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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.1650 of 2022
and
WMP.No.1797 of 2022

M/s.Ganapathi Leather Products (P) Limited
rep. by its General Manager and Authorized Signatory
N.S.Kannan, having their registered office at
8B, Wellington Estate II Floor,
No.53, Commandar in Chief Road,
Egmore, Chennai-600 008.

...Petitioner

-vs-

1. Tamil Nadu Pollution Control Board
rep. by its District Environmental Engineer,
next to Municipal Office Building,
Maraimalai Adigal Salai,
Maraimalai Nagar, Kancheepuram District.
2. State Level Environment Impact
Assessment Authority
rep. by its Member-Secretary,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai-600 015.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 2nd respondent to consider and accord environment clearance to the building put up at S.F.Nos.145/1, 145/2 and 148/15 of Kilambakkam Village, Chengalpet Taluk, Kancheepuram District, on the petitioner's Application dated 27.02.2013 expeditiously and in accordance with law and further direct the 1st respondent to forbear them from interfering with the aforesaid building, particularly, by way of closure and stoppage of power supply to the subject building pending consideration of the petitioner's application dated 27.02.2013 for environmental clearance by the



2nd respondent for the same.

For Petitioner : Mr.Vembadiyan

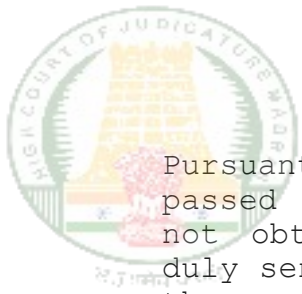
For Respondents : Mrs.Shanmugavalli Sekar for R1
Mr.Venkatasamy Babu for R2

ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 2nd respondent to consider and accord environment clearance to the building put up at S.F.Nos.145/1, 145/2 and 148/15 of Kilambakkam Village, Chengalpet Taluk, Kancheepuram District, on the petitioner's Application dated 27.02.2013 expeditiously and in accordance with law with a further direction, forbearing the 1st respondent from interfering with the aforesaid building, particularly, by way of closure and stoppage of power supply to the subject building pending consideration of the petitioner's application dated 27.02.2013 for environmental clearance by the 2nd respondent.

2.Learned Counsel appearing for the petitioner would submit that the petitioner company was carrying on leather business including manufacturing, export and incidental objects and they came up with a project, namely, Vandalur Park Residency at S.F.Nos.145/1, 145/2 and 148/15, Kilambakkam Village, Vandalur, Chengalpet Taluk, Kancheepuram District to develop, promote and sell a part of the said project to prospective buyers. They have also applied and obtained sanction for construction of the same in blocks from the CMDA vide P.P.A.No.1723 dated 27.03.2006 and thereafter, they have proceeded with the construction. They have also obtained approval and clearance from Chennai Metropolitan Water Supply and Sewerage Board for erection of sewerage treatment plant in the year 2006 itself. In the meanwhile, the 2nd respondent was also approached with an application for environmental clearance after remitting a sum of Rs.3,00,000/- on 27.02.2013 to meet the mandatory requirement and also to obtain valid consent from the 1st respondent. In the said application, the 2nd respondent informed the petitioner to rectify certain defects vide their letter dated 15.03.2013 and they have also duly rectified the same vide their letter dated 26.06.2013. Later on, when the 2nd respondent, while considering the application of the petitioner, directed the petitioner to furnish resolution expressing apology as they have completed the construction activity without obtaining prior environmental clearance from the competent authority as it is considered as violation of EIA Notification 2006 vide letter dated 30.07.2013.



Pursuant to the same, on 02.08.2013, a Board Resolution was passed by the petitioner company expressing their apology for not obtaining prior environmental clearance and the same was duly sent to the 2nd respondent vide letter dated 03.10.2013. In the meanwhile, the 1st respondent issued a show cause notice dated 24.12.2013 calling upon the petitioner to furnish environment clearance within 15 days. On receipt of the same, a detailed reply was given on 21.01.2014 enclosing all the records evidencing the pendency of their application from 27.02.2013. Now the 1st respondent has issued a notice under Section 33-A of the Water (P and CP) Act and under Section 31-A of the Air Act, 1981 dated 27.11.2021. As against the same, the petitioner has been taking steps to prefer a statutory appeal under Section 30 of the Act. In view thereof, the 2nd respondent is not willing to consider the application of the petitioner dated 27.02.2013 for environmental clearance. Hence, a direction be issued, he pleaded.

3. Mrs. Shanmugavalli Sekar, learned Counsel takes notice for 1st respondent and Mr. Venkatasamy Babu, learned Counsel takes notice for 2nd respondent.

4. Learned Counsel for the 2nd respondent would submit that the petitioner is duty bound to obtain the environmental clearance certificate from the 2nd respondent. Even though, they have filed an application dated 27.02.2013 seeking environmental clearance, it was found to be defective and they have not cured the defects till date. Therefore, the prayer of the petitioner should be revised.

5. At this stage, learned Counsel for the petitioner submitted that unless the 2nd respondent indicates what are the requirements including the papers to be submitted, it would be difficult for them to rectify the defects.

6. In view thereof, since the fact remains that the petitioner has to mandatorily obtain environmental clearance from the 2nd respondent and seeking the same he has also approached the 2nd respondent with an application dated 27.02.2013 and the same is also pending for curing some defects, the petitioner is directed to approach the 2nd respondent within a period of one week from the date of receipt of a copy of this Order and on receipt of the same, the 2nd respondent shall indicate what are the defects to be cured and papers to be filed before them. Subsequently, after complying the same and applying for environmental clearance, the 2nd respondent shall pass orders on merits and in accordance with law, within a period of two weeks thereafter.



7. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
next to Municipal Office Building,
Maraimalai Adigal Salai,
Maraimalai Nagar, Kancheepuram District.
2. The Member-Secretary,
State Level Environment Impact
Assessment Authority, 3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet, Chennai-600 015.

+1cc to Mr.M.Vembadiyan, Advocate, S.R.No.25171

+1cc to M/s.Shanmugavalli sekar, Advocate, S.R.No.25284

+1cc to M/s.Venkataswamy Babu, Advocate, S.R.No.25193

W.P.No.1650 of 2022

PM(CO)
RGA(05/05/2022)