

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.35266/2016

&

WMP.No.30377/2016

S.M.Subbaiah

...Petitioner

Vs.

- 1 The District Collector
Salem District, Salem-636 001.
- 2 The Revenue Divisional Officer
Attur Taluk, Salem District-636 102.
- 3 The President, Pagadupattu
Panchayat, Karamdurai, Attur Taluk,
Salem District-636 138.
- 4 The Tahsildar
Pethanaicken Palayam , Attur Taluk, Salem
District-636 138.
- 5 The Revenue Inspector
Karumanthurai Panchayat Office
Karumanthurai, Attur Taluk, Salem District-
636 138.
- 6 The Village Administrative
Officer, Karumanthurai Panchayat Office,
Karumanthurai, Attur Taluk, Salem District-
636 138.
- 7 The Additional Chief Secretary
to Government, Industries (MMB-2) Department
Secretariat, Chennai-600 009. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondents dispose of the representation dated 09.08.2016 requesting the respondents 1 to 6 to immediately remove the pathway in the patta land measuring an extent of 5.08.5 hectares in S.F.Nos.789/1 (1.54.0 hectares) 791/2 (0.90.5

hectares) 791/1 (1.16.0 hectares) 789/2 (0.60.hectares) and 788/2 (0.88.0 hectares) in Chinnakalrayan Therkunadu Village, Attur Taluk, Salem District in accordance with law to enable the petitioner to submit the approved mining plan for the said area as per the directions of the Additional Chief Secretary to Government Industries (MMB-2) Department Secretariat Chennai-600 009 in his letter No.19197/ MMB.2/2013 dated 19.07.2016.

For Petitioner : Mrs.Nalini Chidambaram
Senior Counsel for
M/s.C.Uma

For Respondents : Mr.A.Kumar, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that he is the absolute owner of the property admeasuring to an extent of 5.08.5 hectres in S.F.Nos.789/1 (1.54.0 hectares) 791/2 (0.90.5 hectares) 791/1 (1.16.0 hectares) 789/2 (0.60.hectares) and 788/2 (0.88.0 hectares) in Chinnakalrayan Therkunadu Village, Attur Taluk, Salem District and he has applied for quarry lease vide application dated 31.07.2012 in the said property. The 7th respondent, vide communciation dated 19.07.2016 in Letter No.19197/MMB.2/2013 has informed the petitioner that the 1st respondent and the Commissioner of Geology and Mining have recommended the case of the petitioner for grant of quarry lease, subject to the furnishing of the Mining Plan to the Government through the Commissioner of Geology and Mining within a period of three months from 19.07.2016. It is the further case of the petitioner that in the interregnum, the 6th respondent has trespassed into the patta land of the petitioner and laid a pathway in the middle of the land without informing the petitioner. The said land of the petitioner is generating revenue to the State Government and that said pathway has been laid unauthorisedly without proper sanction.

3 The petitioner's case is that only if the said pathway is removed, the petitioner will be in a position to fulfill the conditions laid down by the 7th respondent in its letter dated 19.07.2016. Therefore, the petitioner submitted a representation on 09.08.2016 to the respondents. But the said representation did not evoke any response. Again the petitioner addressed a representation to the 7th respondent on 10.09.2016 stating that the condition No.2 in the letter dated

19.07.2016, viz., "the safety distance of 50 meters to be maintained to the public road as per Rule 36 of the Tamil Nadu Minor Mineral Concession Rules, 1959, passing within the applied area", cannot be complied with on the sole ground that the petitioner's patta land cannot be declared as public road as he has not gifted any land to the Panchayat concerned. He also sought for removal of the said pathway. It is the further contention of the petitioner that the Mining Plan in respect of the said property could be submitted only when the pathway is removed and hence, requested the 7th respondent to extend the time limit for the submission of the Mining Plan. Since the petitioner has not been favoured with any kind of response, the petitioner is before this Court with the present writ petition.

4 Heard Mrs.Nalini Chidambaram, learned Senior counsel appearing for Ms.C.Uma, learned counsel for the petitioner and Mr.A.Kumar, learned Special Government Pleader who accepts notice on behalf of the respondents.

5 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the first respondent / the District Collector, Salem District only to consider of the representation of the petitioner dated 09.08.2016 on merits and in accordance with law and pass orders, after affording an opportunity of personal hearing to the petitioner, within a period of two months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. It is made clear that this Court is not expressing any opinion as regards the merits of the case in this order and it is for the 1st respondent to consider the claim of the petitioner.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

AP

To

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 - 2 The Revenue Divisional Officer
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Karumanthurai, Attur Taluk, Salem District- 636 138.
 - 7 The Additional Chief Secretary
to Government, Industries (MMB-2) Department
Secretariat, Chennai-600 009.
- 1CC to C.Uma, Advocate, SR 57276
- 1CC to Government Pleader, SR 47497

WP.No.35266/2016

PSI 07/10/2016

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