

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.27857 of 2013
and M.P.No.2 of 2013

1. R.Marappan (deceased)
 2. Rukmani
 3. M.Balachandran
 4. M.Vijayakumar
- ...Petitioners

[P2 to P4 are substituted as LRs of the deceased P1,
as per the order of this Court dated 23.09.2016
in WMP.No.8272 of 2016 in WP.No.27857 of 2013]

Vs.

1. The Director of Geology and Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
 2. The District Collector,
Tiruppur District, Tiruppur.
 3. S.S.Vellingiri
 4. Vikas Seva Trust
Rep. by its trustee A.Ramasamy
- ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the 2nd respondent made in Na.Ka.No.297/2012/Minerals, dated 03.09.2012 and quash the same as arbitrary, illegal and unreasonable and further direct the 2nd respondent to consider the renewal application dated 26.06.2012 made by the petitioner with respect to his lands comprised in Survey Nos.86/A1 & 89/3B situated in A.Periyapalayam Village, Avinashi Taluk, Tiruppur District for removal of rough stone and gravel.

For Petitioners :M/s.V.P.Sengottuvel
For Respondents :Mr.V.Shanmuga Sundar,
Spl.G.P. for RR1 & 2
No Appearance, for R3
Ms.Dakshayani Reddy, for R4

ORDER

The order of rejection of mining lease by the second respondent dated 03.09.2012 has been challenged in this Writ Petition.

2. The writ petitioner R.Marappan was granted mining lease by the District Collector, Erode on 12.04.2002 for his lands in Survey No.86/A1 and 89/3B for a period of five years under Rule 36 of Tamil Nadu Minor Mineral Concession Rules. The mining lease was renewed for a period of five years by the order of the District Collector on 09.07.2007 and the period ended on 08.07.2012.

3. The petitioner would state that the fourth respondent purchased lands in R.S.No.426, Neruperichal Village, vide sale deed dated 16.06.2005 within 300 metres from the petitioner's quarry to establish a School. Hence, the petitioner filed W.P.No.11037 of 2009 for issuance of Writ of Mandamus and despite an order of interim injunction the private respondents started construction of buildings. Therefore, the petitioner filed Contempt Petition No.153 of 2010 and the Contempt Petition came to be closed on 22.04.2010 recording the undertaking of the Trustee viz., A.Ramasamy that he would not proceed with the construction until further orders passed in the Writ Petition. The petitioners would further state that the renewal of mining lease sought for by the writ petitioner was rejected by the second respondent on the ground that the School building is existing within the prohibited distance of 300 metres.

4. Mr.V.P.Sengottuvel, learned counsel for the petitioners would urge that against the order of rejection of the District Collector, dated 03.09.2012, the petitioners had 30 days time to file an appeal, but before expiry of the limitation, the first respondent, who is the appellate authority, had given an opinion to the fourth respondent for granting building permission. So, though the petitioners preferred an appeal before the appellate authority, has challenged the order in this writ petition.

5. It is further submitted that since the appellate authority, who had granted opinion in favour of the fourth respondent has been transferred and now new officer has taken

charge, this writ petition can be disposed of, by directing the first respondent to consider the appeal by granting licence in favour of the petitioners beyond 300 metres from the fourth respondent-School, in Survey No.426 Part.

6. It is contended by Ms.Dabshayani Reddy, learned counsel for the fourth respondent that even after expiry of the mining lease in the year 2012, the petitioners are still carrying on mining operation in the same place and also obtained another licence in Survey No.86, which is situated very close to the four respondent-School.

7. In the instant case, it is not in dispute that the writ petitioner-Mr.R.Marappan was granted permission to mine stone quarry in his patta land and during the pendency of the Writ Petition, he passed away and his legal heirs are brought on record by an order dated 23.09.2016 and the renewal application was not favourably considered on the ground that the area comes within the prohibited distance of 300 metres from the 4th respondent School. The petitioners have filed an additional affidavit dated 22.02.2018 for grant of mining lease beyond 300 metres from the fourth respondent School.

8. Taking note of the facts of this case and submissions of the learned counsels, the writ petition is disposed of, directing the first respondent to pass orders on the appeal of the petitioners dated 01.10.2012 in the light of the additional affidavit, purely on merits and in accordance with law, after providing an opportunity of hearing to the necessary parties. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Director of Geology and Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.

2. The District Collector,
Tiruppur District, Tiruppur.

+1cc to Mr.V.P.Sengottuvel, Advocate Sr.53079

WP.No.27857 of 2013

ss[col]
srg 31/08/2018



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