

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16659 of 2020

N.Raju

..

Petitioner

vs.

- 1.The District Revenue Officer,
Additional District Magistrate,
Udhagammandalam,
The Nilgiris.
- 2.The Divisional manager
Nayara Energy Limited,
Old No.336/2, 5th Floor, May Flower,
Valencia, Avinashi Road,
Nava India, Coimbatore- 641 018.

3.R.Kaja Rasheed

4.Mohammed Munaf @ M.Munaf

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to dispose of the representation dated 22.08.2020 regarding the recall/cancellation of the No Objection Certificate dated 12.11.2019 bearing No.R.Dis.8662/2019/C2 issued by the 1st respondent to the 4th respondent for the purpose of establishment of petrol bunk at Survey No. 2226/1 of Kotagiri Taluk & Village, The Nilgiris District.

For Petitioner : Mr.V.Chinnasamy

For Respondents : Mr.R.S.Selvam, G.A.,

ORDER

Mr. R.S.Selvam, learned Government Advocate takes notice for the respondents.

Page numbers

2.The Writ Petition is filed by the petitioner, to direct 1st respondent to dispose of the representation dated 22.08.2020 regarding the recall/cancellation of the No Objection Certificate dated 12.11.2019 bearing No.R.Dis.8662/2019/C2 issued by the 1st respondent to the 4th respondent for the purpose of establishment of petrol bunk at Survey No. 2226/1 of Kotagiri Taluk & Village, The Nilgiris District.

3.The case of the petitioner is that the petitioner filed a partition suit in O.S.No.150 of 2017 on the file of the Sub-Court, Coonoor as against one Kaja Rasheed and 18 others; the main prayer in the suit is for declaration of the sale Deed dated 10.11.1967 registered as D.No.854/1967, Sub Registrar, Kothagiri, which was executed in favour of the N.Kalla Gowder as null and void; that the said A.Rama Gowder and N.Kalla Gowder are relatives of the petitioner and it appears that the property which has been leased to the 3rd and 4th respondents is the subject matter of partition suit namely O.S.No.150 of 2017 before the Sub Court, Coornoor and the petitioner claims that the lease deed executed to the 3rd and 4th respondents is as nullity, therefore the subsequent NOC dated 12.11.2019 issued by the 1st respondent is not valid under law. Therefore in this regard, the petitioner made a representation dated on 01.07.2020 and thereafter on 22.8.2020, to the 1st and 2nd respondents not to grant permission to the said respondents to operate a petrol bunk in the subject premises. However till date there was no action is forthcoming, hence the petition.

4.Learned counsel for the petitioner submitted that the title deed, which is in issue with regard to which No Objection Certificate was granted by the 1st respondent in favour of the 2nd respondent for setting up a Petrol Bunk itself is null and void for which suit has been filed and in view of the above pendency of the suit, this Court may issue an appropriate direction to the respondents to consider the petitioner's representation within a particular time frame fixed by this Court.

5.On the above contention, this Court heard the learned Government Advocate appearing for the respondents 1 and 2 and also perused the materials available on record.

6.Admittedly it is a property dispute between the petitioner and the 2nd respondent and in this regard a civil suit is pending before the Competent Civil Court in O.S.No.150/2017 before the Subordinate Court, Coonoor, which is not in dispute. I.A.No.2 of 2020 in O.S.No.4 of 2020 which was filed by the 3rd and 4th respondent who has obtained the NOC from the 1st

Page numbers

respondent stands dismissed by the District Munsif Court, Kothagiri. In such circumstances unless the petitioner is able to place materials to show his inalienable right over the disputed subject property, the NOC granted by the 1st respondent to the 2nd respondent for setting up a petrol bunk cannot be interfered. Civil suit is pending between the parties and their rights can be decided only on the basis of the outcome of the civil suit and, therefore, relief sought for in the present petition cannot be granted.

7. For the reasons aforesaid, this petition is dismissed. However liberty is granted to the petitioner to workout his remedy in a manner known to law after disposal of the suit. However in the said circumstances, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

1.The District Revenue Officer,
Additional District Magistrate,
Udhagamandalam,
The Nilgiris.

2.The Divisional manager,
Nayara Energy Limited,
Old No.336/2, 5th Floor, May Flower,
Valencia, Avinashi Road,
Nava India, Coimbatore- 641 018.

+1cc to the Government Pleader SR.38236

W.P.No.16659/2020

RGN(CO)
CB(20/01/2021)

WEB COPY

Page numbers