



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

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W.P(MD)No.6101 of 2017 and
W.M.P(MD)No.4809 and 4810 of 2017G.Seenivasan,
Proprietor of G.S.Bricks, ... Petitioner

-vs-

1. The District Collector,
Virudhunagar District,
Virudhunagar.2. The Deputy Director of Geology and Mining,
Virudhunagar
Virudhunagar District.3. The Executive Engineer,
Public Work Department,
Water Resource Organization,
Upper Vaippar Basin Division,
Rajapalayam,
Virudhunagar 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 relating to the impugned order passed by the first respondent in his proceedings in e/f/nftp3/4603/2017 dated 28.02.2017 and quash the same in so far as permission granted for quarrying Savudu Sand for the period of three months is concerned and consequently to direct the first respondent to grant permission for excavation of Bricks Earth instead of Savudu Sand and grant three years period instead of three months period for undertaking quarry operation within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
For M/s.Ajmal Associates
For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned order passed by the first respondent in his proceedings in e/f/nftp3/4603/2017 dated 28.02.2017, in and by which, the first respondent granted permission for quarrying Savudu Sand only



for three months. The petitioner also sought a direction to first respondent to grant permission for excavation of Bricks Earth instead of Savudu Sand and grant three years period instead of three months period for completing the said operation.

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

i) The petitioner was running a Brick Kiln in the name and style of "G.S.Bricks and River Sand Supplies" for the past three years and granted license by the first respondent vide proceedings in Roc.No.KV3/7059/2017 dated 20.03.2017 for the period of one year, which is valid upto 19.03.2018;

ii) When the petitioner applied for grant of lease to excavate brick sand for a period of three years, the license was granted to him by the first respondent to take savudu sand for a period of three months alone. Aggrieved by the action of the first respondent, the petitioner is before this Court, seeking to quash the impugned order dated 28.02.2017.

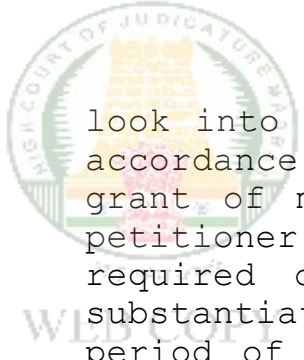
3. Learned counsel for the petitioner would submit that before considering the application of the petitioner, the authority concerned has not applied his mind in a proper manner while granting lease for excavation of brick sand. Instead, the 1st respondent herein directed the petitioner to produce necessary documents from the statutory authorities for the purpose of grant of Savudu sand, which the petitioner did not ask for in the application at all and therefore, the impugned order is liable to be set aside.

4. Per contra, learned Government Advocate appearing for the respondents fairly submitted that the authority concerned, on the wrong notion, has considered the claim of the petitioner in granting permission for savudu sand instead of brick sand.

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

6. This Court has perused the application filed by the petitioner for grant of lease, wherein in Column No.8, he has clearly mentioned that the minor mineral, which the applicant intends to quarry is Bricks Earth and nowhere, he sought permission for excavation of savudu sand. Thus, it is clear that there is a total non application of mind in granting license to the petitioner, that too, for a period of three months. Under such circumstances, the impugned order is liable to be set aside for the reasons stated supra.

7. Accordingly, the impugned order dated 28.02.2017 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 with regard to the claim of the petitioner for grant of mining lease in respect of bricks earth, provided the petitioner satisfies the authority concerned on production of required documents obtained from the statutory authorities to substantiate his claim. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order after hearing the petitioner.

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

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To:

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Deputy Director of Geology and Mining,
Virudhunagar
Virudhunagar District.
3. The Executive Engineer,
Public Work Department,
Water Resource Organization,
Upper Vaippar Basin Division,
Rajapalayam, Virudhunagar District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 63964.

+1 CC to M/s.AJMAL ASSOCIATES, SR No. 63741

AR/RM

PSM/SV/SAR1/11.07.2017/3P/6C

W.P (MD) No. 6101 of 2017

06.07.2017