



WP(MD)No.7202 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)No.7202 of 2023 &
WMP(MD)Nos.6788 and 6791 of 2023

Ragavan

... Petitioner

Vs.

1.The District Forest Officer,
Tenkasi District, Tenkasi.

2.The Forest Range Officer,
Sivagiri Forest Range,
Sivagiri, Tenkasi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records on the file of the second respondent in connection with the impugned notice issued by him vide his proceedings in Na.Ka.No.161, dated 08.12.2022 and quash the same as illegal, arbitrary and thereby direct the respondents to permit the petitioner to continue the petitioner Bricks Making / Brick Kiln Business [Country/Traditional Method] in his patta land in Survey No.920/2, Viswanathaperi Part-I, Village, Sivagiri Taluk, Tenkasi District, based on the petitioner's representation dated 13.03.2023.



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For Petitioner : Mr.K.Sankar
For Respondents : Mr.S.Shanmugavel,
Additional Government Pleader

ORDER

The petitioner who has set up a Brick Kiln in his land in S.No. 920/2, Viswanathaperi Part-I, Village, Sivagiri Taluk, Tenkasi District, after obtaining due licence from the Department of Geology and Mining on 13.06.2017 has been slapped with the order dated 08.12.2022 issued by the second respondent vide his proceedings in Na.Ka.No.161 directing the petitioner to stop the business as the Brick Kiln comes within 1 km radius of he Sivagiri Forest of Western Ghatts.

2. The petitioner would submit that he has obtained necessary licence from the competent Authority and this notice is clearly a fetter to his carrying on his profession and livelihood. It is his case that the order has been issued without giving an opportunity of hearing or conducting an enquiry. He would further submit that the basis on which the



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impugned order has been passed is as per Section 3 of the Environmental Protection Act, 1986. The petitioner would submit that his land is situated 1.5 kms away from the Eco-sensitive zone of the Forest area and the order of the second respondent without notice and without conducting survey is illegal and liable to be quashed.

3. When the writ petition came up for hearing, Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondents would submit that since the petitioner had come to Court with a contention that the Brick Kiln is situated 1.5 kms away, the respondents have inspected the site and have found that the Brick Kiln is situated very much within the Eco-sensitive zone. From the GPS measurements, the petitioner's Brick Kiln is within the prohibited zone. As per the Notification in Na.Ka.No.56/2023 dated 03.04.2023, produced by the learned Additional Government Pleader, the area of 356.7333 square kilometres (35,673.33 hectare) coming under Tenkasi, Shenkottai, Kadayanallur and Sivagiri Taluk of Tirunelveli District has been declared as the Nellai Wildlife Sanctuary. The Notification would clearly show



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that apart from various waterways / rivers running within the area, it also has a diversity of flora and fauna. There are several varieties of birds, butterflies, insects, reptiles, amphibians and mammals including wildboar, spotted deer, elephant, nilgiri langur, etc. In order to conserve and protect this diverse ecological bounty, the Government had declared the area around the Nellai Wild Life Sanctuary as Eco-sensitive zone. This zone is to an extent of 1 km from the boundary of the sanctuary. Clause 4 of the Notification lists out the activities that are prohibited or to be regulated within the Eco-sensitive zone. Serial No.7 of the Clause 4 relates to the setting up of the Brick Kilns which has been prohibited. The Table clearly states that the setting up of Brick Kiln can be considered, if it is otherwise provided for as per the applicable laws.

4. Considering the above facts, the writ petition is disposed of directing the petitioner to approach the first respondent with a fresh application giving the details of his Brick Kiln and the distance it is from the Eco-sensitive zone, to obtain 'No Objection Certificate' for setting up Brick Kiln and on receipt of such application, the first respondent shall



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dispose the same within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

03.04.2023

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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To

- 1.The District Forest Officer,
Tenkasi District, Tenkasi.
- 2.The Forest Range Officer,
Sivagiri Forest Range,
Sivagiri, Tenkasi District.



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P.T.ASHA, J.

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