



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.19895 of 2017

R.Rajkumar

... Petitioner

Vs.

1. The Commissioner of Police,
Madurai City,
Alagarkovil Road,
Madurai.

2. The Senior Divisional Retail Sales Manager,
Indian Oil Corporation,
Madurai Division Office,
Race Course Road, Chokkikulam,
Madurai -2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling the records relating to the proceedings of the 1st respondent made in C.No.147/35644/V2/2017, dated 12.10.2017 and quash the same and consequently direct the 1st respondent to issue no objection certificate for setting up petroleum retail outlet at Survey No.92/18, Anaiyur Village II Bit, Madurai North Taluk, Madurai.

For Petitioner	: Mr.R.Murali
For Respondent -1	: Mr.J.Gunaseelan Muthiah, Government Advocate
For Respondent -2	: K.Muralidaran

Mrs.P.Krishnaveni,
Advocate Commissioner

ORDER

This writ petition has been filed, seeking a writ of Certiorarified Mandamus calling the records relating to the proceedings of the 1st respondent made in C.No.147/35644/V2/2017 dated 12.10.2017 and quash the same and consequently direct the 1st respondent to issue No Objection Certificate for setting up petroleum retail outlet at Survey No.92/18, Anaiyur Village II Bit, Madurai North Taluk, Madurai.



2. Heard both sides.

3. By consent, the writ petition is taken up for final disposal at the stage of admission itself.

4. The learned counsel for the petitioner would submit that the second respondent has given the Letter of Intent dated 04.04.2017 in favour of the petitioner, to establish a petroleum retail outlet, in his property. Hence, the petitioner requested the first respondent, to issue No Objection Certificate and such request of the petitioner was rejected by the first respondent by the impugned order, dated 12.10.2017, stating that there is insufficient space. Now, challenging the said rejection order, the petitioner is before this Court.

5. In the earlier round of litigation, this Court, by order dated 23.11.2017, appointed an Advocate Commissioner, to inspect the place in dispute and to file a detailed report and accordingly, the Advocate Commissioner, inspected the place and filed a report. The relevant portion of the said report reads as follows:

"There were poles available on the either ends of the site on the road Margin. The Madurai Kulamangalam road is 40 feet road in which the tar road is laid for an extent of 7.4 meter and the road margin is 2 meter to 2.5 meter on the side adjoining the site. The other side of the road, the road Margin is 2.5 meter. Immediately adjoining the road on the opposite side to the site, a water channel is available with four meter in width."

6. Now the petitioner, based on the Advocate Commissioner's report, prays for a direction for granting No Objection Certificate.

7. A Perusal of the Advocate Commissioner's report, would reveal that there cannot be any impediment for the authorities to issue No Objection Certificate for setting up a new petroleum retail outlet, for which no serious objection was raised by the second respondent, who after inspecting the said place, concurred with the prayer of the petitioner. It is further submitted by the learned counsel appearing for the second respondent that the other Departments had already issued No Objection Certificates, as prayed for by the petitioner.

8. When such being the case, this Court is of the considered view, that there is no reasonable cause for denial of issuing No Objection Certificate, by the first respondent, who failed to issue the same, as prayed for by the petitioner and hence, the impugned order dated 12.10.2017 is set aside and the matter is remitted back to the first respondent, for considering the claim of the petitioner afresh, on the basis of the Advocate Commissioner's Report as well as No Objection endorsed by the learned Counsel appearing for the second respondent, in the open Court, within a period of four weeks from the date of receipt of a copy of this order.



9. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
Madurai City,
Alagarkovil Road,
Madurai.

2. The Senior Divisional Retail Sales Manager,
Indian Oil Corporation,
Madurai Division Office,
Race Course Road,
Chokkikulam,
Madurai -2.

+ 1 CC TO Mr.R.MURALI, ADVOCATE IN SR No. 91585
+ 1 CC TO Mr.K.MURALEEDHARAN, ADVOCATE IN SR No. 91628
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 91948

DSK

TE/SV-MMS/SAR-3 : 26/12/2017 : 3P/6C

ORDER MADE IN
W.P (MD) No.19895 of 2017
07.12.2017