

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.26403 of 2016 &
W.M.P.No.22627 of 2016

R.Lakshmi

.. Petitioner

-Vs-

1.The District Collector
Thiruvallur District
Thiruvallur.

2.The Assistant Director of Mines
Thiruvallur.

.. Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to issue Stock Yard Licence for storing and selling of sand as per the terms and conditions laid down in Rule 38-C of the Tamil Nadu Minor Mineral Concession Rules 1959 in Petitioner's Stockyard situated in S.F.No.542/3 & 4 of Koduvelli village, Thiruvallur Taluk, Thiruvallur District as per the Application of the petitioner dated 15.02.2012 or 26.10.2013, which ever is available.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mr.S.Diwakar
Special Government Pleader

O R D E R

Heard Mr.K.R.Krishnan, learned Counsel for the petitioner and Mr.S.Diwakar, learned Special Government Pleader , who has accepted notice on behalf of the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.This Writ Petition has been filed, seeking for issuance of a writ of mandamus to direct the respondents to issue Stock Yard Licence for storing and selling of sand as per the terms and conditions laid down in Rule 38-C of the Tamil Nadu Minor Mineral Concession Rules 1959 in her Stockyard situated in

S.F.No.542/3 & 4 of Koduvelli village, Thiruvallur Taluk, Thiruvallur District as per the Application submitted by her dated 15.02.2012 or 26.10.2013.

3.From the counter affidavit, it is seen that the area applied for is registered as Village site in the Village Accounts, and it has been used only for dwelling purpose. The relevant portion of the counter affidavit is quoted herein below:

"5.It is submitted that the above application was sent to the Tahsildar, Tiruvallur with a request to inspect the area conduct necessary enquiry and submit his report. Likewise, the Executive Engineer, Public Works Department, Kusasthalaiyar Basin Division, Tiruvallur has also been requested to submit his detailed report on the above petitioner's request. The Tahsildar, Tiruvallur has submitted his report in Rc.No.6421/2016/A1 dt. 22.08.2016 along with his notes of inspection as detailed below:

"that village site S.Nos.542/3 (256 Sq.m) and S.NO.542/4(298 Sq.m) total extent of 584 Sq.m. of Koduvelli Village of Tiruvallur taluk belonging to the petitioner stand registered in the name of one Thiru Chinnakannu in the Village Accounts, and the petitioner Tmt.R.Lakshmi W/o Ramesh, had purchased the above survey numbers registered under Document NO.8515/201, dt 17.11.2011 at Sub-Registrar's Office, Arani from the above pattadar Chinnakannu's legal heirs. The above mentioned area are located adjacent to Boochiathipedu - Avadi Road. The applied survey numbers are registered as 'village site' in the village accounts, which is surrounded by dwelling houses. If permission is granted to the applicant to run the sand stockyard the above mentioned residents as well as school children would be subject to hardships on account of the frequent plying a vehicles transporting the sand, resulting in accidents and loss of lives. Besides, there is a possibility of Law and Order problems."

The Tahsildar, Tiruvallur has also stated that as the applied survey numbers

are registered as "Village Site" in the village accounts, they have to be utilized for dwelling purpose only. Hence, the Tahsildar, Tiruvallur has stated that, there is no scope for granting permission to the applicant to run a sand stock yard in the subject area.

6. It is submitted that, the Executive Engineer, Public Works Department, Kusasthalaiyar Basin Division, Tiruvallure has submitted his report in letter No.23/2016 541M, dt 23.08.2016, stated that, S.Nos.542/3 & 542/4 of Koduvelli Village of Tiruvallur taluk have been inspected and as it is ascertained that they are 'Natham' (Village Site) Poramboke, as such no sand stockyard could be formed in the subject area. In view of the above details submitted, there is no scope for granting permission to the petitioner to run a sand stockyard in respect of S.Nos.542/3 & 4 respectively of Koduvelli Village, Thiruvallur Taluk, Thiruvallur District."

4. The photographs produced by the respondents would show that there is pucca building consisting of two floors and the petitioner presumably wants to use the vacant space adjoining the building as a stockyard. The photographs produced by the petitioner also shows the same site, but it is a photograph taken from a distance. In the absence of any record to show that the findings recorded by the Tahsildar, Thiruvallur is factually incorrect, this Court cannot interfere with the same, nor act as a reviewing authority.

5. Accordingly, the Writ Petition fails and the same is dismissed. However, it is open to the petitioner to choose different site and file a fresh Application. No costs. Consequently, connected Miscellaneous Petitions are closed.

-sd-
Assistant Registrar

/true copy/

Sub Assistant Registrar

RPA

To

1.The District Collector
Thiruvallur District
Thiruvallur.

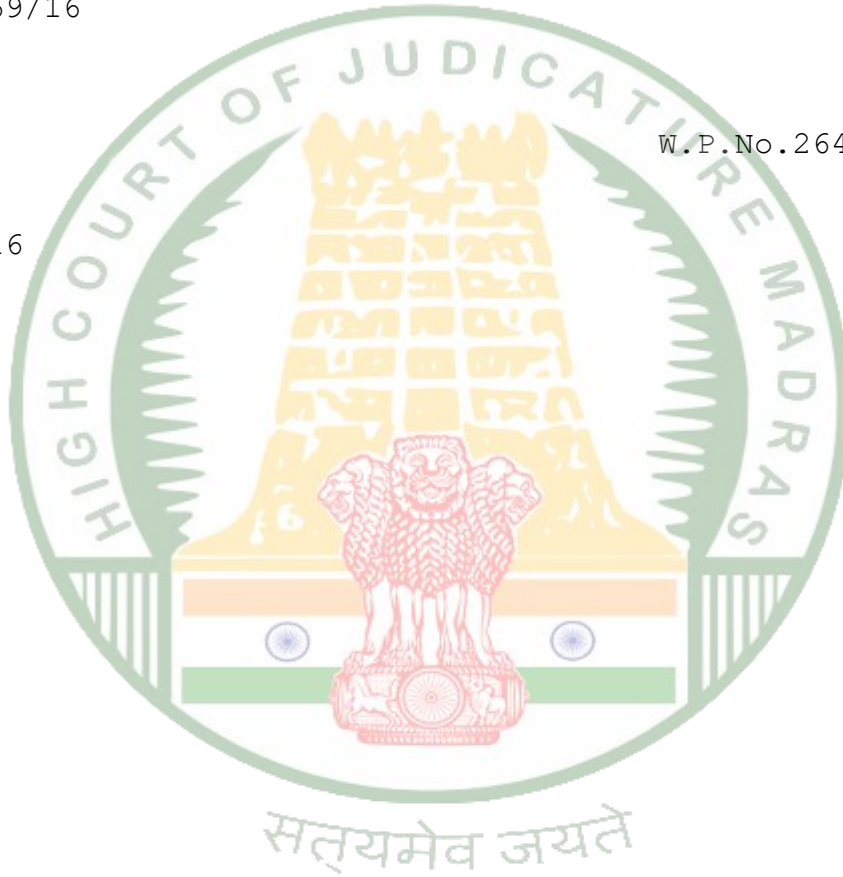
2.The Assistant Director of Mines
Thiruvallur.

+1 CC to K.R.Krishnan, Advocate SR.No.58234

+1 CC to The Government Pleader, High Court, Madras
SR.No.57869/16

W.P.No.26403 of 2016

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ns 12.11.16



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