



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P. (MD) No. 20706 of 2016

and

W.M.P. (MD) No. 14798 of 2016

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R.Sivakumar

: Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

3.The Tahsildar,
Aruppukkottai,
Virudhunagar District.

4.The Executive Engineer,
State Highways,
Aruppukkottai,
Virudhunagar District.

5.Ramasamy Pandian

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to consider the petitioner's objection dated 20.10.2016 for opening of Cracker Shop by the fifth respondent in Survey No.100/19, Mandapasalai Village, Aruppukkottai Taluk, Virudhunagar District.

For Petitioner

: Mr.D.Srinivasa Raghavan

For Respondents 1to4

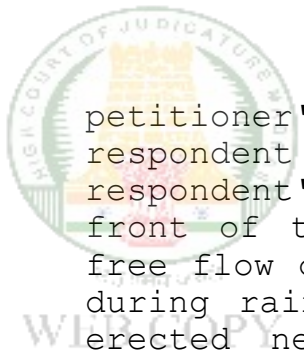
: Mr.M.Rajarajan,
Government Advocate

For Respondent No.5

: Mr.P.Saravanan,
For M/s.P.Kalaiyarasi Bharathi

ORDER

The petitioner is a resident of Mandapasalai, Aruppukkottai Taluk, Virudhunagar District. The fifth respondent constructed a building for the purpose of putting up a cracker shop. The



petitioner's house is adjacent to the building of the fifth respondent and there are about ten houses situated near the fifth respondent's building. The fifth respondent blocked the canal in front of the building and the National Highway and disrupted the free flow of water. The same can cause disturbance to nearby houses during rainy season. Apart from this, a cell phone tower is also erected near the fifth respondent building. Therefore, if the cracker shop is allowed to be established in the proposed place, it will cause danger to the inhabitants. The petitioner conducted an agitation, in which, he was assaulted by the fifth respondent's men. An FIR in Crime No.151 of 2016 was registered under Sections 294(b), 323, 355 and 506(i) of the Indian Penal Code. The Village Administrative Officer also is colluding with the fifth respondent and, therefore, the petitioner seeks a direction to the respondents 1 to 4 to consider his objections dated 20.10.2016 for opening the cracker shop at Survey No.100/19, Mandapasalai Village, Aruppukkottai Taluk, Virudhunagar District.

2. The fifth respondent vehemently denied the contentions of the petitioner. According to him, the cracker shop is to be situated in Survey No.100/19B and the same is not surrounded by any Cracker Shop, Crackers Factory or Explosives Godown within the radius of 15 metres. The only one residential house that of one Marichamy is at the distance of 60 metres. The distance between the pucca building put up by the fifth respondent and the National Highway between Aruppukkottai and Sayalkudi is at a distance of 10 metres. Between the proposed place and the National Highway, there is pathway to drain the rain water and there are no Temples, Mosques and burial ground or ancient monuments around the building constructed by the fifth respondent. Therefore, there is no impediment to grant licence. The licence is not granted only due to the pendency of the above Writ Petition. Hence, he seeks dismissal of the same.

3. I have considered the rival submissions.

4. On consideration of the building situated in Survey No.100/19, Mandapasalai Village, Aruppukkottai Taluk, Virudhunagar District and photographs, it shows that the building stands on the National Highway. No other building exists around it. It appears that it is a newly constructed building. For the purpose of possession and sale of crackers, there are certain conditions for grant of licence.

5. Rule 83 of the Explosives Rules, 2008, reads as under:

83. Explosives permitted for possession and sale from shop. - (1) No explosives, other than fireworks, gun powder, small arm nitro compound and safety fuse, permitted in licence shall be stored in a shop for possession and sale.



(2) Construction of shop.- The shop shall be constructed of a brick, stone or concrete and the shop shall be closed and secured so as to prevent unauthorised person from having access thereto.

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(3) The premises shall have storage area not less than nine square meters and not more than twenty five square meters.

(4) The shop shall -

(a) be located on the ground floor of a building completely separated from other parts of the building by substantial walls having independent entrance and emergency exit from open air and having doors opening outwards, if applicable;

(b) not be situated in the sub-level or basement or mezzanine floor;

(c) not be situated under the upper floor used for the purpose of dwelling;

(d) not be situated under or nearby any staircase or lift;

(e) be accessible for fire fighting; and

(f) have no electrical apparatus or battery or oil lamp or similar equipments capable of producing spark or ignition and all electrical wiring in the shop be fixed and effectively sealed or conduited or mechanically protected; the main switch or circuit breaker be provided at the immediate accessible position outside the premises."

6. If the building conforms to the conditions laid down under Rule 83, the authority concerned shall consider it and decide on grant of licence. The statements given by the villagers, as annexed in the typed-set filed by the fifth respondent, show that there is no objection for granting licence. On the other hand, the petitioner has stated that he has given his objection on 20.10.2016. In such circumstances, the respondents 1 to 4 shall consider all these aspects and take a decision at the earliest. Keeping the application under the pretext of pendency of the Writ Petition is not correct.



7. Therefore, a direction is given to the respondents 1 to 4 to consider the fifth respondent's application in accordance with law, taking into consideration the objection raised by the petitioner dated 20.10.2016, within a period of four weeks from the date of receipt of a copy of this order.

8. The Writ Petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

Sub Assistant Registrar(CS)

SML

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.
- 3.The Tahsildar,
Aruppukkottai,
Virudhunagar District.
- 4.The Executive Engineer,
State Highways,
Aruppukkottai,
Virudhunagar District.

+1CC TO MR.D.SRINIVASA RAGAVAN, Advocate Sr. No.93419
+1CC TO MR.P.KALAIYARASI BHARATHI, Advocate Sr. No.93415
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.93536

Order made in
W.P. (MD) No. 20706 of 2016
Dated: 21.10.2019

GRL(CO)
TR(22.10.2019) 4P 8C