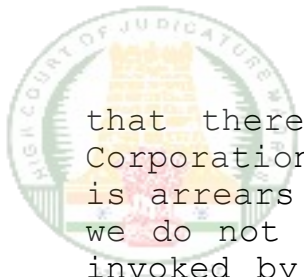
2. The factual background is as follows :

The petitioner who was working as a Production Engineer with the Tamil Nadu Civil Supplies Corporation, was charge-sheeted for various delinquencies. The disciplinary proceedings culminated in the order of dismissal of service, as well as recovery of the estimated loss caused to the Corporation. The recovery orders were passed on 30.11.1994 and a notice was issued requiring the petitioner to make good the loss assessed at Rs.27,45,922.48/- (Rupees Twenty Seven Lakhs Fourty Five Thousand Nine Hundred and Twenty Two and Forty Eight Paise only), on 13.08.1997. Though the Corporation attempted to take action for recovery, it was threatened with contempt, hence, no action was taken, however, the writ petition that was pending was disposed in the year 2000. Thereafter, the Corporation attempted to recover the money under the Tamil Nadu Revenue Recovery Act, by impugned order, dated 10.09.2008. The third respondent issued the impugned distraint order under Section 8 of the Tamil Nadu Revenue Recovery Act. It is this notice, which was challenged in the writ petition.

3. The main contention that was raised by the petitioner was that the loss caused to the Corporation cannot be recovered as arrears of land revenue under the Tamil Nadu Revenue Recovery Act, in the absence of any provision for such recovery in the relevant Service Rules. The Writ Court, however, dismissed the writ petition on the ground that earlier writ petition filed by the petitioner challenging the notice for recovery of Rs.1,00,071.98/- (Rupees One Lakh and Seventy One and Ninety Eight Paise only), was dismissed by this Court. Unfortunately, the Writ Court did not go into the contention of the petitioner regarding the applicability of the Tamil Nadu Revenue Recovery Act.

4. Upon hearing the learned counsel for the appellant, we required Mr.Mohankumar, learned counsel appearing for the Corporation to report as to whether there is any provision in the Service Rules of the Corporation to enable the Corporation to recover the loss caused because of the delinquencies of the employee, as land revenue.

5. The learned counsel, upon instructions, would submit



that there is no such provision under the Service Rules of the Corporation enabling the Corporation to recover the loss, as if it is arrears of land revenue. In the absence of such enabling power, we do not think that the Tamil Nadu Revenue Recovery Act, could be invoked by the respondent - Corporation to recover the loss caused by the misconduct of an Officer of the Corporation. In view of the same, we have no other option but allow the Writ Appeal, setting aside the order of the Writ Court.

6. The Writ Appeal will stands allowed. The impugned demand, dated 10.09.2008, will stands quashed. No costs. It is open to the Corporation to recover the loss by taking appropriate legal proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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 Tamil Nadu Civil Supplies Corporation Ltd.,
Gopalapuram,
Chennai - 600 086.

2.The Senior Manager,
The Tamil Nadu Civil Supplies Corporation Ltd.,
Trichy Region,
Trichy.

3.The Tahsildar,
Trichy.

4.The Village Administrative Officer,
Trichy.

+1 CC to M/s.SPL GP (SR-14559[F] dated 25/03/2022)

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-14161[F] dated 24/03/2022)

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+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-14443[F] dated 25/03/2022

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SP(CO)

KB(05.04.2022) 4P 8C