



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.13542 of 2021

M.A.K.Thangamani Nadar Modern Rice Mill,
Rep. by its partner,
Mr.C.Sathish Kumar

.. Petitioner

-Vs-

The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Kappallur,
Madurai.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider petitioner's applications Form I under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, and Form II under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974, applications dated 11.01.2020, 18.12.2020, 30.03.2021 and 19.07.2021 within time as stipulated by this Court.

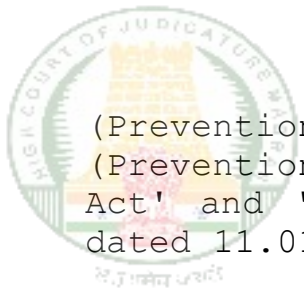
For Petitioner : Mrs.S.Srimathy

For Respondent : Mr.S.Bageerathan
Standing Counsel

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondent to consider petitioner's applications Form I under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, and Form II under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974, applications dated 11.01.2020, 18.12.2020, 30.03.2021 and 19.07.2021 within time as stipulated by this Court.

2.That the petitioner claimed to be a partner of a Rice mill called M.A.K.Thangamani Nadar & Sons Modern Rice Mill, which the petitioner has established at S.Nos.184/2, 184/3A and 184/6 at Usilampatti Village, Usilampatti Taluk, Madurai District. In order to run the said mill, the petitioner wanted to get the consent from the respondent Tamil Nadu Pollution Control Board under Air



(Prevention and Control of Pollution) Act, 1981 as well as Water (Prevention and Control of Pollution) Act, 1974, [in short 'Air Act' and 'Water Act'] in Form I and Form No II, by application dated 11.01.2020 separately.

3.The said application though had been submitted in January, 2020, and subsequently so many reminders had been given, it is the case of the petitioner that the said application has not been processed and considered by the respondent Pollution Control Board and no consent has been given, therefore, in order to consider the said application, the present writ petition has been filed with the aforesaid prayer.

4.Heard Mrs.S.Srimathy, learned counsel appearing for the petitioner, who would submit that, initially, the family of the petitioner along with the other brothers had run a Rice mill called M/s.Sri Krishna Rice Mill, at S.Nos.184/1, 2, 3A, 4, 5 & 6, at Usilampatti, Usilampatti Taluk, Madurai District, subsequently, there had been a partition in the family, pursuant to which, a settlement has been reached between the brothers and the petitioner herein, who is the partner of the present Mill, which is going to be parted and pursuant to the said settlement, three properties or portion of the property in three survey numbers, namely, 184/2, 3A & 6 were allotted to the petitioner and in that land, the petitioner had established the petitioner mill that is M.A.K.Thangamani Nadar & Sons Modern Rice Mill, for which alone, the present applications had been submitted to the respondent for seeking consent, both under 'Air Act' as well as 'Water Act'.

5.In this context, though number of queries had been raised by the respondent, which, according to the learned counsel for the petitioner, had been answered or clarified, still, the application has not been processed, therefore, the petitioner has approached this Court, hence, the learned counsel seeks indulgence of this Court, seeking a direction by way of mandamus to direct the respondent to process the application as referred to above and to pass order, within a time frame.

6.Per contra, Mr.S.Bageerathan, learned Standing Counsel appearing for the respondent has submitted that, certain facts have not been brought to the notice of this Court or they have been suppressed on behalf of the petitioner.

7.He would submit that, initially, a Rice mill in the name of Sri Krishna Rice mill was run by all the partners, including the present petitioner in a large extent of lands in S.Nos.184/1, 2, 3A, 4, 5 & 6, which was subsequently partitioned, now the present



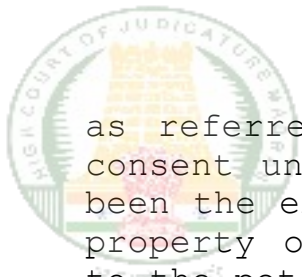
petitioner had made application seeking consent order under both 'Air Act' and 'Water Act' in the name and style of M.A.K.Thangamani Nadar & Sons Modern Rice Mill, stating that the Rice mill has been established at S.Nos.184/2, 184/3A and 184/6, which have been the exclusive property of the petitioner as he claimed that portion was allotted to the petitioner by way of partition or settlement deed.

8.In this regard, though a number of times queries had been raised and a response was sought for from the petitioner, every time without satisfying the query raised by the respondent, the application would be resubmitted and in this context, from 11.01.2020 till date so far seven times the applications had been resubmitted, and each and every time queries had been raised, however, without answering the same, again and again, the petitioner has resubmitted the application to the extent of seven times, and even now the petitioner has not given any answer and complied with the query raised by the respondent, especially about the ownership of the land, where the petitioner claimed to have established the Mill. Therefore, relying upon the averments made in the counter affidavit in the aforesaid line, the learned Standing Counsel appearing for the respondent would submit that, even recently, the petitioner has been directed to appear in person for producing all the necessary documents to satisfy the respondent, as to whether the land in question, which is exclusively claimed the ownership of the petitioner as alleged in the petition, wherein the mill has been proposed to or has been constructed, belongs to the petitioner, however, that also, since has not been responded by the petitioner, he cannot rush to the Court by filing the present writ petition making an allegation against the respondent, as if the respondent has not considered the application, therefore, the learned Standing Counsel seeks indulgence of this Court to reject this writ petition.

9.I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10.The controversy appears to be between the petitioner and the respondent is that, the petitioner's application, originally made on 11.01.2020 and represented or resubmitted several times, lastly, on 14.06.2021, is yet to be disposed of for want of certain clarification or queries to answer or complied with by the petitioner.

11.In this context, it is the main contention of the respondent that, since the petitioner claimed that he has established a new Rice mill in the name and style of M.A.K.Thangamani Nadar Modern Rice Mill, at S.Nos.184/2, 3A and 6,



as referred to above, for which, he made an application to get consent under 'Air Act' and 'Water Act', whether that lands have been the exclusive property of the petitioner or if it is a common property of the family, whether it has been exclusively allotted to the petitioner by way of partition or settlement deed.

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12. In this context, satisfactory documents should be produced by the petitioner to the respondents. That apart, all other queries, to be raised or having been raised already by the respondent, shall also be answered or complied with by the petitioner. In this context, to the satisfaction of the respondent, the petitioner must be able to explain that the land in question, where the Rice Mill is proposed to be established or have been established, has been legally allotted to the petitioner and, insofar as running the said Mill is concerned, the petitioner has to satisfy all other conditions or requirements under the 'Air Act' and 'Water Act' as well as the Rules made thereunder, and also the conditions to be imposed in this regard by the respondent Pollution Control Board as conditions for consent.

13. If these aspects are satisfied by the petitioner, there could be no further impediment for the respondent to process the application of the petitioner, and to grant consent, if the application is otherwise in order to the satisfaction of the respondent.

14. In this context, the learned counsel for the petitioner, by relied upon the settlement deed dated 29.10.2018 between the petitioner and his brothers that these properties, that is, S.Nos.184/2, 3A and 6 were exclusively allotted, or portions of these properties has been exclusively allotted to the petitioner. In order to substantiate the same, a copy of the settlement deed, dated 29.10.2018, has also been annexed in the typeset of papers. Placing reliance on the same, the learned counsel for the petitioner would vehemently contend that despite this settlement deed, which has been produced before the respondent, still they insist that there should have been a dissolution of partnership, under which the earlier Mill, that is, Sri Krishna Rice Mill, was run by all the partners including the petitioner.

15. In this context, if at all a consent had already been granted by the respondent to the partners, in favour of Sri Krishna Rice Mill, including the petitioner, on earlier occasion, whether that mill continued to be run or not, whether the consent given by the Tamil Nadu Pollution Control Board is still valid or not, is altogether a different issue that need not be clubbed along with the present plea raised in this writ petition, as the petitioner seeks a fresh consent under both 'Water Act' and 'Air Act', for which applications had been submitted on the ground



that, the petitioner along with the other two new partners had started the new Mill in the land, which was exclusively allotted to the petitioner through the settlement deed, dated 29.10.2018.

16.If the petitioner is able to satisfy all these aspects to the respondent, certainly, the respondent may be in a position to consider the application of the petitioner for grant of consent.

17.In that view of the matter, a personal hearing can be granted enabling the petitioner to establish his case, by producing all the documents as discussed above to the respondent to their satisfaction, and on considering the same, needful can be undertaken by the respondent for grant of consent.

18.Accordingly, this Court is inclined to dispose of this writ petition with the following order:

"that there shall be a direction to the respondent to give a notice for giving an opportunity of personal hearing to the petitioner, by fixing a date, within a period of two weeks, and on receipt of the same, it is open to the petitioner to appear before the respondent on the date so fixed, and produce all relevant documents including the settlement deed, dated 29.10.2018, and explain the position as to the ownership and the right of the petitioner to run the new Mill in the name and style of M.A.K.Thangamani Nadar Modern Rice Mill, as referred to above, and other relevant documents for the purpose of the requirements, both under the 'Air Act' and 'Water Act' and the Rules made thereunder as well as the conditions are concerned, to be imposed by Tamilnadu Pollution Control Board. After such personal hearing of considering the documents to be produced, and explanations to be made by the petitioner, the respondent shall consider the application and process the same and pass necessary orders thereon, with regard to the plea of the petitioner for grant of consent, under both Acts within a period of four weeks thereafter."

19.It is made clear that insofar as the running of the earlier mill in the name of Sri Krishna Rice Mill is concerned, whether that mill is continuously running or not, is a different issue as observed above, therefore, the running of that mill or not may not stand in the way to consider the application of the petitioner for grant of consent afresh, provided, if the petitioner satisfies other parameters as required under the Tamilnadu Pollution Control Board.



20. With these directions, this writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD-I)

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Sub Assistant Registrar (CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Kappallur,
Madurai.

+1 CC to M/s.S.M.SJOHNNY BASHA, Advocate (SR-26562[F] dated 17/08/2021)

+1 CC to M/s.C.KASIRAJAN, Advocate (SR-26625[F] dated 18/08/2021)

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