

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2014

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.(MD)No.9632 of 2014
and M.P.(MD) No.1 of 2014

L.A.Bottlers Pvt. Ltd.,
Represented by its
Managing Director,
Periya Suriyur,
Trichirappalli - 25.

... Petitioner

Vs.

- 1.The Secretary,
Housing Board and Town Development Department,
St. George Fort,
Chennai.
- 2.The Director,
Town and Country Planning Department,
807, Anna Salai,
Chennai - 2.
- 3.The Assistant Director,
Town and Country Planning Department,
Trichy,
Trichy District.
- 4.The Member Secretary,
Navalpattu New Town Development Authority,
Navalpattu,
Trichy District.
- 5.Saradadevi
(5th respondent impleaded as per
order of Hon'ble Court dated
19.06.2014 made in M.P.(MD) No.

... Respondents

same and consequently to direct the 3rd Respondent to forward the application of the Petitioner Company for conversion of land to an extent of 24 acres in S.F.No.469/1A & 469/1B, Suriyur Village, Thiruverambur Taluk, Trichy District from Mixed Residential use Zone into Controlled Industrial use Zone to the 1st Respondent for passing order in accordance with law.

2. In the affidavit, it has been stated that the petitioner company L.A. Bottlers Pvt. Ltd., is a bottling unit for Pepsi & Co. Pvt. Ltd. The factory for the petitioner's company was planned to be put up at Survey No.469/1A2 and 469/1B1 of Suriyur Village in an extent of 24 acres. The said land was originally an Ayan Punja land. The Petitioner Company applied to Suriyur Panchayat Board in which the factory was planned to be constructed in order to obtain "No Objection Certificate" for conversion of the Mixed Residential Use Zone into Controlled Industrial Category. The Suriyur Panchayat Board gave a "No Objection Certificate" to the Petitioner Company by a letter dated 05.10.2010. The Petitioner Company also applied

for planning permission and the same was granted by the Suriyur Panchayat by an order dated 25.10.2010. The Suriyur Panchayat has also given permission for the Petitioner Company to lay road in Survey No.469/1A and 1B. The Tahsildar, Thiruverambur has also given a "No Objection Certificate" by a letter dated 24.11.2010 to the Petitioner Company for clearance that the land in Survey No.469/1A & 469/1B purchased by the Petitioner Company for construction of the factory did not belong to the Government or does not come under any other Government Classification of land. Based on the 'No Objection Certificates' obtained from the Panchayat and the Tahsildar, the Petitioner Company applied to the Respondents herein by an application dated 25.11.2010 for conversion of the land in to Industrial Zone, the prescribed fee was also paid for the same. The Respondents 1 and 2 forwarded the file to the third Respondent for calling for any objection from public in respect of the conversion of Mixed Residential Use Zone into Controlled Industrial Use Zone for Survey No.469/1A & 469/1B to an extent of 24 Acres in Suriyur

Zone for Survey No.469/1A and 469/1B to an extent of 24 Acres in Suriyur Village, Trichy District. There was no objection from any quarters of public. The Respondents instructed the Petitioner Company to submit some necessary documents for conversion of the above said land. In response to their instruction, the Petitioner Company submitted the necessary documents as per the instruction of the Respondents along with the letter dated 28.02.2011. Thereafter, the Petitioner Company did not receive any communication from the Respondents. There was a Local Body Election in the year 2011. Pursuant to the same, there was a change of regime in the Local Panchayat. The new Panchayat President, who had an election dispute with the erstwhile Panchayat President started creating all sort of problems to the Factory, since it was approved by the erstwhile President. The new Panchayat President was also of the view that the Petitioner Company had made complaint against her husband with regard to her husband's drawing water illegally from his well and selling the same to some Private Mineral Water Company. Hence, the new

Panchayat President passed an order to close the Petitioner Company. The order passed by the new Panchayat President is without any jurisdiction or authority of law. Challenging the same, the Petitioner Company filed W.P.(MD) No.4498 of 2014 and obtained an order of interim stay in the said Writ Petition. Thereafter, the Panchayat President had sent a letter to the third Respondent. Based on the said letter of the Panchayat President, the third respondent has passed the impugned order. In the impugned order it is stated that due to the objection given by the Panchayat President by letter dated 24.12.2013, the application for conversion of the land classification made by the Petitioner Company by application dated 12.08.2011, is returned. The Petitioner Company has made a representation to the third respondent to re-consider the return order, since the 3rd Respondent has kept it pending for the past 2 years without forwarding the same to the 1st respondent. Hence, the petitioner has come forward with the present Writ Petition.

3. The Panchayat President of the Suriyur village has taken out M.P.(MD) No.2 of 2014 to implead herself as 5th respondent in the writ petition and that petition was allowed.

4. It is the contention of the 5th respondent that there is serious unrest in the locality due to the establishment of Petitioner's Company. Villagers, farmers, residents and general public have raised voices against the Writ Petitioner Company for various reasons including depletion of water resources, violation of statutes and loss of ecology and irreparable damage to the environment. The said unit is established without following any statutory procedures. The operation of the unit had reduced the fertility of the surrounding agricultural lands in the locality and had lead to severe depletion of water resource. The Panchayat had already initiated serious action against the writ Petitioner Company and it is the subject matter of W.P.(MD) No.4498 of 2014. The alleged "No Objection Certificate" issued by the erstwhile President is fabricated and forged one. The

signatures found in the said document do not belong to Tmt.Malarvizhi. Thus, the 5th respondent objected the prayer sought for in the writ petition.

5. Heard the learned Senior Counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for 5th respondent and also perused the materials available on record.

6. It is seen from the materials available on record that the petitioner Company planned to put up a factory at Survey Nos.469/1A2 and 469/1B1 of Suriyur Village in an extent of 24 acres. Hence, they applied to the Panchayat Board to issue "No Objection Certificate" for conversion of the Mixed Residential Use Zone into Controlled Industrial Category. The Suriyur Panchayat Board has also given "No Objection Certificate" and necessary planning permission. The Panchayat Union has also given a permission to the Petitioner

Company to lay road in Survey Nos.469/1A and 1B. The Tahsildar, Thiruverambur has also given a "No Objection Certificate" dated 24.11.2010 to the Petitioner Company. Thereafter the Petitioner Company applied to the Respondents for conversion of the land into Industrial Zone. The Respondents 1 and 2 have also forwarded the file to the third Respondent for calling for any objection from the public with regard to the conversion of Mixed Residential Use Zone into Controlled Industrial Use Zone for Survey No.569/1B to an extent of 24 Acres in Suriyur Village, Trichy District. Thereafter, the Petitioner Company did not receive any communication. While so, after 2011, after the Local Body Election, there was change of regime in the Local Panchayat. The new Panchayat President has sent objection to the Respondents to convert the land into Controlled Industrial Use Zone. Hence, the third Respondent has passed the impugned order, returning the application. Hence, the learned Senior Counsel appearing for the petitioner prays for quashing the order, returning the application.

7. The learned Additional Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the 5th respondent, who is the Panchayat President, vehemently opposed to entertain the prayer saying that there was objection in the village to convert the land into Controlled Industrial Use Zone.

8. But in my considered opinion, the present writ petition has been filed only to direct the third respondent to forward the application to the first respondent. Therefore, it is unnecessary to consider the objections raised by the respondents, in this writ petition.

9. Therefore, irrespective of the submissions made by the learned counsel on either side, this Court is constrained to pass the following order:

The Petitioner Company is directed to resubmit the application to the third Respondent. The third Respondent is directed to forward the same to the first Respondent along

with objections received by him. The first Respondent is directed to consider the same by affording an opportunity of hearing to the fifth respondent, by issuing notice to her, and pass appropriate orders as early as possible.

R. SUBBIAH, J

sj

10. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected M.P.(MD) No.1 of 2014 is closed.

Index :Yes/No

19.06.2014

Internet :Yes

sj

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