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W.P.No.27849 of 2017
and W.M.P.No.29875 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.27849 of 2017
and W.M.P.No.29875 of 2017

M.Nagarajan

...

Petitioner

versus

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

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

3.T.Ramalingam

...

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.892/2016/KU, dated 26.09.2017, 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 Mani Saw Mill, to petitioner's name as per Rule 6 of the Tamil Nadu Regulation of Wood based



Industries Rules, 2010 as well as the address of Mani Saw Mill, as per application dated 24.05.2012.

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

For Respondent Nos.1 & 2 : 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 26.09.2017 passed by the first respondent and also to direct the respondents to transfer the saw mill license of 'Mani Saw Mill', to the petitioner's name, as per the application dated 24.05.2012.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader (Forest) appearing for the respondents 1 and 2.

3. The case of the petitioner is that the third respondent was running a saw mill under the name and style of "Mani Saw Mill" at Naraiyur Village. The said saw mill was registered with the second respondent on



29.11.2007 and subsequently, renewed the license in his name periodically.

In the year 2010, the third respondent approached the petitioner and proposed to sell his saw mill and on 01.09.2010, a sale deed was executed in the name of the petitioner and thereafter, the petitioner is running the saw mill. Initially, he was doing the business in a rented premises and after some months, he shifted the saw mill to his own premises, for which he approached the respondents in-person and submitted an application to transfer the saw mill license to his name as well to change the address.

4. The petitioner had requested the respondents to effect the changes at the earliest. However, no steps have been taken by the respondents and the 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 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 the materials for seeking to transfer of license as well as change of address to his name. Since there was a delay in considering his application, he has



filed Writ Petition in W.P.34397 of 2016. This Court, on 21.06.2017, has passed the following orders:-

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“3. By considering the submissions made by the learned counsel for the parties, without going into the merits of the case, this Court is inclined to direct the first respondent to consider the petitioner's application dated 27.09.2010 and subsequent reminder application on merits and in accordance with law as expeditiously as possibly, preferably within a period of three months from the date of receipt of copy of this order.”

6. The petitioner had approached the respondents on several occasions to implement the orders of this Court. On 26.09.2017, 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 petitioner was to transfer the license 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 instead of conducting inspection, 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 257/2007 in the name of M/s.Mani Saw Mill and Planning Works, Marriamman Koil Street, Naraiyur, Villupuram, under the ownership of the third respondent, 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.

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 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 petitioner had submitted his application on 24.05.2012 requesting to shift the saw mill from 'Mariamman Koil Street, Naraiyur Village, Valavanur Post, Villapuram', to the premises at 'Pondy Main Road, Pudukulam, Valavanur Post, Villupuram Taluk'. But the saw mill was already shifted by the petitioner and the saw mill is functioning at the new premises, without getting license from the licensing 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 petitioner and after enquiry the present impugned order was passed on 26.09.2017. On the other hand, the 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 petitioner has illegally shifted the saw mill and now requesting for permission. Moreover,



the people staying in & around the old premises i.e. Mani 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 petitioner in his affidavit are based on the existing material and same has to be rejected.

12. The 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 petitioner claim was not genuine. Further, the Village Administrative Officer has stated that the existence of the saw mill is in Survey No.95/2 and that would show that the 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.



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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.

15. As the petitioner's request has been rejected, he has to approach the concerned authority. As the petitioner's application was not considered, this Court directs the 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 petitioner is 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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To

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V.BHAVANI SUBBAROYAN, J.

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