

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.26219 of 2015

and

M.P.No.1 of 2015

K.Subbarayan
S/o.Karuppaiyan
Perumalkovil Street
Kakkalani Post
Keezhvelur Taluk
Nagapattinam District ... Petitioner

...Vs...

- 1.The District Collector
Thiruvarur
- 2.The Assistant Director
Geology and Mining Department
Nagapattinam / Thiruvarur. ... 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 relating to the proceedings Na.Ka.No.214/Minerals/2015, dated 05.08.2015 issued by the second respondent and quash the same and consequently direct the respondents to issue quarry and transport permit to the petitioner based on the joint agreement dated 23.09.2013 in respect of the land measuring to an extent of 0-90-0 hectare in R.S.Nos.166/4, 166/10 and 166/12 situated at Thirupallimukkudal village, Nannilam Taluk, Thiruvarur District.

For Petitioner : Mr.A.Arumugam

For Respondents: Mr.S.Diwakar, S.G.P.,

ORDER

Heard Mr.A.Arumugam, learned counsel for the petitioner and Mr.S.Diwakar, learned Special Government Pleader appearing for the respondents and with the consent of either side, the writ petition is taken up for final disposal.

2.The petitioner has filed this writ petition challenging the proceedings issued by the Assistant Director of Geology and Mining, Nagapattinam/Thiruvavarur dated 05.08.2015, in an by which the petitioner was informed that till the criminal case which has been registered against the petitioner in Crime No.3/2015 on the file of the Tiruvavarur Crime Branch is disposed of, the petitioner will not be granted transport permit to transport Savudu from the patta land in which permission was granted to the petitioner.

3.The undisputed fact is that the petitioner was granted permission to quarry 1500 loads of Savudu from S.Nos.166/4, 166/10 and 166/12 situated at Thirupallimukkudal Village, Nannilam Taluk, Tiruvavarur District, measuring an extent of 0-90-0 hectare. The lease which was granted in favour of the petitioner was to expire during September 2015. While so, the petitioner appears to have come to adverse notice of the respondent which has resulted in passing the impugned order.

4.The learned counsel appearing for the petitioner submitted that it is an admitted fact that the petitioner has not quarried the entire permitted quantity of Savudu from the land in question and without proper application of mind, the impugned order has been passed. Further, it is submitted that mens rea of the petitioner also should have been taken into consideration, especially when the petitioner is a beneficiary of a licence.

5.Though such a contention is raised by the learned counsel for the petitioner, this Court is not inclined to accept the same for the simple reason that the allegation against the petitioner is not that he violated the lease conditions in respect of the area where permission was granted nor the allegation is that he has quarried excess quantity than what was permitted. But the allegation is that the transport permit granted to transport Savudu from the permitted area has been misused.

6.Therefore, the petitioner has to clear himself of the allegations and it is open to the petitioner to work out his other remedies available to him under the provisions of the Code of Criminal Procedure. However, the respondent cannot put the matter indefinitely in cold storage and hence, an appropriate departmental action should also be initiated, so that the petitioner knows where he stands.

7.In the light of the above, while upholding the impugned order and dismissing the writ petition, there will be a direction to the respondent to issue a show cause notice to the petitioner clearly specifying the allegations against him and after affording an opportunity to submit the objections, the

respondent shall proceed to pass appropriate orders on merits and in accordance with law. The above direction to issue show cause notice be complied with within a period of thirty days from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pgp

To

1.The District Collector
Thiruvavur

2.The Assistant Director
Geology and Mining Department
Nagapattinam / Thiruvavur.

+1cc to Mr.A. Arumugam, Advocate, S.R.No.41033
+1cc to the Government Pleader, S.R.No.40651

PA(CO)
EU(08/08/2016)

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