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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.34433 OF 2019

Vinay Solanki

... Petitioner

Vs.

1. The Secretary to the Government
Ministry of Petroleum & Natural Gas
Shastri Bhavan, New Delhi-110001
2. The Chief Controller of Explosives
Department of Explosives
No.140, Rukmani Lakshmipathy Marshalls Road,
Egmore, Chennai-600 008
3. The Joint Chief Controller of Explosives
South Circle, A and D Wing, Block 1-8,
2nd Floor, Shastri Bhavan, No.26, Haddows Road
Nungambakkam, Chennai-600 006
4. The Deputy Chief Controller of Explosives
South Circle, A and D Wing, Block 1-8,
2nd Floor, Shastri Bhavan, No.26, Haddows Road,
Nungambakkam, Chennai 600 006.
5. The District Collector
Thiruvallur District, Thiruvallur.
6. The Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Tenampet,
Chennai-600018.
7. M/s. Rams Agencies
Represented by its proprietor Mr. Paramasivam
No.66, Bangalore NH4, Chembarambakkam
Poonamallee-602107

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue an order or direction or writ particularly in the nature of Writ of Mandamus directing the 2nd, 3rd and 4th respondents to cancel the explosive license, if any, already



issued to the 6th and 7th respondents to run the Petrol Bunk and not to renew the same in future and directing the District Collector, Thiruvallur, 5th respondent herein to cancel the "No Objection Certificate" granted to the 6th and 7th respondents for running the Petrol Bunk in the premises situated at Madavilagam Village, Poonamallee Taluk, Thiruvallur District Comprised in Old Survey No.84 and Re-survey No.84/1B & 85/3C totally admeasuring about 0.98 Acres bounded on the North by Bangalore National Highway, South by Land in S.No.85/3B2, East by Land in S.No.85/2A1, 2A2 & 3B1, West by Land in S.No.84/1C & 85/3B within the Registration District of Poonamallee and Registration District of Thiruvallur.

For Petitioner	: M/s.R.Sampath Kumar
For Respondents R1 to R4	: *Dr.G.Babu,CGSC (SPC)
For Respondent R5	: M/s.P.Rajalakshmi
For Respondent R6	: M/s.R.Ravi
For Respondent R7	: Dr.C.Ravichandran

O R D E R

The petitioner has filed this writ petition seeking to issue an order or direction directing the 2nd, 3rd and 4th respondents to cancel the explosive license, if any, already issued to the 6th and 7th respondents to run the Petrol Bunk and not to renew the same in future and directing the District Collector, Thiruvallur, 5th respondent herein to cancel the "No Objection Certificate" granted to the 6th and 7th respondents for running the Petrol Bunk in the premises situated at Madavilagam Village, Poonamallee Taluk, Thiruvallur District Comprised in Old Survey No.84 and Re-survey No.84/1B & 85/3C totally admeasuring about 0.98 Acres bounded on the North by Bangalore National Highway, South by Land in S.No.85/3B2, East by Land in S.No.85/2A1, 2A2 & 3B1, West by Land in S.No.84/1C & 85/3B within the Registration District of Poonamallee and Registration District of Thiruvallur.

2. The case of the petitioner is that the petitioner's mother owned and possessed a property situated at Madavilagam Village, Poonamallee Taluk, Thiruvallur District and she entered into a Lease Deed with the Indian Oil Corporation Limited, the 6th respondent for a period of 15 years vide document No.1059 of 2009 registered in the office of SRO, Poonamallee. Thereafter, the petitioner's mother executed a Settlement Deed dated 30.07.2008 in favour of the petitioner thereby, the petitioner became the absolute owner of the said property and he was entitled to claim the rent from the 6th respondent/ Indian Oil



Corporation. Since, the 6th respondent had not paid the rent continuously for 10 years from the date of agreement i.e. 21.09.2000, the petitioner issued legal notices and requested the 6th respondent to vacate and handover the premises but the 6th respondent has not preferred to issue any reply notice for which the petitioner filed a civil suit in O.S.No.81 of 2014 before the Sub-Court, Poonamallee and the same was decreed on 25.09.2018 in favour of the petitioner and directed the 6th respondent to vacate and hand over the premises to the petitioner within a period of three months. Since, the 6th respondent did not pay the rent, the petitioner filed W.P.No.22531 of 2019 for recovery of rent and pursuant to the direction issued by this Court rent was paid. Further, the lease agreement expired on 20.09.2015, but the explosive licence was renewed by respondents 2,3 and 5 and aggrieved against the same, the petitioner preferred a representation on 07.06.2019 but till date no action was taken by the concerned explosive authorities. Hence the present Writ Petition is filed.

3. Though very many grounds have been raised, learned counsel for the petitioner submits that it would suffice if this Court issues direction to the 2nd, 3rd and 5th respondents to consider the petitioner's representation dated 07.06.2019 and pass orders on the same within a particular time frame fixed by this Court.

4. The learned counsel appearing for the 6th respondent submits that the 2nd, 3rd and 4th respondents, who are the explosive authorities granted explosive licence in favour of the 6th respondent, thereafter, the 5th respondent had also issued no objection certificate in favour of the 6th respondent, against the order passed in O.S.No.81 of 2014 the 6th respondent has preferred appeal in A.S.No.31 of 2019 before the Principal District and Sessions Judge, Tiruvallur and obtained interim injunction and the appeal suit is pending before the said Court for further adjudication. While so, filing this Writ Petition for the above said prayer is not sustainable one.

5. A perusal of the materials available on record reveals that as against the order in O.S.No.81 of 2014 the 6th respondent has preferred A.S.No.31 of 2019 before the Principal District and Sessions Judge, Tiruvallur and had obtained interim orders and the appeal is pending. When the issue is pending consideration in A.S.No.31 of 2019, and order of stay of decree and Judgement in O.S.No.81 of 2014 dated 25.09.2018, is in operation, filing of this petition is not sustainable and this Court sitting under Article 226 of the Constitution cannot decide on disputed questions of fact. Since, the issue is factual in nature and is pending before the civil court, the prayer sought by the petitioner cannot be acceded to.



6. In view of the above, this writ petition is disposed of and liberty is granted to the petitioner to take further action in accordance with law after the disposal of A.S.No.31 of 2019.

Sd/-

Assistant Registrar(CCC)

Dated:16/12/2021

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(*)Corrected as per the Letter

Dated:07/02/2022

Sd/-

Sub Assistant Registrar(CO-II)

Dated:03/03/2022

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government
Ministry of Petroleum & Natural Gas
Shastri Bhavan, New Delhi-110001
- 2.The Chief Controller of Explosives
Department of Explosives
No.140, Rukmani Lakshmipathy
Marshalls Road,
Egmore, Chennai-600 008
- 3.The Joint Chief Controller of Explosives
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2nd Floor, Shastri Bhavan,
No.26, Haddows Road
Nungambakkam, Chennai-600 006
- 4.The Deputy Chief Controller of Explosives
South Circle, A and D Wing, Block 1-8,
2nd Floor, Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam, Chennai 600 006.
- 5.The District Collector
Thiruvallur District, Thiruvallur.
- 6.The Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Tenampet, Chennai-18

**To be Substituted
the order already
despatched on
05/01/2022**

+1cc to Dr.C.Ravichandran , Advocate, S.R.No.59216
+1cc to Dr.R.Sampath Kumar, Advocate, S.R.No.59588
+1cc to the Government Pleader, S.R.No.59490

W.P.No.34433 of 2019

RSV(CO)

RLP(17/12/2021)

SB(07/03/2022)