

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5108 of 2004

M.Sekar

... Petitioner

Vs.

1. The Secretary to Government,
Mines & Minerals,
St. George Fort,
Chennai.
 2. The Commissioner of Mines
and Minerals,
Guindy, Chennai.
 3. The District Collector,
Vellore District,
Vellore.
 4. The Managing Director,
Skansk Sementation India Ltd.,
Bangalore Highway,
Abdullapuram Post,
Mottor, Vellore District.
- Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records in respect of Na.Ka.P.No.646/2003 Mines dated 19.12.2003 issued by third respondent and quash the same forbearing the fourth respondent from carrying on mines operation in Survey No.83/3 Ulli Village, Gudiyatham Taluk by using high power explosives and issue consequential direction, directing the respondents 1 to 3 to assess the damages caused to the petitioner premises and pay the compensation.

For Petitioner : No Appearance

For Respondents: Mr.M.Digvijayapandiyan for R1 to R3,
Additional Government Pleader.
Mr.Giridhara Rao for R4.

O R D E R

The Petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the entire records in respect of Na.Ka.P.No.646/2003 Mines dated 19.12.2003 issued by third respondent and quash the same, forbearing the fourth respondent from carrying on mines operation in Survey No.83/3 Ulli Village, Gudiyatham Taluk by using high power explosives and issue consequential direction, directing the respondents 1 to 3 to assess the damages caused to the petitioner premises and pay the compensation.

same as illegal, incompetent and without jurisdiction.

2. The matter was posted on the following dates 04.01.2012, 05.01.2012, 30.06.2017 and today(17.07.2017) but the petitioner/party in person was absent on all the occasions. Heard, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent. Though the petitioner/party in person is absent, this court decides the case on its merits.

3.On perusal of the impugned order the petitioner house-site is beyond five hundred metres of the operational site and the house sites are damaged due to the heavy weight of the beam which was constructed by the petitioner. On the ground that the damage was not due to the mining operation. Accordingly, the respondent rejected his claim.

4.The claim of compensation was disputed by the respondent in the impugned order. That dispute cannot be gone into under Article 226 of the Constitution of India and this Court is not competent to adjudicate the disputed question of facts. It is for the competent civil forum to assess the damages, negligence.

5.In view of the above, I am not inclined to interfere with the impugned order passed by the respondent. It is open to the petitioner to approach the appropriate civil forum for the damages.

The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

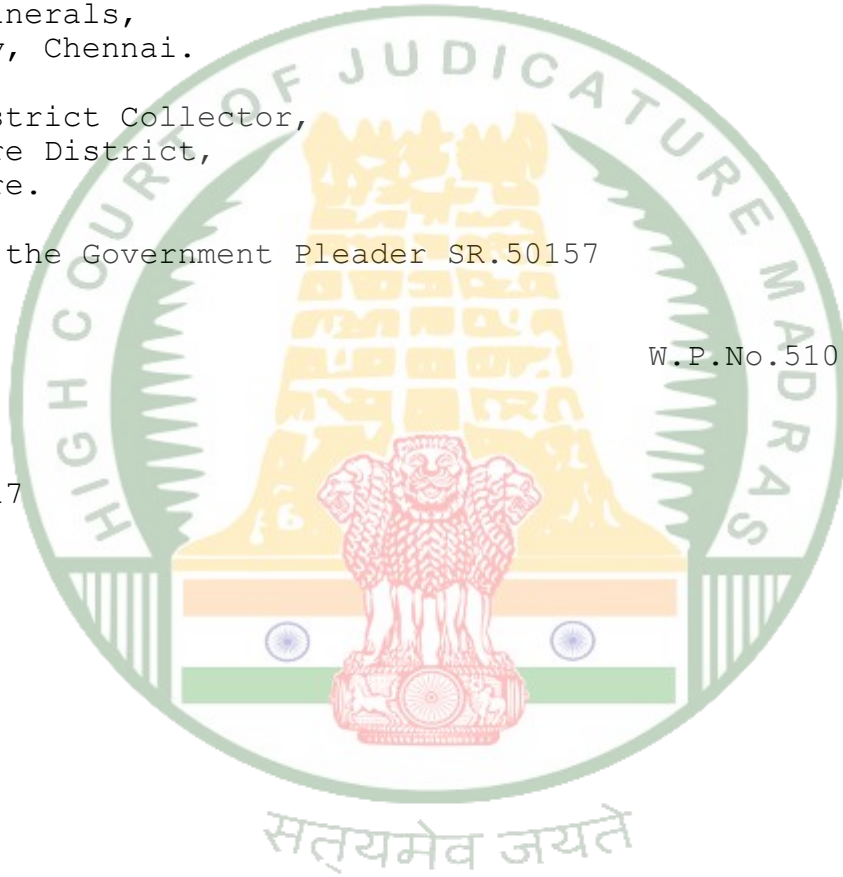
msvm

To

1. The Secretary to Government,
Mines & Minerals,
St. George Fort,
Chennai.
 2. The Commissioner of Mines
and Minerals,
Guindy, Chennai.
 3. The District Collector,
Vellore District,
Vellore.
- + 1 cc to the Government Pleader SR.50157

W.P.No.5108 of 2004

SS(CO)
EU 18.08.17



WEB COPY