



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.01.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **A.SELVAM**

and

THE HONOURABLE MR.JUSTICE **P.KALAIYARASAN**

W.P(MD)No.8368 of 2011

and

M.P(MD)No.1 of 2011

D.Dharmalingam

.. Petitioner

Vs.

1.The District Collector,
Collectorate, Trichy.

2.The Assistant Director of Geology and Mines,
Collectorate, Trichy.

3.Chellakkannu

4.Kunjarammal

5.Subbaiah

6.Selvaraj

(Respondents 3 to 6 are impleaded as
party respondents as per order dated
04.08.2011 made in M.P(MD)No.2 of
2011).

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to remove the encroachment in the quarry land in S.No.411/1(Part) extent of 3.95.5 Hectare at Serugudi Village, Musiri Taluk, Trichy District auctioned in the proceedings in Na.Ka.No.263/2008, dated 12.04.2008 in favour of the petitioner for the period of 02.06.2008 to 20.06.2013 and consequently extent the time for five years from the date of handing over the quarry site after removing the encroachments.



For Petitioner : Mr.V.Illanchezian
For Respondents 1 and 2 : Mr.M.Govindan,
Special Government Pleader.
For Respondent No.3 : Mr.D.Malaichamy
For Respondent No.4 : Mr.N.R.Balaji Srinivasan
for M/s.Hallmark Associates.
(No appearance)
For Respondents 5 and 6 : No appearance

ORDER

[Order of the Court was made by **A.SELVAM, J.**]

This writ petition has been filed under Article 226 of the Constitution of India praying to direct the respondents to remove encroachments alleged to have been made by the respondents 3 to 6, by way of issuing a writ of mandamus.

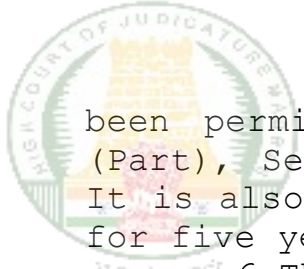
2.It is averred in the petition that the petitioner is a successful bidder in respect of operation of quarry in Survey No.411/1(Part), Serugudi Village, Musiri Taluk, Tiruchirappalli District. Further it is averred in the petition that even from the inception of lease, the respondents 3 to 6 have made certain encroachments and various representations have been given. But the authorities have not taken any steps and therefore the present writ petition has been filed for getting the relief sought therein.

3.The learned counsel appearing for the petitioner has repeatedly contended to the effect that as per proceedings dated 12.04.2008, the petitioner has been permitted to operate quarry which situates in Survey No.411/1(Part), Seruudi Village, Musiri Taluk, Tiruchirappalli District, but from inception of lease, the respondents 3 to 6 have made certain encroachments and even after giving proper representations, the respondents 1 and 2 have not taken any steps and therefore the present writ petition has been filed for getting the relief sought therein.

4.The learned Special Government Pleader appearing for the respondents 1 and 2 has contended that as per proceedings dated 12.04.2008, the petitioner has been permitted to perform quarry activities in Survey No.411/1(Part) for a period of five years and the lease period of the petitioner has become expired on 01.06.2013 and therefore the relief sought in the writ petition cannot be granted.

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

5.It is an admitted fact that by virtue of the proceedings dated 12.04.2008 passed in Na.Ka.No.263/2008, the petitioner has



been permitted to perform quarry operations in Survey No.411/1 (Part), Serugudi Village, Musiri Taluk, Tiruchirappalli District. It is also equally an admitted fact that the lease period is only for five years and the same has come to an end on 01.06.2013.

6.The main gravamen expressed on the side of the petitioner is that even from inception of lease, the respondents 3 to 6 have made certain encroachments in Survey No.411/1(Part).

7.Considering the fact that already lease period has come to an end on 01.06.2013, question of evicting the alleged encroachers viz., respondents 3 to 6 does not arise. If at all the quarry operation has been stalled by the alleged encroachments made by the respondents 3 to 6, the petitioner can work out his remedy by way of instituting separate proceedings against the respondents 1 and 2. Since as stated earlier, lease period has already become expired, the relief sought in the writ petition cannot be granted.

8.In fine, this writ petition is dismissed without costs. However the petitioner is at liberty to institute separate proceedings against the respondents 1 and 2 on the basis of alleged encroachments made by the respondents 3 to 6. Consequently, connected Miscellaneous Petition is dismissed.

Sd/
Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Collector,
Collectorate, Trichy.

2.The Assistant Director of Geology and Mines,
Collectorate, Trichy.

+1cc to Mr.V.Illanchezian, Advocate, in SR No.1059.
+1cc to Mr.D.Malaichamy, Advocate, in SR No.1024.

Smn
Js-Pm-Am/18/01/2017/3p-5c/

ORDER MADE IN
W.P (MD) No.8368 of 2011
and
M.P (MD) No.1 of 2011



WEB COPY