

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.22136 of 2017
and W.M.P.Nos.23174 and 23175 of 2017

K.Muthusamy

... Petitioner

.Vs.

1.The Commissioner of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai-600 032.

2. The District Collector
Tiruppur District
Tiruppur.

3. The Deputy Director
Town and Country Planning
Salem Region
No.6, Sannathi Street,
Subramania Naagar,
Sooramangalam, Salem - 636 005.

4. The Block Development Officer
Uthukuli Panchayat Union
Uthukuli, Tiruppur District.

5. The President,
Murattupalayam Panchayat,
Uthukuli Panchayat Union
Tiruppur District.

6. R.Ashok Kumar

7. P.Amit Kumar Sonthalia

8. V.jitender Khanna ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ a Mandamus directing the official respondents 2 to 4 from granting any building planning permission to the private respondents 6 and 7 herein within 300 metres from the quarry site particularly in survey Nos.208, 203 and 199, Morattupalayam village, Uthukuli Taluk, Tiruppur District and direct the official respondents 2 to 4 to take appropriate action against the respondents 6 and 7 for unauthorized construction made in survey Nos.208, 203 and 199, Morattupalayam Village, Uthukuli Taluk, Tiruppur District.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.Sanjay Gandhi
Additional Government Pleader
for R1 to R4

Mr.P.Ebenezer Paul for R6 to R8

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

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

2.The petitioner was granted quarrying lease to quarry Jalli / Gravel in patta lands in survey Nos.209 /1A, 209/1B and 209/2 in Morattupalayam Village, Uthukuli Taluk, Tiruppur District for a period of five years as per rule 19 (1) and 20 of Tamil Nadu Minor Mineral Concession Rules, 1959.

3.The petitioner expresses the grievance that the private respondents are putting up construction within 300 metres away from the quarry site more particularly in survey Nos.208, 203 and 199 of the said village. In the event of any mistake, he may be held responsible and in this regard he has submitted representation to the concerned authorities forbearing their official respondents from granting any building plan and permission to the private respondents within 300 metres quarry site more particularly in survey Nos.208, 203 and 199 of Morrttupalayam village and further request directing the official respondents to take action against the

private respondents with regard to unauthorized construction put up in the form of representations and in spite of receipt and acknowledgement of those representations, have not been given disposal and hence, the petitioner came forward to file this writ petition.

4.The writ petition was entertained on 21.09.2017 and time was granted to the respondents to file their counter. The fourth respondent after causing inspection of the quarry site of the petitioner as well as the lands owned by the private respondents, filed the counter affidavit. It is relevant to extract the actual particulars / details of the Paragraph 8 of the Counter Affidavit :-

- (a) The petitioner's quarry lies in survey No.209/1A (1.23.5 Hect), 209/1B (0.04.5 Hect) and 209/2 (0.97.5 Hect.) - a total extent of 2.25.5 Hect. Petitioner has licence for mining activity for the period 21.09.2016 to 20.09.2021 vide Tiruppur District collectors proceedings Roc.No.508/Mines/2015 dated 21.09.2016. The petitioner has been engaged in mining activity since the year 2006.*
- (b) Other premises near his quarry (in a radius of 300 mt. of quarry's boundary) are show in detail in the enclosed sketch i.e. Annexure NO.3.*
- (c) On the North-East side a cotton mill unit is at a distance of 122 mt. which is not functioning presently.*
- (d) On East side one house is located at a distance of 120 mt which is also unoccupied.*

(e) On the East side one crusher-machinery belongs to the petitioner's quarry.

(f) On the West side a soap company is at a distance of 153 mt. which is not running presently.

(g) A closed school building on the west side of the quarry at a distance of 175 mt. near to a small bakery and a house.

(h) The Tiruppur to Vijayamangalam State Highway Road is crossing within the 300 mt. radius.

(i) One shop, one house and a petrol bunk lie within the 300 mt. radius is in the West side. This part belongs to another Periapalayam revenue village and panchayat.

(j) All of the above details can be found in the enclosed Annexure No.3 in the form of a detailed sketch of the quarry and its adjoining areas.

5.The 4th respondent would further aver that the 8th respondent has submitted an application to the 5th respondent praying for building plan permission to put up construction in survey No.208 and it was returned and handed over to the 6th respondent on behalf of the 8th respondent on the ground that the 5th respondent did not have the authority for granting building permission for any commercial building exceeding 2000 sq.ft. area and also within 300 metres of the quarry without the requisite sanctions and such permission shall be granted by the 5th respondent by way of No Objection Certificate from the Geology and Mining Department and the 8th respondent was also directed not to undertake any such construction activity without proper sanction from the

competent authority.

6. As regards the complaint submitted by the petitioner, the 4th and 5th respondent in their counter affidavit would state that the 3rd respondent has forwarded the application to Morattupalayam Town Panchayat for appropriate action and 5th respondent has also indicated that they have not sanctioned any building plan in Survey No.208/1 and also not recommended the same to the Town and Country Planning Department and 8th respondent in his counter affidavit also undertook that only after getting clearance from the Director of Geology and Mining and after getting plan approval of the local panchayat, the building construction will commence in S.No.203/1 and 203/2, Morattupalayam village, Uthukuli Taluk, Tiruppur.

7. The 6th and 7th respondents as well as the 8th respondent have filed their counter affidavits wherein they took a stand that they have not constructed any building on their land and constructed only compound wall to protect the property and also undertake that only after getting clearance from the Director of Geology and Mining and after getting plan approval of the local panchayat, the building construction would

commence.

8. Mr.M.Muthappan, learned counsel appearing for the petitioner would submit in the light of the counter affidavit of the 4th and 5th respondents coupled with the information given by the private respondents in their counter affidavit an appropriate orders may be passed.

9. Mr.P.Sanjay Gandhi, learned Additional Government Pleader for the official respondents would submit that in the light of comprehensive report filed by the respondents 4th and 5th respondents, this Court may pass an appropriate order.

10. The learned counsel appearing for the private respondents would submit that this Court vide order dated 22.09.2017 have permitted to 6th to 8th respondents to complete the construction of compound wall for the purpose of protecting property. The said respondents, in their counter affidavits also given an undertaking that they will not further proceed with the construction until they receive the No Objection Certificate from the Directorate of Town and Country Planning and necessary further approvals from the concerned authorities and in the light of said taken from the writ

petition may be closed.

11. This Court has considered the rival submissions and also perused the materials placed before it.

12. The ownership of the private respondents in respect of the lands in question is not in serious dispute and when they attempted to put up construction, the petitioner had approached this Court by filing the writ petition on the ground that the said construction falls within the 300 meters away from the quarry site.

13. In the light of submission made by the learned counsel appearing for the private respondents, this Court vide order dated 22.09.2017 had directed them to complete the construction of compound wall and the private respondents in their counter affidavit took a stand in fact given an undertaking they will not further proceed with the construction without obtaining approval / permission from the Directorate of Town and Country Planning and concerned authorities.

14. The counter affidavit of the 4th and 5th respondents have also

taken note of the said undertaking filed by the private respondents. In the light of the stand taken by the private respondents, the apprehension / grievance expressed by the petitioner, has been redressed properly and hence no further orders are necessary in this writ petition.

15. Accordingly, the writ petition stands closed. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

(M.S.N.,J) (N.S.S.,J)
28.11.2017

kv/rka
Index: No
Internet: Yes
To

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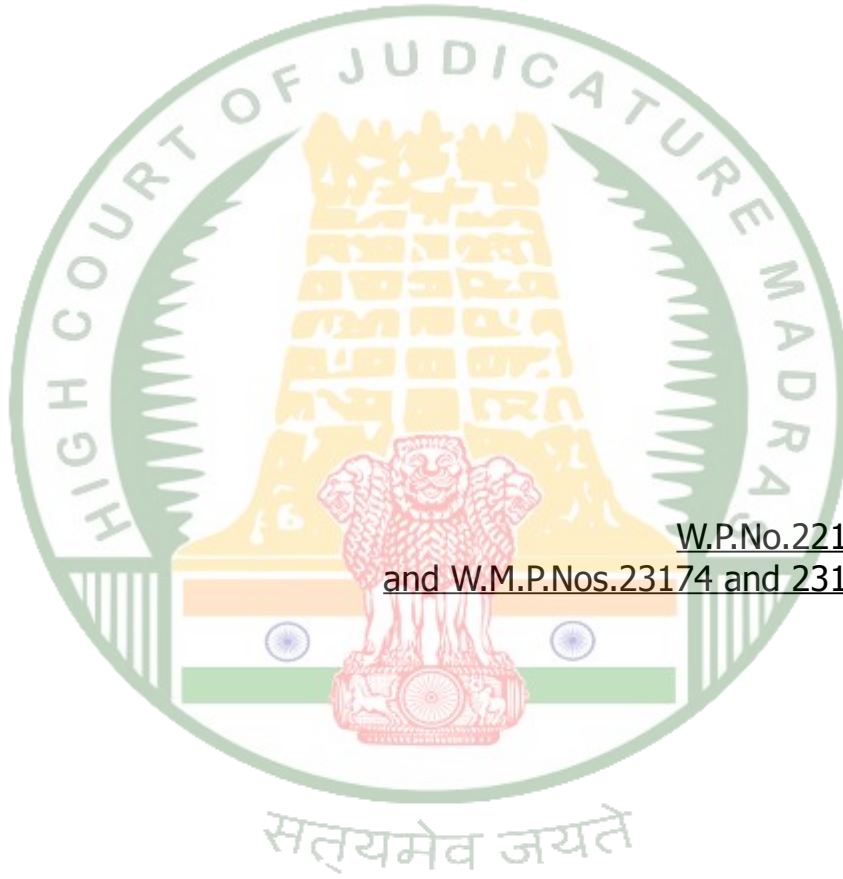
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