



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :22.03.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.382 of 2017

and

W.M.P. (MD) .Nos.277 and 278 of 2017

B.Ramakrishnan

... Petitioner

Vs.

- 1.The District collector,
Theni District,
Theni.
- 2.The Revenue Divisional Officer,
Uthamapalayam Division,
Theni District.
- 3.The Assistant Director of Geology and Mining,
Theni District, Theni.
- 4.The Special Revenue Inspector-Mines,
Theni.
- 5.The Sub-Registrar,
The Sub-Registrar Office,
Chinnamanoor, Theni District.

6.S.Sinnan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the impugned order passed by the first respondent under Na.Ka.No.191/Mines/2015 dated 15.06.2016 and its consequential registration of Appendix-IV (Form of Agreement for quarrying and carrying away minor mineral - Gravel from Ryotwari Lands in which the minerals belong to Government) dated 15.06.2016 registered on the file of the 5th respondent and to quash the same.

For Petitioner : Mr.K.R.Laxman
For R.1 to 5 : Mr.TR.Janardhanam
Additional Government Pleader

ORDER

This writ petition has been filed praying for the issuance of a Writ of Certiorari to call for the records of the impugned order passed by the first respondent under Na.Ka.No.191/Mines/2015



dated 15.06.2016 and its consequential registration of Appendix-IV (Form of Agreement for quarrying and carrying away minor mineral - Gravel from Ryotwari Lands in which the minerals belong to Government) dated 15.06.2016 registered on the file of the 5th respondent and to quash the same.

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

3. The case of the petitioner is that the petitioner is the owner of the property measuring 07 cents under S.No.235/1 at Periyakulam Taluk, Chinnamanoor Sub.D.Chinnamanoor Village, Theni District. Originally, the said property is the ancestral property purchased by his father Late.M.Balasubramanian vide sale deed dated 08.12.1986 purchased from Mu.Thangammal registered with the SRO, Chinnamanoor as Doc.No.2422 of 1986. According to the petitioner, when the official respondents granted quarry to the sixth respondent, they gave permission to quarry in respect of the seven cents also. He also contended that the sixth respondent purchased the said "Kallar Jari Land" under S.No.235/2, measuring two acres and 68 cents under sale deed dated 01.06.2015 and the land in question cannot be used for any other purpose much less than the quarry. Hence, he came forward to file the present writ petition.

4. The first respondent has filed a detailed counter affidavit stating that the sixth respondent was granted permission by the first respondent for quarrying operation in Town Survey No.9/4 of Chinnamanur Municipality Town for carrying away gravel, in his proceedings Na.Ka.No.191/Mines/2015 dated 15.06.2016 for a period of three years from 15.06.2016 to 14.06.2019 after he had complied with all the conditions such as getting environmental clearance certificate, no objection certificate from the Tamil Nadu Pollution Control Board etc., and the lease agreement in Appendix IV for quarrying and carrying away the gravel was registered by the fifth respondent as deed No.2615/2016 on 15.6.2016.

4.1. It is not in dispute that the petitioner is the owner of the landed property bearing town S.No.9/5 of Chinnamanur Municipality Town, which measures seven cents and for the old survey number, for town survey No.9/5 is 235/1. The Town Survey No.9/5 of Chinnamanur Municipality Town stands registered in the name of the writ petitioner and the land in town Survey No.235/1 was a patta dry land. Prior to 01.06.1931, the land in S.No.235/2 measuring 6 acres and 44 cents was assessed waste dry reserved for assignment under Kallar Jarry condition. As per the prevailing condition, the land assigned under Kallar Jarry Condition should not be purchased by non-kallar community people. As the sixth respondent, who has purchased his land by sale deed No.2237/2015, dated 01.06.2015, belongs to Kallar community, there is neither violation nor breach



4.2. Further, section 7 of the Revenue Standing Order 28, provides the right to every holder on ryotwari tenure to work minerals on his land subject to the condition that the ryotwari holder should pray therefor, a separate assessment in addition to the usual assessment for surface cultivation. As regards the land assigned under Kallar Jarry condition also, the right to work for minerals on his land has not been prohibited by any specific condition. While so, the petitioner's property is situated in Town Survey No.9/5 for which the old Survey number is 235/1 and the writ petitioner has fenced his land in Town Survey No.9/5 by erecting stone pillars around his land and his land has not been disturbed by any means as alleged by the petitioner.

4.3. That apart, even in the writ petition at paragraph No.10, the writ petitioner has averred that though the sixth respondent has not done quarrying activities in his property, on the pretext that the sixth respondent is going to quarry, he has filed the present writ petition.

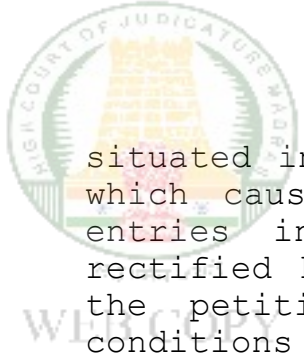
4.4. To sum up, it is clear that the official respondents have not violated any of the conditions stipulated under the Act and it is the case of the official respondent that the entries in the Town Survey Register maintained by the Municipality Commissioner, Chinnamanur, exhibited Survey No.235/1 and 235/2 as the old Survey number for Town Survey Nos.9/4 and 9/5. Based on this entry, the old Survey number for Town Survey No.9/4 was noted as S.No.235/1 in the lease deed leaving the succeeding S.No.235/2 and this act of entry in the lease deed was not done wantonly or willfully. As soon as the mistake was communicated to the official respondents, the Municipal Commissioner had addressed vide his letter in Na.Ka.No.191/Mines/2015, dated 08.08.2016 and the Commissioner has reported in his Lr.Na.Ka.No.5585/2016/F1, dated 18.08.2016 that Thiru.Sinnan is carrying on quarrying operation only in Town Survey No.9/4 (Old S.No.235/2).

4.5. On the basis of the report of the Municipal Commissioner, a rectification deed has been prepared by correcting the old Survey number as 235/2 for Town Survey No.9/4 instead of the previous entry as 235/1 and the same has been registered as Deed No.392/2017 on 02.02.2017, by the Sub-Registrar, Chinnamanur. The petitioner is also well aware of the same as and it is already stated earlier, the petitioner has properly fenced the property in question and the petitioner presumes that the sixth respondent would do quarry operation in his land also and hence, he prayed for appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for the official respondents.

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6. Considering the fact that the petitioner's property is



situated in S.No.235/1 and the entries in the sale lease agreement which caused to the confusion, which was prepared based on the entries in the town survey register number, which was later rectified by the official respondents, based on the complaints by the petitioner and further, recording the fact that all the conditions have duly been complied with by the sixth respondent by following the due process of law, the prayer in the writ petition fails and therefore, it is liable to be dismissed.

7. Accordingly, this writ petition stands dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To,

- 1.The District collector,
Theni District,
Theni.
 - 2.The Revenue Divisional Officer,
Uthamapalayam Division,
Theni District.
 - 3.The Assistant Director of Geology and Mining,
Theni District, Theni.
 - 4.The Special Revenue Inspector-Mines,
Theni.
 - 5.The Sub-Registrar,
The Sub-Registrar Office,
Chinnamanoor, Theni District.
- +1 CC to M/s.K.R.LAXMAN, Advocate, SR No. 16975
SSM
PSM/SV-MMS/SAR3/17.04.2017/4P/7C

W.P (MD) No.382 of 2017
and

W.M.P (MD) No.277 & 278 of 2017
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