

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.09.2018
CORAM
THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.34102 of 2017
and
W.M.P.Nos.37853 of 2017
and 1195, 27191 & 27192 of 2018

D.Manivannan

.. Petitioner

Vs

- 1.The Chief Controller of Explosives,
Petroleum and Explosives Safety Organization,
A Block, 5th Floor,
Complex, Seminary Hills,
Nagpur - 440 006.
- 2.The Joint Chief Controller of Explosives,
South Zone, Shastri Bhavan,
Nungambakkam, Chennai - 34.
- 3.The District Collector,
Collectorate, Tiruppur District.
- 4.The District Revenue Officer,
District Collectorate,
Tiruppur District.
- 5.The Revenue Divisional Officer,
Revenue Divisional Office,
Dharapuram, Tiruppur District.
- 6.The Tahsildar,
Dharapuram,
Tiruppur District.
- 7.M/s.Hanuman Explosives Pvt., Ltd.,
Door No.322, Agaram Cross Road,
Kamakkapalayamm Post,
Attur Taluk, Salem District.
- 8.M/s.Vetrivel Explosives Pvt., Ltd.,
Represented by its Managing Director,
Mr.Vijayakannan,
Door No.176, (Old No.135/A),
Kennedy Nagar, Suramangalam,
Salem-5.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, directing the respondents 1 to 4 forbearing the 7th respondent from establishing the proposed explosive magazine (Numbering 6) to be established at S.No.898, Chinnamarudhur Village, Dharapuram Taluk, Tiruppur District.

For Petitioner :Mr.A.Natarajan, Senior Counsel for
Mr.A.Madhumathi

For Respondent :Mr.T.L.Thirumalaisamy
Central Government Standing Counsel for R1&R2
Mr.J.Ramesh
Additional Government Pleader for R3 to R6
Mr.P.Wilson, Senior Counsel
for M/s.K.Raja, for R7
Mr.T.V.Lakshmanan for R8

O R D E R

The prayer sought for in this writ petition is to issue a mandamus, directing the respondents 1 to 4, forbearing the seventh respondent from establishing the proposed explosive magazine (Numbering 6) at S.No.898 of Chinnamarudhur Village, Dharapuram Taluk, Tiruppur District.

2.The case of the petitioner is that he is owning ancestral property in Chinnamarudhur Village, Dharapuram Taluk, Tiruppur District and carrying on agricultural activities there. While so, he sold some of the lands in S.Nos.898, 899 and 905 of the aforesaid Village, to one M/s.Vetrivel Explosives Private Limited/eighth respondent herein, who, in turn, leased out the same to the seventh respondent. The seventh respondent started construction activities of six blocks of buildings, for the purpose of storing explosives. According to the petitioner, the said construction was made without obtaining prior approval from the authority concerned, as provided under Rules 102 and 103 of the Explosives Rules, 2008. Apprehending danger to the safety of the petitioner as well as the labourers, the petitioner raised several objections not to grant licence in favour of the seventh respondent and the same were not considered by the respondents. Hence, this writ petition.

3. The learned Senior Counsel appearing for the petitioner submitted that the seventh respondent is required to locate the explosive magazine, by leaving a safety distance of 343 meters, whereas their godowns are situated within a distance of 123 meters from the land of the petitioner, which is in violation of Table-1 Schedule -VIII of the Explosives Rules 2008. The learned

Senior Counsel further submitted that the failure on the part of the seventh respondent to obtain No Objection Certificate prior to commencement of the construction is against the relevant provision of the Explosives Rules 2008, which is sufficient enough to decline licence to the seventh respondent. Hence, the learned Senior Counsel sought appropriate direction in this regard.

4. On the other hand, the learned Senior Counsel appearing for the seventh respondent, referring to Rule 104 of the Explosives Rules, 2008, submitted that it is not mandatory to obtain No Objection Certificate prior to the commencement of the Construction and hence, there is no illegality in proceeding with construction of magazines/buildings for storage of explosives. The learned Senior Counsel also submitted that the Table -1 prescribed the distance of 343 meter, which is applicable for dwelling house, Government and Public building, Temple, Mosque, Gurudwara, Church or other place of worship, shops, market place, recreation and sports ground, college, school, hospital, theatre, cinema or other buildings where the public are accustomed to assemble, factory, buildings or works used for the storage in bulk of petroleum spirit, gas or other inflammable or hazardous substance, building or works used for the manufacture of explosives or articles, whereas, the said rule is not applicable for barren land as that of the petitioner herein and hence, the apprehension of the petitioner may not be proper for filing a writ petition, which is nothing but an attempt to stall the procedures to be adopted by the statutory authorities. Hence, the learned Senior Counsel sought to dismiss the writ petition.

5. Reiterating the averments made in the counter affidavit, the learned Additional Government Pleader appearing for the respondents 3 to 6 submitted that as per the recommendations of the District Officer, Fire and Rescue Department, Tiruppur District and the Superintendent of Police, Tiruppur, the Special Officer, Kottaimaruthur Village has granted permission to construct the explosive magazines in S.No.898 of Chinnamarudhur Village, Dharapuram Taluk, Tiruppur District and the Sub Collector, Dharapuram has also recommended for issuance of No Objection Certificate to the seventh respondent and hence, the fourth respondent has granted No Objection Certificate on 11.12.2017 to the seventh respondent. The learned Additional Government Pleader further submitted that no residential houses are situated nearby the explosive magazines which are constructed within the safety distance as mentioned in the Explosives Rules, 2008 and the seventh respondent requested no objection certificate only for possession of use of explosives in magazines and as such, the objections raised by the petitioner, joint explosives user association and the

individuals are baseless and unfounded. The learned Additional Government Pleader also invited the attention of this Court to the report filed by the Advocate Commissioner appointed in this regard.

6. I have considered the rival submissions and perused the materials placed before this Court.

7. From the records, it could be seen that the seventh respondent is yet to obtain licence from the second respondent. Under such circumstances, it goes without saying that the authority concerned is to follow the Statutory Rules and the provisions contained therein, before granting such licence to the seventh respondent.

8. In view of the above, this Court finds it appropriate to give a direction to the second respondent to consider the application for licence made by the seventh respondent and pass appropriate orders, on merits and in accordance with law. Before passing any order, the second respondent shall afford an opportunity of personal hearing to the petitioner as well as the respondents 7 and 8 and consider all the objections raised by the respective parties and the report submitted by the Advocate Commissioner. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chief Controller of Explosives,
Petroleum and Explosives Safety Organization,
A Block, 5th Floor,
Complex, Seminary Hills,
Nagpur - 440 006.
- 2.The Joint Chief Controller of Explosives,
South Zone, Shastri Bhavan,
Nungambakkam, Chennai - 34.
- 3.The District Collector,
Collectorate, Tiruppur District.

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

5.The Revenue Divisional Officer,
Revenue Divisional Office,
Dharapuram, Tiruppur District.

6.The Tahsildar,
Dharapuram,
Tiruppur District.

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.62440

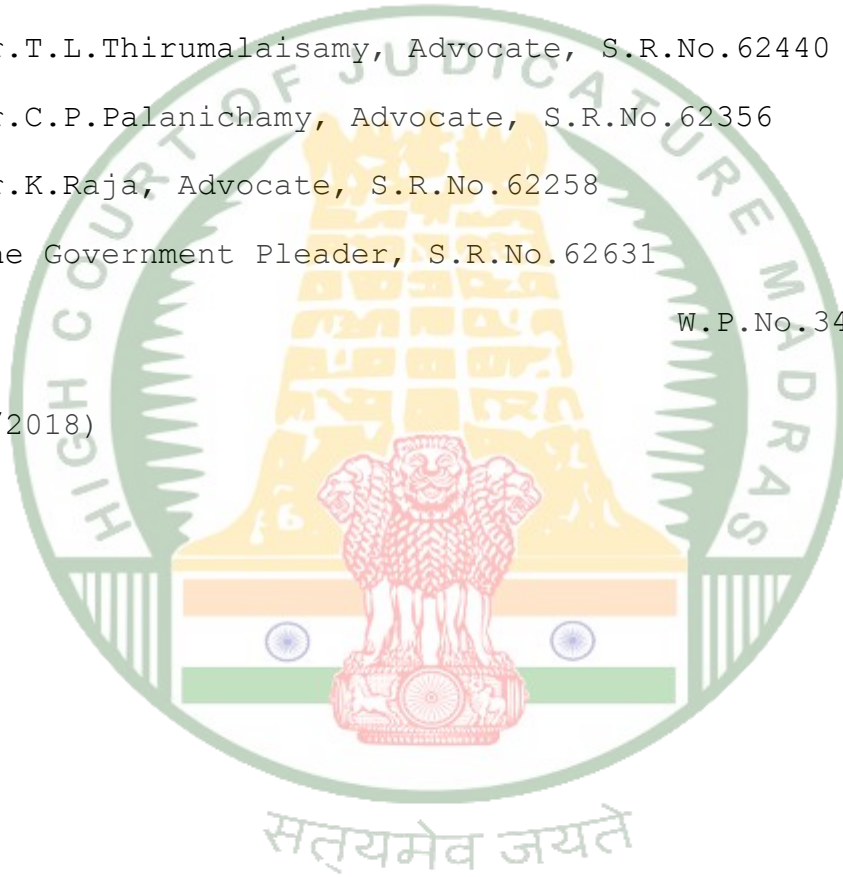
+1cc to Mr.C.P.Palanichamy, Advocate, S.R.No.62356

+1cc to Mr.K.Raja, Advocate, S.R.No.62258

+1cc to the Government Pleader, S.R.No.62631

W.P.No.34102 of 2017

NM(CO)
GSP(28/09/2018)



WEB COPY