

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20109 of 2014 &

M.P.Nos.1 and 2 of 2014

1.A.Khatibuddeen

2.A.Mounddeen

.. Petitioners

-Versus-

1.The State of Tamil Nadu,
Represented by the
Chief Conservator of Forests,
Department of Forests, Panagal Maligai,
Saidapet, Chennai-600 015.

2.The District Forest Officer,
Vellore District,
Vellore.

3.K.Abdul Samath Sahib

4.K.Farooq Sahib

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the second respondent culminating in his order ref. Proceedings No.8612/12, dated 12.07.2013, quash the same and direct the respondents to forthwith issue a License to the petitioners under Rule 4 of the Tamil Nadu Regulation of Wood Based Industries Rules 2010 for establishing a Saw Mill under the name and style of Three Star Saw Mill on the premises bearing No.49A, V.Kotta Road, Survey No.459B, measuring 5627 sq.ft., Pernambut Village, Vellore District.

For Petitioners : Mr.B.Harikrishnan

For Respondents : Mr.N.Inbanathan

Government Advocate for R1, R2 and R5

Mr.T.Ramkumar for R3 and R4

O R D E R

Heard Mr.B.Harikrishnan, learned counsel appearing for the petitioner; Mr.N.Inbanathan, learned Government Advocate, accepting notice on behalf of the respondents 1, 2 and 5 and

Mr.T.Ramkumar, learned counsel, accepting notice on behalf of the respondents 3 and 4.

2. The petitioners claim to have purchased a saw mill (Wood Based Industries) from the respondents 3 and 4, pursuant to a sale deed dated 06.08.2009, registered as document No.1546 of 2009, on the file of Sub Registrar, Pernampet.

3. According to the petitioners, the entire business including the land and building, right over the electricity service connection as well as the license have been transferred to the petitioners.

4. The respondents 3 and 4, who are the transferors have raised an objection stating that what has been sold to the petitioners is only the land, building and some of the machineries and agreeing for transfer of the Electricity Service Connection, but not the right over the license granted in favour of the respondents 3 and 4, by the Forest Department for carrying on business under the name and style of "Three Star Saw Mill".

5. The second respondent has to decide the matter as to whether the claim made by the petitioners is feasible of consideration and whether they are an existing industry, as on the cut off date fixed by the Hon'ble Supreme Court. The second respondent is unable to proceed further in the matter, on account of the fact that the petitioners have filed a Suit in O.S.No.171 of 2011, on the file of District Munsif Court, Gudiyatham, for a decree of permanent injunction to restrain the respondents 3 and 4 from raising any objection before the second respondent with regard to the Application made by the petitioners for grant of license. The second respondent is fully justified in not taking a decision on the Application made by the petitioners for grant of license, since the matter is pending before the District Munsif Court, Gudiyatham and the second respondent is also one of the defendants in the suit.

6. Faced with this situation, the learned counsel for the petitioners, on instructions from the petitioners, submitted that the petitioners will first withdraw the Suit in O.S.No.171 of 2011, pending before the District Munsif Court, Gudiyatham and then appear before the second respondent. If that is done, the impediment which is pointed out by the second respondent would not arise and the second respondent would be free to consider the Application in accordance with law.

7. The learned counsel appearing for the respondents 3 and 4 pleaded that in such an event, the respondents 3 and 4 should be afforded an opportunity of personal hearing to place all the facts. This request being reasonable cannot be

resisted by the petitioners or opposed by the second respondent.

8. Accordingly, the Writ Petition is disposed of with a direction to the petitioners to first withdraw the Suit in O.S.No.171 of 2011, on the file of District Munsif Court, Gudiyatham, and obtain a certified copy of the order and then approach the second respondent with a request to consider their application for grant of license. If such a request is made, the second respondent shall issue notice to the petitioners as well as to the respondents 3 and 4 and process the Application, after hearing the petitioners in person, by passing an order, on merits and in accordance with law, within a period of eight weeks from the date on which, the petitioners produces the certified copy of the order to show that the Suit has been dismissed as withdrawn.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition in M.P.No.1 of 2014 filed for direction and impleading petition in M.P.No.2 of 2014 are closed.

r n s

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Conservator of Forests,
Government of Tamil Nadu,
Department of Forests, Panagal Maligai,
Saidapet, Chennai-600 015.
- 2.The District Forest Officer,
Vellore District, Vellore.

+ 1 cc to The Govt.Pleader, Sr 23318

+ 1 cc to Mr.B.Harikrishnan, Advocate Sr 23300

KR/25/4/16

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