



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.495 of 2022

M/s.ATM Constructions (P) Ltd.,
rep. by its Director Faiz Mohamed,
No.288, Lloyds Road,
Royapettah,
Chennai - 600 014.

..Appellant

Vs

1. The Commissioner of Police,
Greater Chennai,
Veperiy, Chennai - 600 007.
2. M/s.Bharath Petroleum Corporation Ltd.,
Having its registered office at Bharath Bhavan,
No.4 and 6, Currimbhoy Road,
Ballard Estate, Mumbai-400 028,
rep. by its Senior Manager - Legal (South),
At No.1, Rangamohan Gardens,
115, Main Road, Anna Nagar,
Chennai - 600 040.
3. M/s.Bharath Petroleum Corporation Ltd.,
rep. by its Territory Manager (Retail),
No.35, Vaidyanathan Street,
Tondiarpet, Chennai - 600 081.
4. M/s.Aswini Automobiles,
rep. by its Partner Rahul Agarwal,
New No.401, Old No.292, Mount Road,
Teynampet,
Chennai - 600 018.

..Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 24.01.2022 in W.P.No.21647 of 2021.

Prayer in W.P.No.21647 of 2021: Writ Petition filed under Article 226 of Constitution of India in the nature of a writ of Mandamus directing the first respondent to revoke the NOC



granted to the second and third respondents for running the petroleum retail outlet considering the petition filed by the petitioner under section 151 of the Petroleum Act 1934 followed by the legal notice dated 17.09.2021 issued on behalf of the petitioner in accordance with law.

For the Appellant : Mr.R.Balachanderan

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge is made to the order dated 24.01.2022 passed in W.P.No.21647 of 2021, whereby the writ petition preferred by the writ appellant was dismissed, however, with certain observations.

2.The writ petition was filed to seek a direction on the first respondent to revoke the No Objection Certificate (NOC) granted to the second and third respondents for running the petroleum retail outlet.The prayer aforesaid was made in reference to the other litigations, where after the matter being decided by the Civil Court and the first appellate Court, Second Appeal No.185 of 2021 was preferred and the same was decided by the High Court on 16.09.2021 directing the second respondent - Bharath Petroleum Corporation Limited to vacate the premises within a period of six months from the date of receipt of a copy of the said order.

3.The learned Single Judge found that before the expiry of the period to vacate the premises, the writ petition was filed to revoke the NOC. Looking to the aforesaid, the prayer made by the writ appellant was not accepted. Rather, the writ appellant was permitted to take recourse on the expiry of the period.

4.Learned counsel for the writ appellant submitted that the order in the Second Appeal was delivered on 16.09.2021 and a copy of the judgment was served on the second respondent - Bharath Petroleum Corporation Limited by the appellant on the same day and, therefore, the period to vacate the premises till 15.06.2022 given by the learned Single Judge is erroneous. He further submitted that if at all interference is not caused, at least the date to vacate the premises may be substituted as 16.03.2022.

5.We have considered the submissions made by learned counsel for the writ appellant and also perused the materials available on record.

6.In so far as the prayer in the writ petition to revoke the NOC is concerned, it was sought prematurely because the period



of six months granted in the Second Appeal is from the date of receipt of a copy of the order passed in the Second Appeal. In view of the above, the Writ Court has rightly dismissed the writ petition as it was filed before the expiry of the period to vacate the premises, though liberty has been granted to take appropriate steps pursuant to the order passed in the Second Appeal.

7.The issue now raised by the writ appellant is about the date of receipt of the copy of the order in the Second Appeal. It is shown to have been sent on 17.09.2021 to the respondents, though the order in the Second Appeal does not say from the date of sending the copy of the order, rather, from the date of receipt of a copy of the order. Since the copy of the order in the Second Appeal was received by the Bharath Petroleum Corporation Limited on 15.12.2021, the date to vacate the premises was notified to be 15.06.2022. The intervening period is only three months. Thus, we are not inclined to cause interference in the order passed by the learned Single Judge.

8.In the result, the writ appeal is disposed of by maintaining the liberty granted by the learned Single Judge and if a representation is given to the first respondent for revocation of the NOC immediately on the expiry of the period given by the learned Single Judge, the first respondent would take action in the matter immediately. Therefore, the writ appellant is given liberty to take the legal course at that stage pursuant to the liberty given in this appeal. There will be no order as to costs. Consequently, C.M.P.No.3573 of 2022 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.

+1cc to the Government Pleader, S.R.No.16292

W.A.No.495 of 2022

MG (CO)
RGA(16/03/2022)