



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.11.2016
Pronounced on : 18.01.2018

WEB COPY

CORAM :

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.P. (MD) .Nos.6219 of 2013 and
MP (MD) .No.1 of 2013 and
MP (MD) No.1 of 2015

M.Sivakumar

.. Petitioner

.Vs.

1.The Chief Controller of Explosives,
Petroleum and Explosives Safety Organisation,
"A" Block, 5th Floor,
Complex, Seminary Hills,
Nagpur - 440 006.

2.The Joint Chief Controller of Explosives,
Explosives Safety Organisation,
140, Rukmani Latchmipathi Road,
Elumbur, Chennai-8.

3.The District Collector,
District Collectorate, Karur District.

4.The District Revenue Officer,
District Collectorate, Karur District.

5.The Revenue Divisional Officer,
Revenue Divisional Office, Karur.

6.The Tahsildar,
Aravakurichi Taluk,
Karur District.

7.Sri Thirumurugan Explosives,
Rep. by its Managing Partner Selvam,
42, Kallipalayam,
Vengarai Post, P.Velur Taluk,
Namakkal District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the objections of the petitioner dated 17.03.2013 and consequently restrain the 7th respondent from locating the proposed



explosives magazine in Survey No.808 situate at Kuppam Village, Aravakurichi Taluk, Karur District.

For Petitioner : M/s.J.Maria Roseline

For Respondents : No Appearance (for R1 and R2)

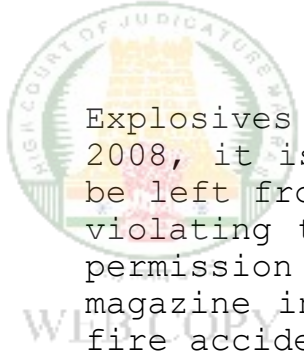
Mr.Aayiram K.Selvakumar (for R3 to R6)
Government Advocate

Mr.K.Chellapandian (for R7)
Senior Counsel
for Mr.S.C.Herold Singh

ORDER

The petitioner has filed the writ petition to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the objections of the petitioner dated 17.03.2013 and consequently restrain the 7th respondent from locating the proposed explosives magazine in Survey No.808 situate at Kuppam Village, Aravakurichi Taluk, Karur District.

2.The case of the petitioner is that he owns agricultural lands in Survey No.801/2 at Kuppam Village, Aravakurichi Taluk, Karur District to an extent of 11 acres and he has been engaged in agricultural activities and he is raising cash crops namely, Groundnut and Solam in the said lands. The petitioner is also rearing cattle in the said agricultural lands in Survey No.801/2. The petitioner has also having a residential house bearing Door No.3/85, with Electricity service connection No.600 in Survey No.801/2. The petitioner also states that the 7th respondent with intention to have explosives magazine is making constructions in his land in Survey No.808. Survey No.808 is situated immediately abutting petitioner's land in Survey No.801/2. The 7th respondent is intending to possess 1,500 kg of Ammonium Nitrate mixture along with safety fuse, detonating fuse and detonators in the proposed explosives magazine. The proposed explosives magazine is situated within a prohibited distance of 2 metres from the petitioner's land where the petitioner is having residential house and carrying on agricultural activities including rear cattle. Further, the 7th respondent is also putting up shed immediately abetting the petitioner's land for making site mixed explosives (Ammonium Nitrate with Diesel). Survey No.808 where the explosives magazine is proposed to be located is situated in the midst of Village residential area and is situated immediately abutting the cremation ground in Survey No.807. Further more Village temple by name Amman Thirukovil is situated within a prohibited distance from the proposed explosives magazine in Survey No.808. The explosives which the 7th respondent intends to possess are high explosives and categorized as "ZZ" and governed by Table 1 of Schedule VIII of



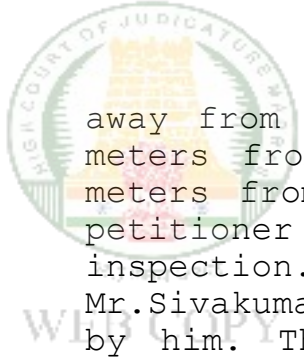
Explosives Rules, 2008. As per Rule 2(43) of the Explosives Rules, 2008, it is mandatory that the safety distance of 192 metres should be left from the petitioner's quarry pit, but without doing the same violating the said Rule, the respondents 1 to 3 are going to grant permission to the 7th respondent for locating proposed explosives magazine in Survey No.808 in view of potential explosion and major fire accident.

3. Therefore, this petitioner has made very serious objection and submitted his objection on 17.03.2013, but without considering the same, the respondents are passed orders by granting permission to locate the explosives magazine in Survey No.808 to the 7th respondent. Therefore, the petitioner has filed this writ petition before this Court for the above prayer.

4. A counter affidavit has been filed by the 4th respondent in which it is admitted that that they are going to grant permission to the 7th respondent to explosives magazine in Survey No.808. But, the 4th respondent has denied the other contention, raised in the writ petition.

5. The 4th respondent in his counter also states that a public notice was issued by the 4th respondent calling objections on the request of the 7th respondent under Rule 103(3)(a) of Explosives Rules, 2008, vide Na.Ka.D2/3245/2012, dated 04.06.2012. Apart from this, the 4th respondent has directed the 6th respondent to publish the notice in the conspicuous places in Kuppam Village in accordance with law. Accordingly, the 6th respondent has directed the Village Administrative Officer, Kuppam Village to publish the said notice in conspicuous places so as to make the public aware of the request of the petitioner and send objections, if any. Accordingly, the Village Administrative Officer, Kuppam Village already published on 04.06.2012 requested the public to give objections, if any. The petitioner also sent objection pursuant to the same on 06.06.2012 and one Mr.Sivakumar also given objection, except the said persons, there is no other objection petition received from the Kuppam Village. In the objection, the petitioner and the said Sivakumar stated that they had submitted the objection petition in response to the public notice issued under Rule 103(3)(a) of the Explosives Rules, 2008 and strongly objecting for granting the permission sought for the 7th respondent. The 5th respondent had perused the records and made inspection of the land proposed for the establishment of Explosives Magazine as directed by the 4th respondent in Survey No.801/2 Kuppam Village and the 5th respondent was directed to enquire the objection made by Mr.Sivakumar/4th respondent in Na.Ka.D2/13009/2012, dated 27.07.2012.

6. The 4th respondent also states that the inspection of the land proposed for the establishment of Explosives Magazine is situated



away from a distance of 261 meters from the dwelling houses, 250 meters from the burial ground of Adi dravidar community and 600 meters from the Kuppam Village and there was no existence of the petitioner in Survey No.801/1 Kuppam Village at the time of inspection. Therefore, the objections given by the petitioner and Mr.Sivakumar are incorrect and no such damages would cause as stated by him. Therefore, they prayed for dismissal of the above writ petition.

7.I heard M/s.J.Maria Roseline learned counsel appearing for the petitioner, Mr.Aayiram K.Selvakumar, learned Government Advocate appearing for the respondents 3 to 6, Mr.K.Chellapandian, learned counsel appearing for the 7th respondent and there was no representation on behalf of the respondents 1 and 2.

8.It is admitted fact that the respondents 1 to 4 are proposed to grant permission to the 7th respondent for establishing of Explosives Magazine in Survey No.808, since the 7th respondent is the owner of the property.

9.The respondents also stated that proper procedure was followed in this matter, therefore, the objection made by the petitioner and one Mr.K.Murugesan, are incorrect, but it is my absolute view that the authorities/ respondents 1 to 4 should have consider the objections and also should made personal visit to the said proposed establish the explosives magazine in Survey No.808 of Kuppam Village in the presence of the villagers and the objectors. Therefore, without going into the merits of the case, I am inclined to direct the respondents 1 to 4 to consider the petitioner's objections dated 06.06.2012 and also objection dated 17.03.2013 by giving personal opportunity and to pass orders on merits as per the Explosives Rules, 2008.

10.In the result, this writ petition is disposed of with the direction to the respondents 1 to 4 to consider the petitioner's objections dated 17.03.2013 and also objection of one Mr.K.Murugesan, dated 06.06.2012, by giving personal opportunity to the said Murugesan and this petitioner as well as the 7th respondent and to pass appropriate orders on merits, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T & P)

/True Copy/



To

1. The Chief Controller of Explosives,
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"A" Block, 5th Floor, Complex, Seminary Hills,
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2. The Joint Chief Controller of Explosives,
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District Collectorate, Karur District.
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6. The Tahsildar,
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order made in
W.P. (MD) .Nos.6219 of 2013 and
MP (MD) .No.1 of 2013 and
MP (MD) No.1 of 2015
18.01.2018
(2/2)

vs

SDS/SKN:RSK/SAR 4/23.01.2018/5P/7C