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W.P.No.27708 of 2017
and W.M.P.No.29660 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.27708 of 2017
and W.M.P.No.29660 of 2017

1.C.Anandan

2.Vasanthi

...

Petitioners

versus

1.The District Forest Officer,
Villupuram Forest Division,
Villupuram.

2.Registering Authority,
District Forest Officer,
Villupuram Division,
Villupuram.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in proceedings Na.Ka.No.7364/2015/KU, dated 27.09.2017 on the file of the first respondent and quash the same as illegal, incompetent and further direct the respondents to transfer the saw mill license of Sri Angalamman Saw Mill, from the first petitioner to the second petitioner as well as the address of Sri Angalamman Saw Mill, as per application dated 15.09.2011.



For Petitioners : Mr.Avinash Wadhwani
for Mr.V.Raghavachari

For Respondents : Dr.T.Seenivasan
Special Government Pleader (Forest)

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the order dated 27.09.2017 passed by the first respondent and also to direct the respondents to transfer the saw mill license of 'Sri Angalamman Saw Mill', from the first petitioner to the second petitioner, as per the application dated 15.09.2011.

2. Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader (Forest) appearing for the respondents.

3. The case of the petitioners is that the first petitioner is running a saw mill under the name and style of "Sri Angalamman Saw Mill" at Naraiyur Village. Initially, his father was doing this business. After his lifetime, the first petitioner continued to do the business, which was registered with the second respondent on 08.04.2009 and subsequently, renewed the license in his name periodically. Initially, he was doing the



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business in a rented premises and the house owner requested him to vacate the premises on the ground that the area has been developed as residential area and in order to avoid any disputes from neighbouring houses. Hence, he shifted the saw mill to his own premises and he proposed to transfer the license to the name of his wife, who is the second petitioner and also change the address in the records, for which he approached the respondents in-person and submitted an application to transfer the saw mill license to the name of his wife as well as change of address.

4. On 14.09.2011, the respondents issued a "No Objection Certificate" to run the business in the new premises. The first petitioner had requested the respondents to effect the changes at the earliest. However, no steps have been taken by the respondents and the first petitioner has also paid the requisite fees on 30.09.2015 for renewal and it was valid for five years.

5. In February 2016, the first petitioner received a letter from the first respondent asking him to appear for an enquiry on 05.02.2016 with all relevant documents and he has also appeared on that day and produced all



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the materials for seeking to transfer of license as well as change in address to the name of his wife. Since there was a delay in considering his application, he has filed Writ Petition in W.P.36912 of 2016. This Court, on 21.10.2016, has passed the following orders:-

“5."Taking note of the submissions made by the learned Government Advocate (Forest), this Court is inclined to direct the respondents to consider the application of the petitioners for renewal and for transfer in accordance with law within a period of three months from the date of receipt of copy of this order."

6. The first petitioner had approached the respondents on several occasions to implement the orders of this Court. Since there was a delay in complying with the orders of this Court, notice was issued on 16.06.2017. Even after the receipt of the notice, no orders were passed by the respondents. On 27.09.2017, the first respondent has passed an order rejecting his application and it would clearly reflect total non application of mind.



7. The first respondent has totally misunderstood the application.

The application filed by the first petitioner was to transfer the license from his name to his wife as well as change of address of the saw mill. The saw mill was running in the rented premises and later shifted to own premises and the same was requested to be considered. But the first respondent had not considered but repeatedly sent notices on the ground that when they visited Narayur Village, the said saw mill was not running there and hence, they are not willing to consider the petitioner's application.

8. On going through the counter affidavit filed by the first respondent wherein he has stated that the registration certificate bearing Registration Number 06/2009 in the name of M/s.Sri Angalamman Saw Mill, Marriamman Koil Street, Naraiyur, Villupuram, under the ownership of the first petitioner with a validity upto 31.12.2015. The said saw mill was not renewed from that day onwards and no license exists for the above said saw mill. Hence, on this score alone for non existence of license, the present Writ Petition has to be dismissed.



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9. As per Rule 6 of the Tamil Nadu Regulation of Wood Based Industries Rules, 2010, the license shall normally be non transferable however, the transfer of license can be allowed from one person to another by the Conservator of Forest or Field Director, in case of sale, inheritance, division property, family arrangement and dissolution of partnership, subject to the guidelines issued by the Principal Chief Conservator of Forests from time to time. In this regard, the first petitioner had not produced any document in support of the above provision in order to obtain transfer of his saw mill.

10. Since the license is required to be obtained under the Forest Laws for operating such saw mill permission of transfer cannot be granted unless such license is obtained. The first petitioner had submitted his application on 15.09.2011 requesting to shift the saw mill from 'Mariamman Koil Street, Naraiyur Village, Valavanur Post, Villapuram', to the premises at 'Chinnababu Samuthiram, Kandamangalam, Vanur Main Road, Villupuram Taluk'. But the saw mill was already shifted by the first petitioner and the saw mill is functioning at the new premises, without



getting license from the authority from the site for which license granted to the site for which permission proposed.

11. The respondents had made field verification and scrutinized the documents produced by the first petitioner and after enquiry the present impugned order was passed on 27.09.2017. On the other hand, the first petitioner had seeking permission for shifting the saw mill to the place where the saw mill is already functioning for more than 4 years. The first petitioner has illegally shifted the saw mill and now requesting for permission. Moreover, the people staying in & around the old premises i.e. Sri Angalamman Saw Mill, Mariyamman Koil Street, Naraiyur, Villupuram Taluk, Villupuram District, were enquired and they are not aware about the existence of the saw mill. The matter had confirmed that no saw mill existed in that address for very many years. It is also submitted that shifting permission cannot be given for a non existing saw mill. Hence, the averments made by the first petitioner in his affidavit are based on the existing material and same has to be rejected.



12. The first petitioner has not appeared before the District Forest Officer, Villupuram, on 05.02.2016. Further, the Forest Range Officer, Villupuram, has recommended to reject the license of the saw mill after finding that the first petitioner claim was not genuine. Further, the Village Administrative Officer has stated that the existence of the saw mill is in Survey No.65/2 and that would show that the first petitioner had already shifted the saw mill without getting requisite permission from the competent authority. Hence, this Writ Petition is not at all maintainable and it has to be dismissed.

13. The learned Special Government Pleader (Forest) for the respondents would submit that as per the Tamil Nadu Government Gazette Notification passed in G.O.(Ms.)No.16, Environment & Forests (FR.13), 7th February 2020, industries or processing plants which use, saw timber, cane, bamboo, reed, plywood, veneers or imported wood, procured from legitimate sources, appropriate permission has to be obtained from the authorities. As per Rule 3-B, the Committee shall perform the following functions, namely:-

“(a) assess the availability of timber in the State by way of appropriate study on demand and supply as and when it



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decides and shall devise suitable mechanism for sustainable use of timber in a way that does not affect the forests of the area adversely.

(b) approve the name of wood based Industries which may be considered for grant of fresh licence or enhancement of the existing licensed capacity in case the Committee is satisfied that timber is available legally for the said new Wood Based Industries, such as, trees outside forests, forests, etc;

(c) ensure that the amount lying with Tamil Nadu Forest Department as recovered from Wood Based Industries is utilized for the purpose of afforestation only.

(d) examine and make appropriate recommendations or any other matter referred by the Government to the Ministry of Environment, Forest and Climate Change.”

14. The licensing officer shall permit the shifting of the unit only after the approval of the Committee, any person who has been refused; to grant of licence under rule 4; or renewal of licence under rule 5; or (iii) transfer of licence under rule 6; or (iv) shifting of wood based industry under rule 11, may within a period of sixty days from the date of the receipt of such order, prefer an appeal to the Government.



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15. As the first petitioner's request has been rejected, he has to approach the concerned authority. As the first petitioner's application was not considered, this Court directs the first petitioner to approach the State Level Committee with a fresh application for transfer which has already been expired in the year 2015 itself. Now, there is no such mill is also functioning in the said address with license. Hence, the petitioners are directed to approach the State Level Committee with a fresh application within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the State Level Committee shall consider it as a fresh case and pass appropriate orders, on its own merits and in accordance with law, within a period of twelve (12) weeks thereafter.

16. In the result, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

20.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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10/12



To

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- 2.The Registering Authority,
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V.BHAVANI SUBBAROYAN, J.

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