



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.06.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.3948 of 2017

and

W.M.P. (MD) Nos.3131 and 8183 of 2017

WEB COPY

M/S.Senapathy Traders
represented by its Proprietor,
K.Dhievesenathipathy,
S/o.Late. V.P.Kuppusamy Gounder,
No.9, North Madhavalingam Street,
Karur Town,
Karur.

... Petitioner

/vs./

1.The Assistant Director,
Fire and Rescue Services,
Karur District,
Karur.

2.K.Subbramaniyan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling the records relating of the proceedings of the 1st respondent made in Mu.Mu.No.278/E1/2017 dated 20.02.2017 and quash the same and consequently direct the 1st Respondent to grant license in favour of the Petitioner.

For Petitioner	: Mr.P.Samuel Gunasingh
For R1	: Mr.K.Balasubramani
	Special Government Pleader
For R2	: Mr.B.Saravanan

ORDER

Heard the learned counsel for the writ petitioner, learned Special Government Pleader for the 1st respondent and the learned counsel for the 2nd respondent.

2.The writ petitioner and the 2nd respondent are brothers. The petitioner is running an Oil Mill in the name and style of "Senapathy Traders". The petitioner obtained fire safety licence from the 1st respondent on 11.04.2016. Based on the complaint given by the 2nd respondent, the said licence was cancelled on 20.02.2017. The cancellation is put to challenge in the writ petition.



3.It is seen that the land, on which the Oil Mill is located, belonged to Thiru.V.P.Kuppusamy Gounder, the father of the writ petitioner and the 2nd respondent. The writ petitioner would claim 75% share in the property on the strength of an unregistered Will, while the 2nd respondent would claim that he is entitled to 50%. The 2nd respondent had also filed O.S.No.20 of 2015 before the District Court, Karur seeking partition. In the said partition suit, the unregistered Will relied on by the learned counsel for the petitioner is also impeached. The 1st respondent had cancelled the licence on the ground that litigation is pending between the petitioner and the 2nd respondent and that the same has not been disclosed to the 1st respondent.

4.I am of the view that this ground of cancellation is clearly incorrect and un-sustainable. The rights of the writ petitioner and the 2nd respondent would obviously abide by the outcome of the suit. The fact remains that the petitioner is running the Oil Mill in question. Therefore, denial of fire licence on the ground of pendency of the suit is clearly incorrect. The impugned order is set aside.

5.The writ petition is allowed, accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.D.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Assistant Director,
Fire and Rescue Services,
Karur District, Karur.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-25285[F] dated 13/06/2022)
+1 CC to M/s.SPL GP (SR-25415[F] dated 13/06/2022)

W.P. (MD) No.3948 of 2017
09.06.2022

RD(20.06.2022) 2P 4C