



WEB COPY



W.P.No.34277 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.34277 of 2022

1. Mrs.S.Uma Shankar

2. Mrs.S.Rajeswari

Both are represented by their
General Power of Attorney
Mr.J.Kamalakanan

.. Petitioners

v.

1. The Assistant Divisional Engineer (H)
Construction & Maintenance
Chennai City Road Sub-division
Chennai 600 015

2. The Divisional Engineer (H)
Construction & Maintenance
Chennai City Road Division
Chennai 600 015



W.P.No.34277 of 2022

WEB COPY

3. The Assistant Engineer (H)
Construction & Maintenance
Chennai City Road Division-II
Chennai 600 015

.. Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned Show Cause Notice bearing Memo No.211/2022/E.Ne.Va.Aa/ dated 14.12.2022 issued by the 1st Respondent as illegal, arbitrary, non-est and quash the same.

For Petitioners :: Mrs.AL.Ganthimathi
for Mr.D.Murugan

For Respondents :: Mr.J.Ravindran
Additional Advocate General
assisted by Mr.A.Selvendran
Special Government Pleader
for R1 to R3

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

W.M.P.No.33722 of 2022 seeking permission to file a single writ petition stands ordered, as full Court fee has been paid.



W.P.No.34277 of 2022

WEB COPY

2. This writ petition has been directed against the impugned show cause notice dated 14.12.2022 issued by the first respondent, wherein the first respondent has specifically mentioned that the petitioners have encroached and put up steel structure and RCC for running the Bharat Petroleum retail outlet in T.S.No.4 of Koyambedu Village, Chennai.

3. Mrs.AL.Ganthimathi, learned counsel appearing for the petitioners, assailing the impugned order, submitted that the petitioners have been in possession and enjoyment of the petroleum retail outlet situated at Jawaharlal Nehru Road, 100 Feet Road, Koyambedu, Chennai comprised in Survey Nos.37 and 37/2 Part, T.S.No.4 of Koyambedu Village, Aminjikarai Taluk, Chennai measuring 10132 sq.ft, which was originally purchased by M/s Tarapore Brick Works by its partners through a registered sale deed dated 07.09.1955 bearing Document No.1640 of 1955 from M/s Sundararaja Mudaliar and his son Sampath. After the partnership was dissolved, both partners succeeded to half a share and the late Mr.K.E.Arunachalam acquired one such share. Thereafter, the said



W.P.No.34277 of 2022

WEB COPY

K.E.Arunachalam executed a Notarized General Power of Attorney in favour of one late A.N.Annamalai, who also executed registered sale deeds dated 16.06.1993 bearing Document Nos.2646 to 2652 in favour of late S.Balasubramaniam and late B.Jayalakshmi jointly. They were also put in possession and enjoyment of the said property and they have also developed the same for the purpose of running a retail petroleum outlet with suitable amenities. They also obtained planning permission in PPA No.5856 of 1997 and building approval in B.A.No.365 of 1998 from the Corporation of Madras. The said Mr.Balasubramaniam had settled his portion of the property in favour of his wife Mrs.B.Jayalakshmi under a settlement deed dated 19.06.2002. Since the date of purchase, the said Mr.Balasubramaniam and his wife were in absolute possession and enjoyment of the above said property. In the said property, Mr.Balasubramaniam has also been running a Indo Burma petroleum retail outlet (IBP) with due license and permission from the competent authorities. When the petitioners have been in possession and enjoyment of the petroleum retail outlet after the death of Mr.Balasubramaniam on



W.P.No.34277 of 2022

WEB COPY

15.01.2012, the first respondent issued a show cause notice dated 20.05.2013 in the name of the deceased under Section 28(2)(11) of the Tamil Nadu Highways Act, 2001 granting 7 days time to give a reply, for which a detailed reply was given on 23.05.2013, although the show cause notice was vague and bereft of any details. Now during the pendency of the civil suit in O.S.No.3949 of 2015 and the Writ Petition No.18727 of 2013, the first respondent has once again issued the impugned notice, for which also the petitioners have given a detailed reply on 16.12.2022. Therefore, if the reply dated 16.12.2022 is directed to be considered before taking any coercive steps, no prejudice would be caused to anyone, she pleaded.

4. But we do not find any merit to entertain the writ petition, as the same is completely bereft of details to answer the specific allegation made by the first respondent that the petitioners have encroached and put up the steel structure and RCC for running the petroleum retail outlet in the town survey number in question. Therefore, the writ petition is dismissed. It is for the petitioners to workout their remedy in the manner known to law.



W.P.No.34277 of 2022

WEB COPY

Consequently, W.M.P.No.33723 of 2022 is also dismissed. There shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

20.12.2022

SS

To

1. The Assistant Divisional Engineer (H)
Construction & Maintenance
Chennai City Road Sub-division
Chennai 600 015
2. The Divisional Engineer (H)
Construction & Maintenance
Chennai City Road Division
Chennai 600 015
3. The Assistant Engineer (H)
Construction & Maintenance
Chennai City Road Division-II
Chennai 600 015



WEB COPY



W.P.No.34277 of 2022

THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

SS

W.P.No.34277 of 2022

20.12.2022