



W.P.No.3839 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s Bharat Petroleum Corporation Ltd.,
represented by its Territory Manager (Retail)
Chennai Territory
No.35, Vaidyanathan Street
Tondiarpet
Chennai 600 081

.. Petitioner

v

1. State Government of Tamil Nadu
rep.by Secretary
Highways Department
Fort St.George
Chennai 600 009
2. The Division Engineer (Highways)
Construction & Maintenance
Chennai City Road Division
Chennai 600 015



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3. The Assistant Division Engineer (Highways)

Construction & Maintenance

Chennai City Road Division

Chennai 600 015

4. Mrs.S.Rajeswari

5. Mrs.S.Uma

.. Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to survey and demarcate the 516.14 sq meter claimed by them out of the total area of 909.6 sq meter, and allow this petitioner to utilize the remaining area.

For Petitioner :: Mr.R.Sankaranarayanan
Senior Counsel for
Mr.V.Anantha Natarajan

For Respondents :: Mr.P.Muthukumar
State Government Pleader
for R1 to R3

ORDER

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

This is the third round of litigation concerning the subject land. M/s Bharat Petroleum Corporation Limited represented by its Territory Manager (Retail), Chennai Territory has filed the present writ petition seeking for issuance of a mandamus directing the official respondents to survey and



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demarcate the 516.14 square meter claimed by them out of the total area of 909.6 square meter and allow the petitioner to utilize the remaining area.

2. Heard the learned counsel appearing for the parties.

3. Facts of the case would show that the petitioner Corporation obtained licence from the Petroleum & Explosives Safety Organization (PESO) for storing and selling the petroleum products in the leased premises. The petitioner also obtained No Objection Certificate from the Commissioner of Police, Greater Chennai and Fire Service licence from the Fire and Rescue Services Department. After obtaining all the necessary statutory approvals, the petitioner Corporation has been running a retail outlet from the year 2014. However, the Assistant Divisional Engineer (Highways), Construction & Maintenance, Chennai City Road Division, the third respondent herein pasted a notice dated 29.12.2022 in the name of the lessors of the respondent Corporation with a warning to vacate from the land in T.S.No.4, Block No.64 of Koyambedu Village, Egmore-



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Nungambakkam Taluk, as they have encroached the public road. Even the licensee-M/s Jayalakshmi Agency filed Writ Petition No.1641 of 2023 praying for issuance of a mandamus directing the respondents 1 to 3 therein to permit the petitioner agency to sell the petroleum products stored in the underground storage tank by deferring the eviction process. This Court, by order dated 24.01.2023, accepting the request made by the learned counsel for the petitioner that if two weeks time was granted, the petitioner would be able to sell/dispense the petroleum products stored in the underground storage tank, permitted the petitioner therein to clear-off the petroleum products stored in the underground storage tank till 08.02.2023 and vacate the premises. The time granted also stood expired yesterday. It is also seen from the records that the original owners/respondents 4 & 5 herein also filed Writ Petition No.34277 of 2022 challenging the show cause notice dated 14.12.2022 issued by the third respondent herein on the ground that the notice was vague and bereft of any details. In addition thereto, they have also filed a civil suit in O.S.No.3949 of 2015 and Writ Petition No.18727 of 2013. Therefore, before the disposal of the pending suit, no action shall be



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taken. But this Court, by order dated 20.12.2022, finding that no answer was given by the petitioners to the specific allegation made by the first respondent therein that there was an encroachment put up in the town survey number in question and also considering the fact that only show cause notice was given, dismissed the writ petition. Once again this third round of litigation has been initiated by M/s Bharat Petroleum Corporation Limited in respect of the very same subject land seeking a mandamus to the official respondents to survey and demarcate the 516.14 square meter claimed by them out of the total area of 909.6 square meter and allow the petitioner to utilize the remaining area.

4. Mr.P.Muthukumar, learned State Government Pleader appearing for the respondents 1 to 3, however, submitted that the show cause notice issued earlier clearly mentioned that the petrol bunk put up by the petitioner has encroached the public road. Therefore, they have to show cause clearly with all supporting documents that there is no such encroachment. Without answering the show cause notice, they had rushed to this Court, in spite of



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the fact that the two writ petitions filed earlier got dismissed. Therefore, the respondents 1 to 3 are entitled to clear the encroachment put up by the encroachers.

5. It is at this stage, Mr.R.Sankaranarayanan, learned Senior Counsel appearing for the petitioner submitted that the petitioner is not challenging the show cause notice in this writ petition. However, he submitted that when the licensee M/s Jayalakshmi Agency came to this Court seeking two weeks time to exhaust/clear-off the petroleum products stored in the underground tank, this Court has granted time till 08.02.2023 to clear-off the petroleum products. Now the petitioner Corporation, having control over the petroleum outlet, has to remove the plant and machinery including the closure of the underground storage tank under the guidance of statutory authorities, for which a minimum of four weeks time from today is required. When this Court has already granted time to the licensee till 08.02.2023 that has expired now, he sought for further four weeks time from today for the purpose of removing the plant and machinery and for closing the



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underground storage tank.

6. In view thereof, as there is no serious objection from the learned State Government Pleader appearing for the respondents 1 to 3, accepting the limited prayer made by the learned Senior Counsel appearing for the petitioner, we grant four weeks time from today to the petitioner to remove the plant and machinery and also to close the underground storage tank in the land in question so as to enable the respondents 1 to 3 to utilize the same for public purpose. With this observation, the writ petition stands dismissed. Consequently, W.M.P.No.3908 of 2023 is also dismissed. However, there shall be no order as to costs.

Speaking/Non speaking order

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

Index : yes/no

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