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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NOS.31968 & 31970 OF 2018

AND

W.M.P.NO.37212 OF 2018

Mr.Raja Sekar

...Petitioner in both WPs.

Vs.

1. The Joint Chief Controller of Explosives,
South Circle Office, Chennai,
A and D - Wing, Block 18,
2nd Floor, Shastribhavan,
No.26, Haddows Road,
Nungambakkam, Chennai - 600 006.
2. Chief Controller of Explosives,
Petroleum and Explosives Safety Organisation,
A Block, CGO Complex,
Fifth Floor Semiznary Hills,
Nagpur, Maharashtra - 440 006.
3. The District Collector,
Thiruvallur District,
Thiruvallur.
4. Divisional Manager,
Chennai Divisional Office,
Indian Oil Corporation Ltd.,
No.500, Anna Salai,
Teynampet, Chennai - 600 018.

... Respondents in both WPs.

PRAYER in W.P.No.31968/2018 : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents to cancel the explosives license to the 4th respondent in respect of the property in question i.e. S.No.214/2, 215/2, 216/4A (Part), Redhills - Ikadu Road, Thiruvallur Town, Thiruvallur Taluk, Thiruvallur District, Tamil Nadu, admeasuring 22500 sqft.



PRAYER in W.P.No.31970/2018 : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 4th respondents to forthwith remove all the materials and handover the vacant possession of the property to the petitioner herein of the premises situated at S.No.214/2, 215/2, 216/4A (Part), Redhills - Ikadu Road, Thiruvallur Town, Thiruvallur Taluk, Thiruvallur District, Tamil Nadu, admeasuring 22500 sqft.

For Petitioner : Mr.Sathishparasaran
in both WPs Senior Counsel for
M/s.R.Parthasarathy

For Respondents : Mr.J.Madhanagopal Rao
in both WPs Senior Panel Counsel
for R1 & R2

Mrs.C.Meera Arumugam
Additional Government Pleader
for R3
...in both WPs.

: Mr.M.Ravindran Senior Counsel
for Mr.Ananthanatarajan
for R-4 in both W.Ps.

ORDER

W.P.No.31968 of 2018, has been filed to issue mandamus, directing the 1st and 2nd respondents to cancel the explosives license to the 4th respondent in respect of the property in question i.e. S.No.214/2, 215/2, 216/4A (Part), Redhills - Ikadu Road, Thiruvallur Town, Thiruvallur Taluk, Thiruvallur District, Tamil Nadu, admeasuring 22500 sqft.

2. W.P.No.31970 of 2018, has been filed to issue mandamus, directing 4th respondent to forthwith remove all the materials and handover the vacant possession of the property (as described above) to the petitioner.

3. The brief facts of the case are as follows:

i) The petitioner is the owner of the property situated in S.Nos.214/2, 215/2, 216/4A (Part), Redhills - Ikadu Road, Thiruvallur District, Tamil Nadu. The petitioner originally



leased the said premises to M/s.IBP Company Ltd., vide a registered Deed of Lease, dated 11.07.2003, for a period of 15 years from 31.03.2003, on a monthly rent of Rs.7,500/-for the first 5 years, and a 15% escalation at the end of every 5 years. The said M/s.IBP Company Ltd., later merged with the Central Government Undertaking - Indian Oil Corporation Ltd., / the 4th respondent herein, consequent upon which, the fourth respondent continued as lessee in the said premises. Under the said lease deed, the lessee was allowed to use the premises for storage and sale of petroleum products, and, at the time, when the lease was being entered into, the fourth respondent assured that they would be given a Dealership Agreement to operate and maintain a retail outlet at the said premises. However, the 4th respondent went back on their promises and offered only an inferior right. The petitioner was put to serious hardship, as the 4th respondent failed to comply with the rental payment obligations as stipulated in the lease deed. On 23.04.2018, the petitioner issued a letter to the fourth respondent, stating not to continue the lease and to handover vacant possession of the premises upon the expiry of the lease on 31.03.2018. Despite the same, the 4th respondent continued to remain in the property unlawfully. Hence, the petitioner has filed these Writ Petitions seeking for the aforesaid relief.

4. Heard the learned counsel for both sides and perused the materials available on record.

5. On 03.01.2022, when the Writ Petitions were taken up, this Court passed the following order :-

"On earlier occasion when the matter was taken up i.e. on 13.12.2021, Mr.Sathish Parasaran, the learned Senior Counsel appearing for the petitioner submitted that the petitioner herein is the owner of the subject premises and the 4th respondent is the tenant and though the lease was expired as early as in the year 2018 itself, the fourth respondent has neither vacated the premises nor handed over the vacant premises and keeping the same idle. Pursuant to such submission made, learned counsel appearing for the R-4 sought time to get instructions from his client/R-4. Heeding to such request, this Court adjourned the matter to 03.01.2022, i.e.today.

2. Even today, when the matter is taken, the learned counsel for R-4 sought adjournment on the same ground (viz., to get instructions from his client).



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3. Hence, this Court directs the learned counsel appearing for R-4 to file an affidavit, stating the details, as to on which date, the fourth respondent would be ready and willing to vacate and handover the vacant premises to the petitioner.

Post the matter on 10.01.2022."

6. Pursuant to such order, the 4th respondent filed a common counter affidavit, inter alia, stating that the petitioner herein, seeks for cancellation of licence granted to the fourth respondent and consequently, to remove all the materials and handover vacant possession, whereas, the petitioner's wife is the dealer of the fourth respondent-Corporation, and running a petrol bunk in the premises of her husband and pursuant to the Writ Petition filed by her, in W.P.No.17679 of 2014 and by virtue of the order passed thereunder, dated 01.12.2021, the fourth respondent-Corporation has to supply petroleum to the retail outlet run by the petitioner's wife.

7. Refuting the above averments, the learned Senior Counsel appearing for the petitioner submits that the petitioner's wife is not at all interested in carrying on business with the 4th respondent any more.

8. In response to the above submission, the learned counsel for the 4th respondent submits that, they would require atleast a 3 months' time to remove the tank, as there are many underground petroleum pipes, where, there would be a left over petrol available as remanant, it has to be completely removed with due care and the said process will take minimum 3 months. The learned counsel, therefore, submitted that after the removal of the petrol tank by the 4th respondent and upon the receipt of the intimation from them, the first and second respondents would cancel the explosives license granted to the fourth respondent within 10 days time.

9. In the light of the above facts and circumstances of the case, this Court is of the opinion that it would be appropriate to direct the 4th respondent to remove the petrol tank within a period of four months from the date of receipt of a copy of this order and soon after the removal of the tank, the 4th respondent is directed to inform the same to the 1st and 2nd respondents within a period two weeks, upon which, the first and second respondents are directed to cancel the explosive licence granted to the fourth respondent within ten days therefrom. Thereafter, the fourth respondent is directed to handover vacant premises to the petitioner forthwith, without any further delay. No costs.



Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

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Sub Assistant Registrar

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To

1. The Joint Chief Controller of Explosives,
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W.P.Nos.31968 & 31970 of 2018

KSM(CO)
RLP(10/03/2022)