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W.P.No.902 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 13.09.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.902 of 2024 and

WMP No.930 of 2024

The Cosmopolitan Club,
rep. by the Secretary, No.232, Sathy Main Road,
Gobichettipalayam 638452,
Erode District.

... Petitioner

Vs.

1. The Joint Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation (PESO),
South Circle, Chennai, A & D Wing,
Bock 1-8, 2nd floor, Shastri Bhavan,
No.26, Haddows Road, Nungambakkam,
Chennai 600 006.
2. The District Revenue Officer,
Erode District, Perundurai Main Road,
Opp. District Court, Erode 638 011.
3. The Territory Manager (Retail),
Bharat Petroleum Corporation Limited,
Irugur TOP Installation, Ravathur (PO),
Irugur (Via), Coimbatore 641 103.
4. M/s Sri Ram & Co.,
Dealer-Bharat Petroleum Corporation Ltd.,
Survey No.76/A, Veerapandi Village,
Gobichettipalayam 638 452,
Erode District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India seeking for issuance of writ of Mandamus, directing the first and second respondents to cancel the Final Explosive Licence No.P/SC/TN/1470 (P33926) dated 20.12.2022, valid upto 31.12.2025, and the corresponding No objection Certificate issued to the third respondent for operating the Petroleum Ratail Outlet at survey No.76/A, Veerapandi Village, Gobichettipalayam 638 452, Erode District, through the 4th respondent and consequently direct the third and fourth respondents to hand over physical vacant possession of the above premises to the petitioner within a prescribed time limit.

For Petitioner : Mr.V.B.R.Menon

For Respondents : Mr.A.Kumaragur, Senior Panel Counsel
for first respondent

Mr.LSM Hasan Fazel, Addl.Govt.Pleader
for second respondent

Mr.V.Anantha Natarajan for third respondent

Mr.S.Kaithamalai Kumaran
for fourth respondent



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ORDER

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This writ petition has been filed seeking direction to the first and second respondents to cancel the Final Explosive Licence No.P/SC/TN/1470 (P33926) dated 20.12.2022, valid upto 31.12.2025, and the corresponding No objection Certificate issued to the third respondent for operating the Petroleum Retail Outlet at survey No.76/A, Veerapandi Village, Gobichettipalayam 638 452, Erode District, through the 4th respondent and consequently direct the third and fourth respondents to hand over physical vacant possession of the above premises to the petitioner within a prescribed time limit.

2. The petitioner Club had entered into a registered lease agreement with the third respondent for the said premises, in which the Petroleum Retail outlet is operating, for a period of 30 years upto 31.03.2023, vide doc.No.2073/1998 dated 07.12.1998. Based on the above lease deed, the second respondent had issued an no objection certificate to the third respondent under Rule 144 of the Petroleum Rules, 2002 to obtain Explosive Licence from the first respondent to establish and operate a Petroleum Retail Outlet. Consequently, the first respondent has also issued Explosive Licence, dated 23.11.2012 to the third



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respondent to store and sell the Petroleum products within the leased premises and it was renewed upto 31.12.2025.

2.1. According to the petitioner, subsequent to the lease period, which was ended on 31.03.2023, despite the third respondent made several requests to renew the lease agreement from 01.04.2023, the petitioner Club had declined the above requests. However, the third respondent has not handed over the site to the Club on expiry of the above lease period and continues the unlawful possession of the premises, even after issuing the notice by the petitioner. Thereafter, the petitioner Club had sent a letter to the first and second respondent on 27.12.2023, requesting to suspend and cancel the no objection certificate and final explosive licence issued to the third respondent. But they are not considered the same. Hence this writ petition.

3. The third respondent has filed an affidavit stating as follows.

4. I respectfully submit that during the pendency of the writ petition, the first respondent, PESO cancelled the license on 11.03.2024 and the second respondent the District Revenue Authority, cancelled the NOC issued in favour of the third respondent. In spite of the efforts taken by this respondent to sort out the issues with the petitioner for renewal of lease is not workable and expectation of rentals by the petitioner is not viable to this respondent.



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5. I respectfully submit that as on date, 13,000 liters of petrol and diesel kept in storage in the Retail Outlet, it is therefore humbly prayed that the Hon'ble Court may please to direct the authorities/Respondents 1 and 2 for granting a temporary license for a period of 30 days, to sell the products in the retail outlet.

6. I respectfully submit that the retail outlet is in operation for the past 60 years, it requires all safety and precautionary measures to remove the structures, tanks and all items in the retail outlet, we will take all necessary approvals from the competent authorities to remove the products, structures after taking due approvals and following the procedures, we will complete all the procedures and handover the site/land to the petitioner within a period of 4 months and to pay rentals.

7. For the reasons stated above, it is therefore humbly prayed that this Hon'ble Court may be pleased to pass appropriate directions.

4. From the above, it is clear that, pending writ petition, the first respondent had cancelled the license of the third respondent on 11.03.2024; and the second respondent had cancelled the No objection certificate issued in favour of the third respondent.

5. The learned counsel for the third respondent submitted that the the third respondent is ready and willing to hand over the site/land to the petitioner, however seeks four months time, in order to remove the structures, tanks and all items in the retail outlet, after getting due

<https://www.mhc.tn.gov.in/judis> approvals. He further submitted that the petitioner is also agreed to pay a



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sum of Rs.75,000/- (Rupees Seventy Five Thousand) per month towards the rent to the petitioner.

6. Considering the above, it is ordered as follows.

i) The third respondent is directed to pay the rental arrears to the petitioner, calculating at Rs.75,000/- (Rupees Seventy Five Thousand) per month from 01.04.2023 to 30.09.2024, on or before 31.10.2024.

ii) The third respondent is directed to pay a sum of Rs.75,000/- to the petitioner towards monthly rent, which shall be paid on or before the 5th day of every month in the English Calendar for a period of four months from 01.10.2024 to 31.01.2025.

iii) The third and fourth respondents are directed to vacate the premises and hand over the same to the petitioner on 31.01.2025.

7. With the above directions, this writ petition is disposed of. There shall be no order as to costs. Connected WMP No.930 of 2024 is closed.

13.09.2024

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Index : Yes / No

Internet: Yes/No



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M.DHANDAPANI, J.

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