

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.1219 of 2017

And

W.M.P.No.1154 of 2017

K.Kandaswamy ... Petitioner

Vs.

1 The Commissioner of Geology
and Mining
Guindy,
Chennai - 600 032.

2 The District Collector
Namakkal District,
Collectorate,
Namakkal.

3 The Assistant Director
Rural Development and Panchayats,
Namakkal.

4 The Block Development Officer
Elachipalayam Panchayat Union,
Elachipalayam,
Namakkal District.

5 The President
87, Koundampalayam Panchayat,
Kumaramangalam,
Namakkal District.

6 M.Sakthivel

7 S.Easwaran

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from sanctioning for a New Layout (Housing Sites) in S.Nos.152/1

and 2, 3, 137, 136, 155, 151 etc. parts of Kumarapalayam Village Panchayat, Elachipalayam Panchayat Union, Namakkal District, within 300 Meters of the petitioner's quarrying site situated in S.No.138/2 (Part) measuring to an extent of 0.50.0 Hectares in Kumarapalayam Village Panchayat, Elachipalayam Panchayat Union, Tiruchengode Taluk, Namakkal District.

For Petitioner : Mr.M.Muthappan

for Mr.K.R.Krishnan

For Respondents : Mr.C.Jagadish for R1 to R3

Special Government Pleader (T)

Mr.P.V.Selvakumar for R4 and R5

Additional Government Pleader

O R D E R

1.Issue Notice. Mr.C.Jagadish, learned Special Government Pleader (T), accepts notice on behalf of the respondent nos.1 to 3. Mr.P.V.Selvakumar, learned Additional Government Pleader accepts notice on behalf of the respondent nos.4 and 5.

2.To be noted respondents 6 and 7 are private respondents. For the moment, no notice need to be issued to respondent nos.6 and 7, in view of the order that I propose to pass.

3.Counsel for the parties submit that the writ petition can be heard and disposed of at this stage itself.

4.To be noted, it is the petitioner's case that the lease deed which has been executed in his favour by the Government of Tamil Nadu, enables him to quarry rough stone in S.No.138/1 admeasuring 0.50 Hectares, situate in Kumaramangalam Village, Tiruchengode Taluk, Namakkal District for a period of five years.

5.The petitioner claims that in consideration of the lease deed being executed in his favour, he has paid an amount of Rs.15,00,000/- and in addition to a security deposit in the sum of Rs.1,50,000/. The petitioner has approached this Court based on an apprehension that respondent nos.6 and 7, who he says have purchased agricultural land within 100 meters of the quarrying site, may be granted permission to convert their land into residential plots.

6.The petitioner says that any permission sought or given for sanctioning a layout plan to respondent nos.6 and 7 is contrary to Rule 36 (c) of the Tamil Nadu Minor Mineral Concession Rules, 1959 (in short, the Rules). It is the petitioner's case, albeit, based on the aforementioned Rule that no new layout plan can be sanctioned which falls within 300

meters of any quarry, without prior clearance of Director of Geology and Mining.

7.To be noted, the copy of the lease deed appended with the writ petition discloses that the lease tenure expires on 8th June, 2021.

8.I have asked the learned counsel for the petitioner as to what is the stage at which, the proposal for sanctioning the layout plan, in favour of respondent nos.6 and 7, is pending with the concerned authority.

8.1.The learned counsel for the petitioner does not have any clear answer to the said query. It is however, the learned counsel's contention that the layout plan, filed by respondent nos.6 and 7 on account of provisions of Rule 36 (c) of the aforementioned Rules, can only be sanctioned with the prior permission of the Director of Geology and Mining.

9.To be noted the Director of Geology and Mining has not been made a party to the present proceedings. Therefore, the best way forward in my view would be to dispose of the present writ petition with a direction, that in case, the proposal for sanctioning the layout plan is filed, the concerned authority would bear in mind, the provisions of Rule 36 (c) of the aforementioned Rules.

10.Mr.C.Jagadish, learned Special Government Pleader (T), who appears for the official respondents i.e., respondent nos.1 to 3 and Mr.P.V.Selvakumar, learned Additional Government Pleader, who appears for the respondent nos.4 and 5, concur that for the moment, such a direction would suffice.

11.Accordingly, as indicated above, the writ petition is disposed of, in terms of the aforementioned directions. Liberty, however, is given to respondent nos.6 and 7 to approach this Court, in case, they have any difficulty with the direction issued by this Court. Consequently, connected pending application is closed.

12.The Registry will despatch a copy of this order to the respondent nos.6 and 7 at the address given in the writ petition.

13. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1 The Commissioner of Geology
and Mining
Guindy,
Chennai - 600 032.

2 The District Collector
Namakkal District,
Collectorate,
Namakkal.

3 The Assistant Director
Rural Development and Panchayats,
Namakkal.

4 The Block Development Officer
Elachipalayam Panchayat Union,
Elachipalayam,
Namakkal District. सत्यमेव जयते

5 The President
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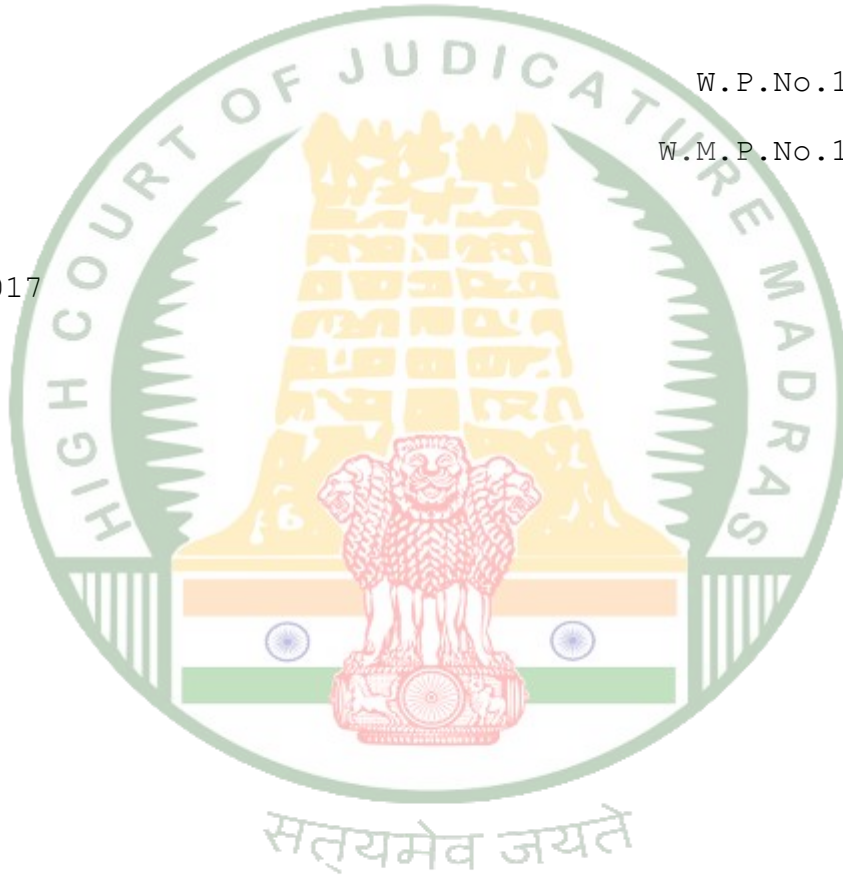
6 M.Sakthivel
Kumaramangalam,
Tiruchengode Taluk,
Namakkal District.

7 S.Easwaran
Kumaramangalam,
Tiruchengode Taluk,
Namakkal District.

+1cc to M/S.K.R.Krishnan, Advocate Sr.3387
+1cc to M/S.P.V.Selvakumar, Advocate Sr.3657
+1cc to the Government Pleader Sr.4359

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