

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.40349 of 2016

T.Vinayagam

[PETITIONER]

Vs

The District Collector
Thiruvallur,
Thiruvallur District.

[RESPONDENT]

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the respondent in R.C. No.1019/ 2010/ G.M.-2 dated 27.09.2016 and quash the same and consequently direct the respondent to grant permission to the petitioner to quarry 3000 lorry loads savudu soil from Survey No.243/ 1 of Vidayur Village, Thiruvallur Taluk and District.

For Petitioner : Dr.P.Vasudevan
for Mr.V.Chinnasamy

For Respondent : Mr.K.J.Shivakumar
Government Advocate

O R D E R

Heard Dr.P.Vasudevan, learned counsel appearing for Mr.V.Chinnasamy, learned counsel for the petitioner and Mr.K.J.Shivakumar, learned Government Advocate appearing for the respondent. By consent, the Writ Petition itself is taken up for disposal.

2.In this Writ Petition the petitioner challenges the proceedings of the District Collector, Tiruvannamalai, dated 27.09.2016, by which the petitioner's Application for removal of savudu has been rejected.

3.The petitioner has challenged the impugned order on several grounds. One of which is by contending that the first respondent erred in applying the amended Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959 (Rules), as the said amendment was notified by Gazette Notification dated 23.09.2015 and that cannot be applied to the petitioner's case.

4.This Court posed a question to the learned counsel for the petitioner as to why the petitioner has not availed the statutory appellate remedy available under the provisions of the Rules. In this regard, the Court referred to Rule 36C(2) of the Rules, which provides for an Appeal to the Director of Geology and Mining against the order of the District Collector and further Appeal to the State Government.

5.Faced with this situation, the learned counsel for the petitioner submitted that liberty may be granted to the petitioner to prefer an Appeal to the Director of Geology and Mining (Commissioner of Geology and Mining) and a direction may be issued to consider all the points raised by the petitioner.

6.In the light of the above, while holding that the Writ Petition is not maintainable, liberty is granted to the petitioner to file an Appeal before the Commissioner of Geology and Mining and if such Appeal is filed within a period of fifteen days from the date of receipt of a copy of this order, the Appellate Authority- Commissioner of Geology and Mining, shall entertain the Appeal without reference to the limitation and consider all the contentions raised by the petitioner, after affording an opportunity of personal hearing.

The Writ Petition is disposed of on the above terms. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rpa

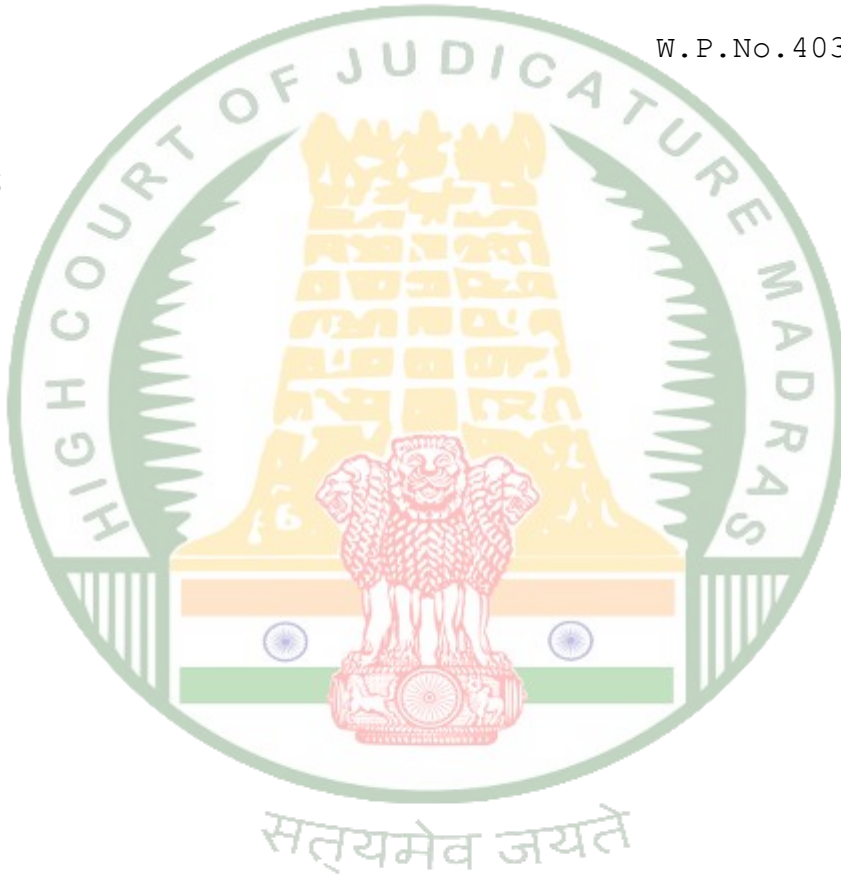
To

The District Collector,
Thiruvallur,
Thiruvallur District.

+lcc to Mr.Chinnasamy, Advocate Sr.66395

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19/12/2016



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