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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.558 of 2015

and

M.P. (MD) No.1 of 2015

M.Subramanian

... Petitioner

Vs.

- 1.The Director of Town and Country Planning,
Office of the DTCP,
801, Anna Salai,
Chennai.
- 2.The District Collector,
Dindigul District,
Dindigul.
- 3.The Member Secretary,
Dindigul Local Planning Authority,
Dindigul District.
- 4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Dindigul District.
- 5.The Assistant Director,
Geology and Mining,
District Collectorate,
Dindigul.
- 6.The Tahsildar,
Nilakottai Taluk,
Dindigul District.
- 7.The President,
Mallampatti Village,
Nilakottai Taluk,
Dindigul.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents no.1, 3 and 7 from granting any planning approval or building permission for any construction / development of any building structure or hut within 300 meters from the quarrying site of the petitioner in Survey Nos.304/5, 305/1C, 317/2C3, 318/1C2,



319/2B, 318/2, 319/3, 302/2 and 320/1 Mallanampatti Village, Nilakottai Taluk and consequently direct the respondents to prevent any illegal construction being made within the said safety distance in light of Rule 36(1-A) © of the Tamil Nadu Minor Mineral Concession Rules, 1959 and the proceedings of the 2nd respondent in Na.Ka.No.185/2013(Kanimam) dated 25.04.2013.

For Petitioner ... Mr.M.Mahaboob Athiff
For Respondents ... Mr.J.Gunaseelan Muthiah
Government Advocate

O R D E R

This writ petitioner has been filed by M.Subramanian seeking writ of mandamus forbearing the respondents no.1, 3 and 7 from granting any planning approval or building permission for any construction / development of any building structure or hut within 300 meters from the quarrying site of the petitioner in Survey Nos.304/5, 305/1C, 317/2C3, 318/1C2, 319/2B, 318/2, 319/3, 302/2 and 320/1 situate at Mallanampatti Village, Nilakottai Taluk and consequently direct the respondents to prevent any illegal construction being made within the said safety distance in light of Rule 36(1-A) © of the Tamil Nadu Minor Mineral Concession Rules, 1959 and the proceedings of the 2nd respondent in Na.Ka.No.185/2013 (Kanimam) dated 25.04.2013.

2.The petitioner was permitted to operate quarries for extraction of Blue Rough Stone Jelly in patta lands in Survey Nos.304/5, 305/1C, 317/2C3, 318/1C2, 319/2B and 320/1 situate at Mallanampatti Village, Nilakottai Taluk for a period of five years commencing from 2011 till January 2016. While the petitioner has undertaken the quarrying operation in the aforesaid survey lands as per the terms and conditions mentioned in the lease deed dated 07.01.2011, to his surprise, the respondents have been visiting the petitioner's quarrying site at the instance of some of the persons, who are doing real estate business and attempted to plot out certain lay outs in the lands located within 300 meters of the quarry sites. Since some third parties also have started visiting the area to plot out the lands, which are coming within 300 meters of quarrying sites nothing this event, the petitioner has preferred a representation to the second respondent seeking intervention and the second respondent also in his proceedings dated 25.04.2013 stating that the land in question under the custody of the petitioner, has been used for quarrying operation for more than 30 years as per the permission issued by the second respondent, District Collector, directed the Planing Authorities not to accord any permission or approval for any such layout or construction within 300 meters of quarrying site as mandated under Rule 36(1-A) © of the Tamil Nadu Minor Mineral Concession Rules, 1959. Similarly, the Block Development Officer, Batlagundu also in his proceedings dated 09.05.2014 directed the 7th respondent to put up a notification to the public that the lands coming within 300 meters should not be plotted out and no



construction should be carried on. However, inspite of the above direction issued by the second respondent, the petitioner was prevented from doing the quarrying operation and therefore, the present writ petition has been filed for the aforesaid relief.

3.A detailed counter affidavit has been filed by the second respondent, District Collector, Dindigul.

4.According to the case of the petitioner, the petitioner was granted the lease deed with permission on 07.01.2011 and 12.07.2010 to undertake quarrying operation in the patta lands in survey numbers 304/5, 305/1C, 317/2C3, 318/1C2, 319/2B and 320/1 at Mallanampatti Village, Nilakottai Taluk, mentioned supra for a period of 5 years, which expires in January 2016, in some cases in April 2016, in some other cases, July 2016. Finding intervention from unauthorized persons, who are doing real estate business when attempted to plot out certain lay outs in the lands closer to 300 meters from quarrying sites, the petitioner has made a detailed representation dated 23.12.2014 to the concerned respondents requesting to take immediate steps to ensure the right to carry on quarry operation in the lease granted area, by preventing the real estate business persons from disturbing the quarry operation. The last paragraph of the counter affidavit filed by the District Collector also shows that no approval for layout has been granted by the local bodies within 300 meters radius from the boundary of the petitioner's quarry sites.

5.The 2nd respondent/District Collector, Dindigul District, also on receipt of the objection from the petitioner issued a direction to the planning authorities in his proceedings dated 25.04.2013 not to accord any direction or approval for any such layout or construction within 300 meters of quarrying site as mandated under rule 36 (1-A) (c) of the Tamil Nadu Minor Mineral Concession Rules, 1959 for the reason that the petitioner has been quarrying in the aforementioned survey lands. Similarly, the Block Development Officer, Batlagundu, by his proceedings dated 09.05.2014 directed the President of Malanampatti Village, 7th respondent herein to issue a notification to the public that the lands within 300 mts from the quarrying site ought not to be plotted out and no construction can be carried out. Besides, the Tahsildar of Nilakottai Taluk, 6th respondent herein in his proceedings dated 22.05.2014 taking note of the fact that few real estate business persons are attempting to sell the land within 300 mts from the quarrying site contrary to the rules has intimated the Sub Registrar, Nilakottai, in his proceedings dated 22.05.2014 that no property can be conveyed in respect of the lands in question without prior permission from the Town and Country Planning. In view of the aforementioned proceedings issued by the District Collector, Block Development Officer, Batlagundu, Tahsildar, Nilakottai Taluk, this Court has no hesitation to forbear the respondent 1, 3 and 7 from granting planning approval or building permission for any construction or development of any building structure or hut within 300 meters from the quarrying site of the petitioner's land in Survey Nos.304/5, 305/1C, 317/2C3, 318/1C2, 319/2B, 318/2, 319/3, 302/2 and 320/1 situated at Mallanampatti Village, Nilakottai Taluk.



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6. With the above direction, this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.
Sd/-

Assistant Registrar (Per. Admn.)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Town and Country Planning,
Office of the DTCP,
801, Anna Salai, Chennai.
2. The District Collector,
Dindigul District, Dindigul.
3. The Member Secretary,
Dindigul Local Planning Authority,
Dindigul District.
4. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Dindigul District.
5. The Assistant Director,
Geology and Mining,
District Collectorate, Dindigul.
6. The Tahsildar,
Nilakottai Taluk, Dindigul District.
7. The President,
Mallampatti Village, Nilakottai Taluk,
Dindigul.

+1cc to The Special Government Pleader SR.No.57119

akm/27.10.2015 /4p-9c/

W.P. (MD) No. 558 of 2015
28.09.2015