



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No.21647 of 2021

and

WMP.No.21829 of 2021

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

... Petitioner

vs.

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

2. M/s.Bharath Petroleum Corporation Ltd.,
Having its registered office at Bharath Bhavan No.4 & 6,
Currimbhoy Road, Ballard Estate, Mumbai-400 028.
Represented by its Senior Manager - Legal (South)
At No.1, Rangamohan Gardens,
115, Main Road, Anna Nagar,
Chennai-40.

3. M/s.Bharath Petroleum Corporation Ltd.,
Represented by its Territory Manager (Retail)
No.35, Vaidyanathan Street, Tondiarpet, Chennai-81.

4. M/s.Aswini Automobiles,
Rep. By its partner,
Mr.Rahul Agarwal, New No.401, Old No.292,
Mount Road, Teynampet,
Chennai-18.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue an order or direction or Writ and in particular Writ 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 Petitioner : Mr. R.Balachanderan

For Respondents : Mr.R.Murthy R1
Government Advocate

Mr.Krishna Srinivasan R2 & R3
For Mr.S.Ramasubramanian Associates

Mr.R.C.Paul Kanagaraj R4

ORDER

The petitioner has filed this petition seeking direction to 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.

2. The facts of the case are as follows:

The land to the extent of 4 grounds and 2330 sq. ft. at mount Road, Teynampet is owned by the petitioner's company. The erstwhile owner of the land entered into a lease agreement with Burma Shell during the year 1958 for erection of a petrol retail outlet. The agreement is for period of 20 years. In the meanwhile, the said Burma Shell company was taken over by the Government of India under an Act and it became Bharath Petroleum Company Limit (BPCL). After expiry of the lease period, BPCL sought for extension of another 20 years of lease and renewed for another 20 years. In the meanwhile, the petitioner was purchased the land in the year 1997. The petitioner company filed a suit in O.S.No.711 of 2006 before the learned III Assistant Judge, City Civil Court, Chennai against BPCL to direct them to vacate the premises and deliver vacant land and the said suit was decreed by the trial Court on 30.04.2014 given two months time to vacate the premises. Challenging the said order dated 30.04.2014, the BPCL filed first appeal in A.S.No.361 of 2010 before the learned XVIII Assistant Judge, City Civil Court, Chennai and the same was dismissed on 08.01.2021. Again, the BPCL filed a second appeal in S.A.No.185 of 2021 before this Court and the same was dismissed on



16.09.2021. In the meanwhile, the petitioner filed a complaint before the first respondent under Section 151 of the Petroleum Act 1934, to revoke the NOC granted to the BPCL viz., respondents 2 & 3 to revoke the NOC issued by them and the same is pending. The petitioner sent a legal notice to the respondents 2 & 3 to vacate the premises and hand over the vacant land to the petitioner. Till date, the same was not considered. The petitioner has filed the present petition seeking the above said prayer.

3. The learned counsel for the petitioner submitted that the first respondent ought to have revoked the NOC and cancelled the license granted to the respondents 2 & 3. In the second appeal in S.No.185 of 2021, this Court by its order dated 16.09.2021, granted six months time to vacate the suit property and such time limit does not either allow the first respondent to continue its NOC to the BPCL. This Court has granted time to vacate the premises and till such time, the BPCL has no right to store their petroleum products in the schedule property. Hence, the learned counsel to allow the writ petition.

4. The learned Standing Counsel appearing on behalf of the respondents 2 & 3 submitted that this Court by its order dated 15.10.2021 dismissed the second appeal granting six months time to vacate the premises. The time is going to expire only on 15.06.2022. Hence, till such time the BPCL are entitled to occupy the premises as per the order of this Court. Hence, the learned counsel prays to dismiss the petition.

5. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondents and perused the materials available on record.

6. Considering the fact that the petitioner made a representation to the first respondent to revoke the NOC based on the order of the lower appellate Court dated 08.01.2021. Before the dismissal of the said order of the lower appellate court, the petitioner made a representation to the first respondent dated 15.10.2020 for revoke the NOC. However, this Court, by its order dated 16.09.2021 dismissed the second appeal filed by the BPCL and directing them to vacate the premises within the period of six month from the date of receipt of a copy of that order. The respondents have to vacate the premises only upto 15.06.2022. In view of the above, the petitioner made a representation to the first respondent sought for to revoke the NOC, which is not sustainable. Hence, this Court cannot be granted the prayer sought for in the writ petition.

7. Accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to work out their remedy



after expiry of the time granted by this Court I.e. 15.06.2022 in the manner known to law. Consequently, connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rli

To

The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

+2cc to Mr.S.S Rajesh, Advocate, S.R.No.4244
+1cc to Mr.S.Ramasubramanian Associates, Advocate, S.R.No.4158
+1cc to Mr. R.Balachanderan, Advocate, S.R.No.4185

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SVS (CO)
CT 03/03/2022