



W.P.(MD) No.14733 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.14733 of 2024
and W.M.P.(MD)No.12917 of 2024

M.Thirupathi

...Petitioner

-VS-

1.The Deputy Chief Controller of Explosives,
Sivakasi Sub Circle Office, FRDC Complex,
Near ESI Hospital, Sivakasi,
Virudhunagar District - 626 124.

2.S.Ramar

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order No.E/SS/TN/20/20(E105735) dated 26.04.2024 on the file of the 1st respondent and quash the same and further directing the 1st respondent to reconsider the issuance / renewal of Firework license for running the SMT Fireworks Factory by considering the settlement deed dated 17.05.24 and registered as Doc.No.3264/2024 on the file of Sub Registrar, Thiruthangal in favour of the petitioner.



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W.P.(MD) No.14733 of 2024

For Petitioner : Mr.S.Selva Adithya
for Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.Jeyasingh,
Senior Panel Counsel for R1
Mr.D.Dhanachandra Prakash for R2

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order No.E/SS/TN/20/20(E105735) dated 26.04.2024 on the file of the 1st respondent and quash the same and further directing the 1st respondent to reconsider the issuance / renewal of Firework license for running the SMT Fireworks Factory by considering the settlement deed dated 17.05.24 and registered as Doc.No.3264/2024 on the file of Sub Registrar, Thiruthangal in favour of the petitioner.

2. It is the case of the petitioner that the petitioner's father and the 2nd respondent leased out a land for a period of 50 years for a total amount of Rs.12,00,000/-. Pursuant to the same, the petitioner obtained a license to conduct Fireworks factory in the name of M/s.SMT Fireworks factory. While so, there was a dispute arose between his father



W.P.(MD) No.14733 of 2024

and the 2nd respondent. Hence, the 2nd respondent has filed a Writ Petition before this Court in W.P.(MD)No.7760 of 2021 to cancel the license. This Court by order dated 17.10.2023, directed the 1st respondent to decide the issue of grant of license after considering the objections raised by the 2nd respondent. Based on the said order, the 1st respondent conducted an enquiry and passed the impugned order holding that the petitioner has not produced any document to prove that he is in lawful possession of the property and accordingly, the license granted to the petitioner was cancelled. Challenging the same, the petitioner has filed this Writ Petition.

3. A detailed counter affidavit has been filed by the first respondent. It is the main contention of the first respondent that as against the cancellation order, an appeal remedy is available to the petitioner and the petitioner has already filed an appeal before the Chief Controller of Explosives, Nagpur and the same is pending. Hence, he opposed this Writ Petition.

4. It is the only contention of the learned counsel for the petitioner that though at the time of passing the impugned order, there is no clear



title to the petitioner, now, the petitioner has got half share in the property by way of a settlement deed dated 17.05.2024, executed by his father. Therefore, by considering the same, the authorities may grant license to the petitioner.

5. Heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. Considering the facts and circumstances of the case, this Court is of the view that since the appeal filed by the petitioner is pending before the Chief Controller of Explosives, Nagpur, the validity of the impugned order cannot be gone into by this Court in the present Writ Petition. The appellate authority viz., the Chief Controller of Explosives, Nagpur, shall decide the appeal on its own merits and in accordance with law. The petitioner and the second respondent are at liberty to establish their right and ownership in the property and seek the license in their individual names by filing appropriate applications. If such request is made, the appellate authority shall consider the same on its own merits and pass orders in accordance with law, within a period of six weeks from the date of filing of such applications.



W.P.(MD) No.14733 of 2024

7. This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

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18.09.2024

Index : Yes / No

Internet : Yes / No

vsm

To

The Deputy Chief Controller of Explosives,
Sivakasi Sub Circle Office, FRDC Complex,
Near ESI Hospital, Sivakasi,
Virudhunagar District - 626 124.



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W.P.(MD) No.14733 of 2024

N.SATHISH KUMAR, J.

vsm

W.P.(MD) No.14733 of 2024

18.09.2024