

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.28111 of 2015
and
M.P.No.1 of 2015

R.Sukumar

... Petitioner

Vs.

1. The District Collector,
Nagapattinam District,
Nagapattinam.

2. The Inspector of Police,
Velanganni Police Station,
Velanganni,
Nagapattinam District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to grant stoppage period of one year from 10.09.2014 to 11.09.2015, for which, the petitioner was prevented from carrying on quarrying for no fault of his in respect of the Savadu Quarry, situated in the petitioner's patta lands in S.No.9/1-A, in Sembianmahadevi Village, Nagapattinam Taluk and District.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mr.R.Govindasamy
Special Government Pleader

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O R D E R

Heard Mr.K.R.Krishnan, learned counsel appearing for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader for respondents.

2. This Writ Petition has been filed by the petitioner, praying for issuance of a writ of mandamus to direct the first respondent/District Collector to grant stoppage period of one

year from 10.09.2014 to 11.09.2015, for which, the petitioner was prevented from carrying on quarrying for no fault of his in respect of the Savadu Quarry, situated in his patta lands, comprised in S.No.9/1-A, at Sembianmahadevi Village, in Nagapattinam Taluk and District.

3. Though elaborate submissions have been placed before this Court for consideration, the issue involved in this Writ Petition lies in a narrow compass.

4. The petitioner was granted permission for quarrying the Savadu from earth, for one year, i.e. from 11.09.2013 to 10.09.2014. Before the petitioner could commence the quarrying operations, a Public Interest Litigation was filed by one S.Jothi Basu, in W.P.No.3918 of 2014, and because of the interim orders granted therein, the petitioner could not commence the quarrying operations for the said period. Ultimately, the Writ Petition was dismissed by the Hon'ble First Bench, by order, dated 11.08.2014. Subsequently, the District Collector is stated to have extended the lease period, by another 7 months. However, once again, on account of the objection raised by the local villagers and the Panchayat, a Peace Committee had to be convened on 26.08.2015, and only then, the issue got resolved. By then, 7 months lease period, which was extended subsequently, also expired.

5. Therefore, when all the obstacles were cleared, the petitioner made a request to the first respondent/District Collector, by representation dated 28.08.2015, to grant extension of time for enjoying the lease, as he could not enjoy the same on account of the reason beyond his control. To dispose of the said representation, the petitioner has filed this Writ Petition.

6. In the counter affidavit filed by the first respondent, among other things, the major objection raised, is on the ground that Environmental Clearance Certificate, which was granted by the State Level Environmental Impact Assessment Authority, Chennai, expired on 11.09.2015.

7. The learned counsel appearing for the petitioner contended that because the petitioner was unable to commence quarrying operations even before expiry of the entire lease period, inspite of two extensions granted, the same cannot be put against the petitioner, as he could not commence quarrying operations for the reasons beyond his control. It is seen that the State Level Environmental Impact Assessment Authority, by a letter No.SEIAA-TN/F.No.1201/C.No.001396/2016, dated

11.07.2016, has certified that, the Environmental Clearance Certificate granted to the petitioner is for a period of two years from the date of commencement of mining, and the copy of the said letter has been marked to the first respondent/District Collector, Nagapattinam, and the Assistant Director of Geology and Mining, Nagapattinam. Therefore, the respondent should consider this fact, as even according to the State Level Environmental Impact Assessment Authority, the Environmental Clearance will be co-terminus with the mining lease period, however, it is limited to a maximum period of two years from the date of commencing of mining, as per condition No.5 of the clearance.

8. The learned counsel appearing for the petitioner, on instructions from the petitioner, submitted that, though the petitioner would request for extension of the lease period for one year, i.e., from 10.09.2014 to 11.09.2015, since for the entire lease period granted earlier, he could not carry on quarrying operations, the petitioner would be satisfied, if the first respondent extends the period of lease by 7 months only. This submission made by learned counsel appearing for the petitioner is placed on record.

9. In the light of the above, the Writ Petition is disposed of, by directing the first respondent to consider the petitioner's representation, dated 28.08.2015, taking note of the letter issued by the State Level Environmental Impact Assessment Authority, dated 11.07.2016, and if all other things are satisfied, then, permission may be granted considering the petitioner's request for grant of extension of lease by 7 months, eventhough, the petitioner could not carry out the quarrying operations during the entire lease period granted earlier, which was for the reasons beyond his control. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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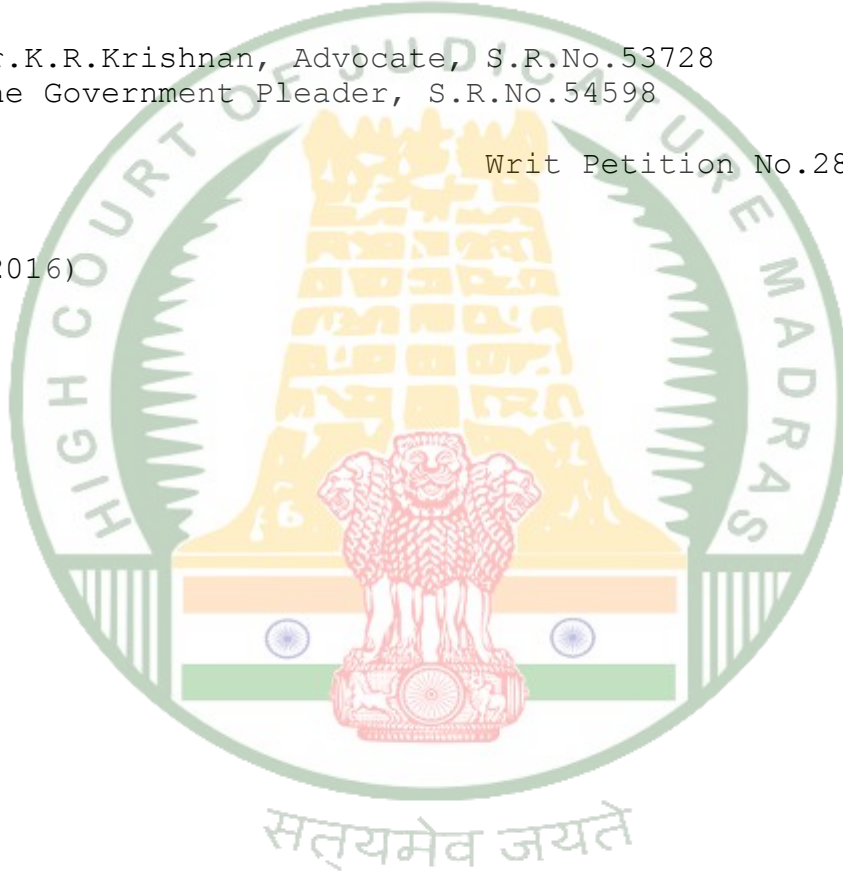
To

1. The District Collector,
Nagapattinam District,
Nagapattinam.
2. The Inspector of Police,
Velanganni Police Station,
Velanganni,
Nagapattinam District.

+1cc to Mr.K.R.Krishnan, Advocate, S.R.No.53728
+1cc to the Government Pleader, S.R.No.54598

Writ Petition No.28111 of 2015

RSK (CO)
CA (27/09/2016)



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