

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED:20.02.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.239 of 2012 and
M.P.No.1 of 2012

SRI RAM BLUE METALS
REP.BY ITS PROPRIETOR
S.A.PALANISAMY
S.F.NO.292/2 VEMANDAPALAYAM VILLAGE
GOBI TALUK
ERODE DISTRICT.

[PETITIONER]

Vs

- 1 THE DISTRICT COLLECTOR
ERODE DISTRICT ERODE.
- 2 THE DIRECTOR OF TOWN PLANNING
807 ANNA SALAI CHENNAI-600 002.
- 3 THE REGIONAL DEPUTY DIRECTOR
OF TOWN PLANNING
LOCAL PLANNING AUTHORITY (LPA)
SOORAMANGALAM SALEM-636 005.
- 4 THE TASHILDAR
GOBI TALUK GOBI ERODE DISTRICT.
- 5 VEMANDAPALAYAM PANCHAYAT
REP.BY ITS PRESIDENT NAMBIYUR GOBI TALUK
ERODE DISTRICT.
- 6 THE DIRECTOR OF GEOLOGY
AND MINING ERODE DIST.(R6- IMPL AS PER
ORDER DT.6/1//12 IN MP 2/2012

[RESPONDENTS]

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus directing the Respondents not to grant approval for layout of the lands at Vemandapalayam Village Gobi Taluk Erode District within 300 meters of the Petitioners land by considering and passing orders on the Representation dated 01.07.2011.

For Petitioner : Mr.K.Selvaraj

For Respondents: Mr.Gunasekaran, AGP

O R D E R

Mr.K.Selvaraj, learned counsel is present on behalf of the writ petitioner. Mr.Gunasekaran, learned Additional Government Pleader is present on behalf of the respondents. By consent, the main writ petition itself is taken up for disposal.

2.1 It is the case of the writ petitioner that he purchased land admeasuring 2 acres and 96 cents or thereabouts in Survey Nos.292/1 and 292/2 at Vemandapalayam Village, Gobi Taluk, Erode District. It is the further case of the writ petitioner that he established a stone crushing unit in the name and style of *Sri Ram Blue Metals*, in the said land.

2.2 The writ petitioner's complaint is that there is a possibility of building plans and new lay outs being approved within 300 meters radius *qua* his stone crushing unit.

2.3 It is also the further case of the writ petitioner that this would violate Section 36(1-A)(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959.

3. *Inter alia* with the above plea, the writ petitioner has sent a representation dated 01.07.2011 to the Erode District Collector, who is the 1st respondent herein. Copies of the said representation have been marked to the other Governmental authorities also.

4. The 3rd respondent, namely the Regional Deputy Director of Town Planning, Local Planning Authority (LPA), Sooramangalam, Salem, has filed a counter affidavit dated 12.07.2013. This Counter affidavit has been sworn to on behalf of the 2nd respondent viz., the Director of Town Planning, Anna Salai, Chennai, also.

5. In the counter affidavit, it has *inter alia* been averred that the 3rd respondent acknowledges receipt of the representation of the writ petitioner and that the same has been forwarded to the 5th respondent for taking suitable action. It has also been averred that the 3rd respondent has sent a letter dated 20.03.2013 to the 5th respondent, calling upon him to take action with regard to the problems raised in the representation and address the same. A report with respect to the action taken has also been called for by the 3rd respondent.

6. Mr.Gunasekaran, learned Additional Government Pleader would draw my attention to paragraph No.9 of the counter affidavit and say that it is not clear as to whether the 3rd respondent is the real and true owner at all of land admeasuring 2 acres and 96 cents in Survey Nos.292/1 and 292/2 at Vemandapalayam Village, Gobi Taluk, Erode District.

7. Counsel for the writ petitioner now restricts and abridges the prayer in the main writ petition. The abridged plea/prayer of the writ petitioner now is that he will be satisfied if his above said representation dated 01.07.2011 is disposed of by the 3rd respondent in a manner known to law, within a time frame to be fixed by this Court.

8. Considering the limited/abridged plea/prayer of the writ petitioner, this Court refrains from expressing any opinion on the contents or the merits of the representation/plea of the writ petitioner.

9. The contention of the learned Additional Government Pleader regarding very ownership of the land (by the writ petitioner) is also left open and this Court does not express any opinion on the same.

10. Writ petitioner's counsel draws my attention to a sketch which is filed along with the typed set of papers, wherein, within 300 meters radius

(in the form of circle) *qua* his crushing unit has been depicted. It is noticed from this sketch that several survey numbers fall within this circle/radius.

11. Therefore, it is imperative that the owners of the lands in these survey numbers (within this circle/radius) are also given an opportunity of being heard by the 3rd respondent before the representation of the writ petitioner is disposed of.

12. Hence, the writ petition is disposed of by directing the 3rd respondent to consider the representation of the writ petitioner dated 01.07.2011 and pass appropriate orders, after giving an opportunity to all parties concerned, particularly the owners of the lands which fall within 300 meters radius *qua* writ petitioner's crushing unit in a manner known to law, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

20.02.2017

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M.SUNDAR.J

rg

To

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