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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.NO.21796 OF 2017

AND

W.M.P.NO.22807 OF 2017

Rina Majumdar

...Petitioner

Vs

1. Joint Chief Controller of Explosives,
A & D Wing, Block1 - 8, II Floor,
Shastri Bhavan,
26, Haddows Road, Nungambakkam,
Chennai - 600 006.

2. The Regional Manager,
The Hindustan Petroleum Ltd.,
"Petro Bhavan" 2nd floor,
No.82, T.T.K.Road,
Alwarpet, Chennai - 600 018.

3. G.R. HP Gas Agency
Rep.by G.Ramila,
No.1, Kommakadu Main Road,
Yercaud - 606 601.

... Respondents

Prayer

Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the first respondent to dispose of petitioner's representation dated 16.11.2016 and to cancel license of the gas godown in REF NO:G/SC/TN/06/1808 (G26393) dated 07.09.2010 run by the third respondent.

For Petitioner : M/s.David Tyagaraj

For Respondents : Mr.T.V.Krishnamachari
SPCCG for R1



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Mr.M.Vijayan
for M/s.King & Partridge for R2

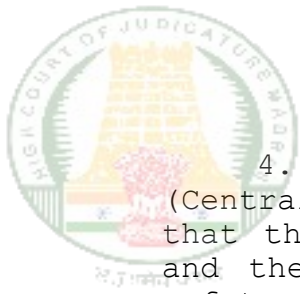
Mr.K.Marudhachalamurthy for R3

ORDER

This Writ Petition has been filed for a direction to direct the first respondent to dispose of petitioner's representation dated 16.11.2016 and to cancel license of the gas godown in REF NO:G/SC/TN/06/1808 (G26393) dated 07.09.2010 run by the third respondent.

2. The petitioner is the owner of the property situated in Survey No.55/3A with total extent of 0.25.0 hectares in No.9, Assambur Village, Salem District, and registered the same with the Sub Registrar, Yercaud. The petitioner had constructed a house and obtained electricity connection. The main grievance of the writ petitioner is that the private road belongs to the petitioner has been illegally utilized by the third respondent for ingress, egress and regress to the gas godown. She further submits that the gas godown constructed by the third respondent is kept for storing hazardous gas cylinders which is dangerous and could explode at any time, which cause harm to the petitioner's life and her property. Further, she submits that without following the Rules of Section 57 of the Gas Cylinder Rules, 2004, the third respondent is storing the gas cylinders in a place which is adjacent to the petitioner's house. Therefore, she made a representation dated 16.11.2016 to the first respondent but till date, her representation has not been considered. Aggrieved over the same, the petitioner is before this Court by virtue of the present Writ Petition.

3. Mr.M.Vijayan, learned counsel appearing for the 2nd respondent would submit that the license was granted to the 3rd respondent by the 1st respondent after examining all the aspects including the safety measures and thereafter only they have provided the license. The 2nd respondent, subsequently appointed the 3rd respondent as an agent and he has been following all the safety measures and other rules and regulations, which are applicable for storing the gas cylinders. Therefore, he submits that this is a vexatious writ petition and in fact, the petitioner initially filed Original Suit for permanent injunction against the defendants restraining them to ingress and egress or drive any vehicle on the said private road, which is only a private dispute, by which she wanted to settle down her personal scores by virtue of the present writ petition. Hence, the same is liable to be dismissed.



4. Mr.T.V.Krishnamachari, learned Senior Panel Counsel (Central Government), appearing for the 1st respondent submits that they are storing the gas cylinders in accordance with law and they are following all the the rules and regulations and safety measures for storing gas cylinders. In fact, the petitioner filed a suit for permanent injunction and subsequently, filed a suit for recovery, the same is pending. Therefore, the intention of the petitioner is only to settle her personal scores by filing the writ petition and she is not a bona fide litigant and the present Writ Petition is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

6. On perusal, it appears that the petitioner has given a representation on 16.11.2016 and filed the present writ petition stating that her representation has not been considered and the respondents are violating the rules by not taking any safety measures and storing gas cylinders. In such an event, it is for the petitioner to prove the same before this Court by showing the appropriate rules which the respondents violated and non-compliances on the part of the respondents, but in the present case, no such violations of rules or any errors has been shown and proved. Whereas, the learned counsel appearing for the respondents submit that they have been following all the rules and regulations and taking all the safety measures consistently.

7. Initially, the petitioner filed an Original Suit for permanent injunction against the third respondent for not to use the ingress and egress or drive any vehicle on the private road and later she has modified her stand and withdrawn the OS and filed the Civil Suit for recovery of possession, which is pending. Therefore, she is not certain about her stand and it is clear that to settle her personal scores, she filed the Original Suit, Civil Suit and also the present writ petition, which is clearly the abuse of process of law. Hence, this Writ Petition is liable to be dismissed with heavy costs. However, this Court restrained to do so.

8. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Pns

Sub Assistant Registrar



To:

1. Joint Chief Controller of Explosives,
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2. The Regional Manager,
The Hindustan Petroleum Ltd.,
"Petro Bhavan" 2nd floor,
No.82, T.T.K.Road,
Alwarpet, Chennai - 600 018.

+1cc to Mr.K.Marudhachalamurthy, Advocate, S.R.No.63674
+1cc to M/s.King & Partridge, Advocate, S.R.No.63294
+2ccs to M/s.David Tyagaraj, Advocate, S.R.No.62945

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and
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UM(CO)
PM/31/01/2022