



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2017

CORAM:

THE HON'BLE MRS. JUSTICE J.NISHA BANU

WEB COPY

W.P. (MD) No.9861 of 2015

Durairaj Pandian

... Petitioner

-vs-

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

3.The Tahsildar,
Ambasamudram,
Tirunelveli District.

4.Sadasaravel

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, direct the respondents 1 to 3 to reconsider the quarry license granted to the 4th respondent to quarry in Survey Nos.708 and 709, Kadayam Perumpathu Part-I Village, Tirunelveli District, by considering the representation of the petitioner dated 18.05.2015 within a stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.R.Anandaraj,
1 to 3 Govt. Advocate

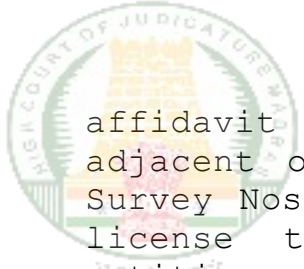
For 4th respondent : Mr.J.Ashok,
for M/s.Jayapaul Associates

O R D E R

This writ petition has been filed by the petitioner seeking a direction to the respondents 1 to 3 to reconsider the quarry license granted to the 4th respondent to quarry in Survey Nos.708 and 709, Kadayam Perumpathu Part-I Village, Tirunelveli District, by considering his representation, dated 18.05.2015, within a stipulated time.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The petitioner averred among the other things in the



affidavit filed in support of the writ petition that he is the adjacent owner of the land belongs to the fourth respondent in Survey Nos.708 and 709, for which the respondents 1 to 3 granted license to the fourth respondent to quarry stones. The petitioner's agricultural properties are situated within 100 meters of the quarry site. More over, there is an irrigation canal and road is situated in the West to the quarry site. If the quarrying operation is permitted, they cannot do any agricultural activities in their properties and their livelihood would be affected. Hence, the petitioner, along with the other land owners, submitted representations to the official respondents. But, without considering the same, the official respondents has issued license to the fourth respondent to quarry his property in Survey Nos.708 and 709. Again the petitioner has sent a representation dated 18.05.2015 to the official respondents stating that because of the quarry operation, he could not conduct his agricultural activities. As there was no response to the same, he has come up with this writ petition with the aforesaid prayer.

3.The first respondent herein has filed a counter affidavit stating that the fourth respondent has applied for lease in the prescribed form on 24.06.2014 to quarry stone in his patta land located in S.F.No.709/2E(Part)(0.05.0), S.F.No.708/1 (0.08.0), 708/2 (0.24.0) and 709/2D2(0.20.0) totally over an extent of 0.57.0 hectares in Kadayam Permpathu Village Part II, Ambasamudram Taluk, Tirunelveli District for a period of five years. Based on the application of the fourth respondent, the Tahsildar, Ambasamudram published 'A1' notice in the Village on 08.07.2014 calling for any objection for the grant of proposed stone quarry lease in S.F.No.709/2E, 708/1, 708/2 and 709/2D2. One Kannan S/o.Sudlayandi having land in S.F.No.703/1 and another one Jacob Nesamony S/o.Joseph having land in S.F.No.710/1C1 & 1C2 have objected to the proposed stone quarry stating that their agriculture activities would be affected. The third respondent inspected the lands of the objectors and found that S.F.No.703/1 is located 190 meters away from the quarry site and S.F.No.710/1C1 & 1C2 is located 66 meters away from the quarry site and thus, rejected their objections stating that there is no possibility of any kind of disturbances to the agricultural activities in the lands of the objectors. The petitioner's lands are situated beyond the land of the objector Jacob Nesamony and hence, there is no possibility of any damage to the crops in his land. It is also stated that there is a road and odai at the distance of 150 meters and 130 meters away respectively. There is no habitation within 300 meters of the quarry site and the land is rocky and unfit for agricultural purpose. As per Rule 36(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959, a safety distance of 50 meters for canal (odai) and 10 meters for village road should be maintained. The third respondent recommended for grant of stone quarry license to the fourth respondent. Though it is alleged in the petition that the agricultural land of the petitioner has been



damaged, he has not given any complaint before the Police Station. It seems that his objection is motivated. More over, the petitioner has failed to file his objections when the representations were called for by the Tahsildar. Thus, the official respondents prayed for dismissal of this writ petition.

4. Heard the learned counsel appearing for both sides and perused the materials available on record.

5. Admittedly, it is not the case of the petitioner that no opportunity was given to the villagers to submit their objections before granting license to the fourth respondent. In fact, the third respondent had called for objections from the villagers and one Kannan and Jacob Nesamony, who are having lands 190 meters and 66 meters away from the quarry site, had filed their objections and the same were rejected considering the distance of their lands from the quarry site. Admittedly, even according to the petitioner, his lands are situated 100 meters away from the quarry site. The petitioner, having failed to file his objections for the reasons best known to him, now has filed this writ petition stating that due to the explosion of rocks by the fourth respondent, his crops have been damaged. But the petitioner has not filed any document in order to prove the same nor he has filed any complaint before the Police. More over, though the first respondent has filed his counter as early as on 27.10.2015 rejecting each and every contention of the petitioner, the petitioner has not filed any rejoinder for the same. This Court does not find any merit in the writ petition. Hence, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Tirunelveli District, Tirunelveli.
- 2.The Revenue Divisional Officer,
Cheranmahadevi, Tirunelveli District.
- 3.The Tahsildar,
Ambasamudram, Tirunelveli District.

+1cc to Mr.T.A.Ebenezer, Advocate in SR.No:17758
+1cc to Special Government Pleader in SR.No:18131

gcg

AE/KP/SAR4/27.04.2017/3P/6C