

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.8056 OF 2022

P.Nivas

.. Petitioner

Vs.

1. The District Collector,
Salem District,
Salem.
2. The District Revenue Officer,
Salem.
3. The Revenue Divisional Officer,
Aattur,
Salem District.
4. The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Athur & Kadaparai Village,
Erode Road,
Athur Post,
Karur - 639 008.

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct 1st & 2nd respondents herein to grant approval/No objection for setting up Petroleum Retail Outlet at S.No.181/1A, Thumbal Village, Bethanayakampalayam Taluk, Salem District in favour of the petitioner.

For Petitioner : Mr.Adithya Reddy

For Respondents: Mr.K.H. Ravi Kumar
Government Advocate [R1 to R3]
Mr.Anand Natarajan [R4]

O R D E R

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents 1 & 2, to grant approval/no objection for setting up Petroleum Retail Outlet at Survey No.181/1A, Thumbal Village, Bethanayakampalayam Taluk, Salem District.

2. The petitioner has submitted an application seeking for No Objection Certificate from the second respondent for setting up a Petroleum Retail Outlet and the said application has been kept pending on the ground that a civil suit is pending against the petitioner instituted by a rival claimant namely P.Kandasamy. The petitioner had submitted the application on 11.12.2020 with the second respondent, seeking for issuance of No Objection Certificate. Admittedly, a rival claimant has instituted a suit against the petitioner which is a bare injunction suit seeking to restrain the second respondent from issuing No Objection Certificate to the petitioner. Admittedly, till date, no interim order has also been granted in favour of the rival claimant.

3. The petitioner's application seeking for issuance of No Objection Certificate is also kept pending by the second respondent only on the ground that a civil suit is pending. When there is no injunction granted by any Civil Court, there is no prohibition for the second respondent to consider the application for issuance of No Objection Certificate on merits and in accordance with law, after affording a fair hearing to the petitioner as well as the rival claimant, who is the plaintiff in the said civil suit.

4. The petitioner has also contended in this Writ Petition that whenever an application has been submitted before the second respondent seeking for No Objection Certificate, the same will have to be disposed of within a period of three months.

5. For the foregoing reasons, this Court is of the considered view that no prejudice will be caused to the respondents and the rival claimant if the petitioner's application seeking for issuance of No Objection Certificate is considered on merits and in accordance with law, after affording a fair hearing to the petitioner and the rival claimant and any other necessary party whom the second respondent deems fit to enquire.

6. In the result, this Court directs the second respondent to pass final orders in the petitioner's application dated 11.12.2020 seeking for issuance of No Objection Certificate for setting up a Petroleum Retail Outlet at Survey No.181/1A,

Thumbal Village, Bethanayakampalayam Taluk, Salem District, within a period of eight (8) weeks from the date of receipt of a copy of this order, after affording a fair hearing to the petitioner and the rival claimant namely P.Kandasamy, who has filed O.S.No.182 of 2021 on the file of the District Munsif Court, Attur, including granting them the right of personal hearing.

7. With the aforesaid directions, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Sni

To

1. The District Collector,
Salem District,
Salem.
2. The District Revenue Officer,
Salem.
3. The Revenue Divisional Officer,
Aattur,
Salem District.
4. The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Athur & Kadaparai Village,
Erode Road,
Athur Post,
Karur - 639 008.

Copy To

The District Munsif,
Attur.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.40205
+1cc to the Government Pleader, S.R.No.40359

W.P.No.8056 of 2022

PMK(CO)
PM/18/07/2022