

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.41024 of 2015
and M.P.No.1 of 2015

M.H.Abdul Khadar

... Petitioner

Vs.

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Industries Department, Chennai.
- 2.The District Collector,
Office of the District Collector,
Namakkal District.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Namakkal District.
- 4.The Assistant Director,
Geological & Mining Department,
Namakkal District.
- 5.The Tahsildar,
Namakkal, Namakkal District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus forbearing the respondents, their men, agents, subordinates or anyone acting on their behalf from in any manner interfering with the petitioner's right, the petitioner's agent's and the petitioner's customer's right to transport quick ply mix (dry mortar mix), hallow blocks, fly ash bricks manufactured, supplied from the petitioner's factory premises in the name and style of Quick Plymix bearing Door No.5/5-1, Pachal Main Road, Pachal Post, Namakkal District to the places of purchasers' destination within the State of Tamil Nadu, State of Kerala and State of Karnataka through the border check post in accordance with law with valid bills issued by the petitioner.

For Petitioner : Mr.P.Satheesh Kumar

For Respondents : Mr.M.S.Ramesh,
Additional Government Pleader

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus forbearing the respondents from in any manner interfering with the petitioner's right to transport quick ply mix (dry mortar mix), hallow blocks, fly ash bricks manufactured, supplied from the petitioner's factory premises to the places of purchasers' destination within the State of Tamil Nadu, State of Kerala and State of Karnataka through the border check post.

2.It is the case of the petitioner that while he was transporting dry mortar mix, hallow blocks to the customers in the State of Karnataka, the police near the Hosur Check Post have attempted to interfere with the transportation without sufficient reasons. Further, the petitioner has stated that the police in the Check Post took four hours to clear his vehicle for getting clarification from the respondents 4 & 5.

3.Mr.M.S.Ramesh, learned Additional Government Pleader appearing for the respondents submitted that the Writ Petition filed by the petitioner is at pre-mature stage for the reason that the petitioner had not commenced his business yet.

4.In the counter filed by the 2nd respondent, in paragraph no.3, the 2nd respondent had stated that while inspecting the petitioner's Company premises by the Assistant Director of Mines, Namakkal on 07.01.2016 it was ascertained that the petitioner has just commenced certain initial works such as erection of Mixer Machine and Sieve Machines. The production of dry mortar mix, hallow blocks and fly ash bricks are not yet started. Further, the 2nd respondent has stated that only four loads of river sand is stocked in the premises area. Further, the 2nd respondent in his counter has stated that the petitioner has given false information in paragraph no.3 of the affidavit that the Hosur Check Post Police Officials took four hours to clear his vehicle laden with the products for getting clarification from the respondents 4 & 5. The 2nd respondent has stated that no such incident had happened so far.

5.Mr.M.S.Ramesh, learned Additional Government Pleader appearing for the respondents submitted that since the petitioner had not commenced the production of the products as mentioned in the affidavit, the question of Check Post clarification from the respondents 4 & 5 does not arise.

6.On a careful consideration of the materials available on record and the submissions made by the learned counsel on either side, when the 2nd respondent, after making inspection by the Assistant Director of Mines, has stated that the petitioner has not commenced his business yet, it is clear that the petitioner has filed the Writ Petition only based on his apprehension. As rightly contended by the learned Additional Government Pleader, the Writ Petition has been filed at a pre-mature stage and there is no cause of action for filing this Writ Petition at this stage. The Writ Petition is devoid of merits and is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

To

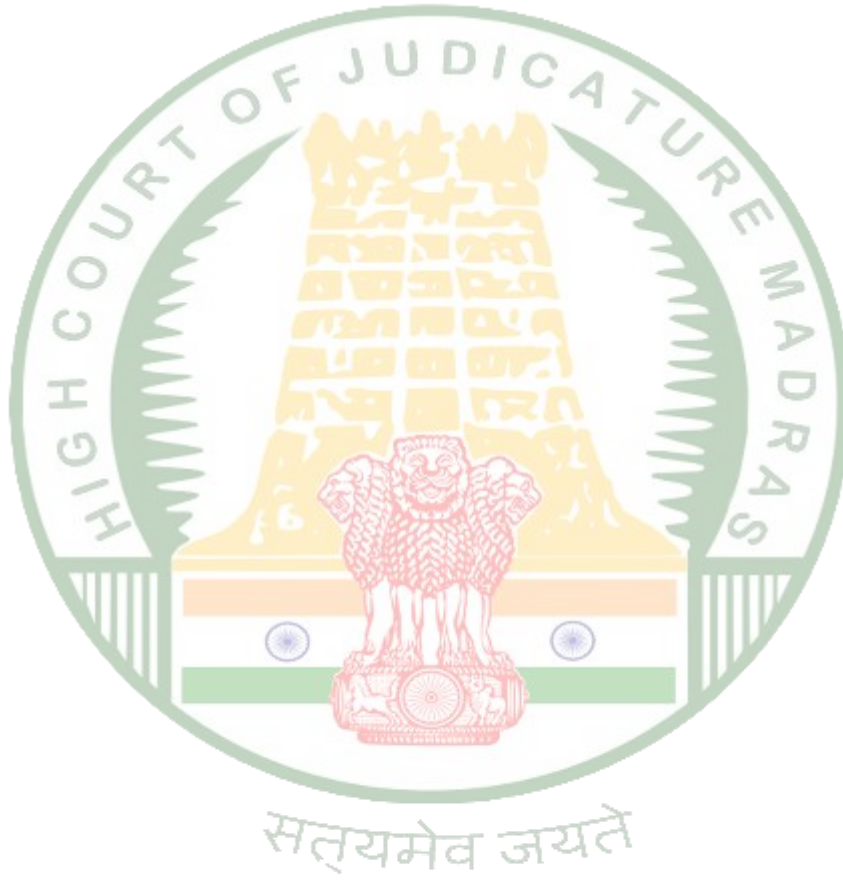
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Namakkal,
Namakkal District.

+1cc to M/S.P.SatheeshKumar, Advocate, S.R.No.13136

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sns (CO)
srg (14/03/2016)



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