



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN**W.P(MD) No. 6877 of 2014 and****M.P(MD) No. 1 and 2 of 2014**

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M. Neelavanan,

... Petitioner

-vs-

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Assistant Director
Geological and Mines Department,
Thoothukudi,
Thoothukudi District.

3. The Tahsildar,
Ottapidaram Taluk,
Ottapidaram,
Thoothukudi District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned letter sent by the second respondent letter No.G.M.1/781/2013 dated --.11.2013 and quash the same as illegal and thereby directing these respondents to permit this petitioner to do the reclamation works in 0.28.5 hectares in S.No.163/5 and 0.89.0 hectares in S.No.163/7 in Keelanattukuruchi revenue village in Ettaiyapuram Taluk in Thoothukudi District and consequently to lift, the removed sand and other debris from the above lands, to outer places.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned reply sent by the second respondent in letter No.G.M.1/781/2013 dated --.11.2013 pursuant to the application made by the petitioner under RTI Act and in the reply, it has been stated that permission for excavation of sand cannot be granted. The petitioner also sought a direction to the respondents to permit the petitioner to do the reclamation works in 0.28.5 hectares in S.No.163/5 and 0.89.0 hectares in S.No.163/7 in Keelanattukuruchi revenue village in Ettaiyapuram Taluk in Thoothukudi District with further direction to lift the removed sand and other debris from the above lands to outer places.



2. The facts of the case in nutshell is as follows:

i) The petitioner has been owning agricultural lands of 0.28.5 hectares in S.No.163/5 and 0.89.0 hectares in S.No.163/7 in Keelanattukuruchi revenue village in Ettaiyapuram Taluk in Thoothukudi District, which are punja lands and not suitable for cultivation.

ii) The petitioner, with an intention to improve the lands by carrying out reclamation works in the lands so as to make the same suitable for agriculture, sought permission from the first respondent in the prescribed format.

iii) Since there was no response on the application submitted by him and later on, he was informed to contact the 2nd respondent for reply, he sent an application under RTI Act to know the status of his application, for which, an information was sent to him by the order impugned herein, stating that his application was rejected. Aggrieved by the action of the second respondent, the petitioner is before this Court.

3. Learned counsel for the petitioner would submit that the petitioner actually sought permission to carry out reclamation works on the land, but the 2nd respondent wrongly understood as if the petitioner sought permission to quarry the land. He would further submit that the intention of the petitioner is to clear the land, which has uneven surface and is not suitable for cultivation, because of the sand and soil heap. He would also submit that the petitioner, being an agriculturist requires to do reclamation work alone, so as to make these lands suitable for agricultural operation and therefore, the impugned order is liable to be set aside.

4. On the other hand, learned Government Advocate, by strongly placing reliance on the counter affidavit, strenuously contended that the land is situated near to the northern side of Vaippar River and river sand is available in the land for quarrying. The petitioner is not a pattadar and one Chinnathai, wife of Karuvelan, a joint pattadar in patta No.555 has sent a petition to the Collector stating that she has not given any consent to the petitioner to quarry Earth/Gravel Sand from the said land. The application of the petitioner has been rejected on 22.11.2011 and he has filed this writ petition after a lapse of 2 ½ years and he has no right or title whatsoever over the land. Hence, the writ petition should be dismissed. However, the learned Government Advocate has fairly submitted that the claim of the petitioner will be considered on its merits and suitable order be passed after ascertaining the nature of permission sought for by the petitioner.



5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

6. It is seen from the averments made by the petitioner that he actually approached the authority concerned with a request to clear the soil heap from his land and since the said request was sent in the prescribed format, the 2nd respondent, by wrongly assuming that the petitioner seeks permission for quarry licence, has rejected the application and the same was communicated to him by way of reply to the RTI application made by the petitioner.

7. Be that as it may, the learned Government Advocate appearing for the respondents, on instructions, fairly conceded that the concerned respondent is prepared to consider the request of the petitioner and pass necessary orders on his application afresh.

8. Under such circumstances, without going into the merits of the contentions raised by both parties, in this writ petition, the impugned order No.G.M.1/781/2013 dated --.11.2013 is set aside and the matter is remitted back to the respondents for fresh consideration. The concerned respondent is directed to carefully look into the matter and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order after affording an opportunity of hearing to the petitioner as well as all the interested co-owners of the said property, if any. The petitioner is also directed to place all the materials available with him before the authority concerned in support of his claim.

9. The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To:

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Assistant Director
Geological and Mines Department,
Thoothukudi,
Thoothukudi District.



3. The Tahsildar,
Ottapidaram Taluk,
Ottapidaram,
Thoothukudi, District.

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+1 CC to M/s.F.X.EUGENE, Advocate, SR No. 63646.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 63970

RM/AR

PSM/KP/SAR2/18.07.2017/4P/6C

W.P (MD) No. 6877 of 2014
06.07.2017