

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.07.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29290 of 2013
and
M.P.No.2 of 2013

R.Subramaniam

.. Petitioner

vs

- 1.The District Collector,
Tirupur District,
Tirupur.
- 2.The Deputy Director,
Department of Geology and Mining,
District Collectorate Office Campus,
Tirupur.
- 3.The Revenue Divisional Officer,
Tirupur Division, Tirupur.
- 4.The Tahsildar,
Palladam Taluk,
Palladam, Tirupur District.
- 5.The Executive Engineer,
Tirupur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Palladam - 641 664,
Tirupur District.

6.R.Ramakrishnan

7.S.A.Ganesan

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein pertaining to the quarry licences granted to the 6th & 7th respondents herein in Na.Ka.Nos.242/Mines/2010 & 214/Mines/2011 dated 07.09.2010 & 24.10.2011 respectively and the subsequent order made in Na.Ka.No.214/Mines/2011 dated 14.12.2012 and quash the same and

further direct the 1st respondent herein to pay the petitioner a compensation of Rs.5 lakhs.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents : M/s.A.Srijayanthi,
Spl GP for R1 to R4
Mr.C.Prakasam for R6
Mr.N.Manokaran for R7
No appearance for R5

O R D E R

The relief sought for in this writ petition is to call for the quarry licences granted in favour of the 6th & 7th respondents in proceedings dated 07.09.2010 and 24.10.2011.

2.The learned counsel appearing on behalf of the 7th respondent made a submission that the quarry licence was granted in favour of the 7th respondent in proceedings dated 24.10.2011 for a period of five years and accordingly, the licence period expired on 23.10.2016. Thereafter, the learned counsel is not aware of the fact that the quarry licence had not been renewed in favour of the 7th respondent as of now. Thus, the cause aroused for filing of the present writ petition became vanished and no adjudication needs to be entertained in respect of the grievances addressed in the present writ petition.

3.The order impugned in this writ petition is enclosed in Page No.16 of the typed set of papers filed along with the writ petition. It is clearly stated that the tenure of licence is for five years from 24.10.2011 to 23.10.2016. Thus, the period of licence expired and therefore, the cause aroused became infructuous.

4.In spite of these facts, the learned counsel for the petitioner insisted the Court by stating that the writ petitioner sustained heavy damage on account of grant of quarry licence in favour of the 7th respondent and some compensation is to be paid to the writ petitioner. Further, it is contended that actions must be initiated against the officials, who all are responsible for granting quarry licences contrary to the regulations.

5.Undoubtedly, if the quarry license is granted contrary to the provisions of the statute or rules, then the authorities, who granted such illegal licenses are to be prosecuted under the provisions of law. The competent authorities are bound to verify

all the terms and conditions stipulated in the regulations and thereafter, grant quarry license. Grant of quarry licenses should not affect the public at large in a particular area.

6.This being the principles to be followed, it is duty mandatory on the part of the competent authorities to ensure that all such quarry licences are granted in accordance with the provisions of law and there should not be any violation. In the event of violation, appropriate actions must be taken against the officials, who granted such illegal quarry licenses.

7.The learned counsel appearing on behalf of the respondents contended that the writ petitioner has constructed an illegal building in an unapproved layout. There was a collusion in respect of the construction of building by the writ petitioner in an unapproved layout. Thus, the illegal construction of a building in an unapproved layout is illegal and the actions must be taken against the writ petitioner also.

8.The District Collector, who filed a counter affidavit also states that "after duly examined the statements of the petitioner and the lessee respondents, inspection report of the Tahsildar, Palladam and available records the District Collector has disposed the petitioner's representation dated 20.09.2012. While disposing the representation of the petitioner, the report of the Block Development Officer, Palladam and Deputy Director, Town and Country Planning, Coimbatore are also taken into consideration. In the reports, they have stated that there is no approved layout and habitations are existing within the radial distance of 300 mts from the lease granted area. Since, the said lease applications are not attracting the rule 36 (1-A) (a) of Tamil Nadu Minor Mineral Concession Rules, 1959, the District Collector, has granted lease to the lessee respondents in the applied area. Hence the contention of the petitioner deserves no consideration and devoid of merits and liable to be dismissed." In paragraph 10 of the counter affidavit, once again the District Collector, Tiruvannamalai reiterated that "Since there is no approved layout, habitation are located within the radial distance of 300 mts from the subject lease applied area, the subject quarry lease applications are not attracting the rule 36 (1-A) (a) of Tamil Nadu Minor Mineral Concession Rules, 1959. The stone quarry operation in the subject lease area is going without any complaints from any quarters except this petitioner.

9.The District Collector has stated that the writ petitioner has constructed a building in an unapproved layout, which is contrary to the provisions of law.

10.When this Court directed the authorities not to grant quarry license contrary to the legal provisions equally the

actions must be taken against the writ petitioner also in respect of an illegal construction. If the writ petitioner has put up an illegal construction, then it is the duty of the District Collector and other authorities concerned to inspect the building and to find out whether it was constructed in accordance with the provisions of law or not and thereafter, proceed against the writ petitioner under the relevant provisions of law.

11.This Court has to adopt a pragmatic approach in order to provide a social justice to all the parties concerned. When it is reiterated by this Court, no illegal quarry licenses to be granted contrary to the legal provisions. Equally, Persons, who have constructed illegal buildings are also to be booked under the relevant provisions of law. Under these circumstances, the District Collector/the first respondent is directed to inspect the building constructed by the writ petitioner in a prohibited area and if any such building is constructed in an illegal manner and contrary to the provisions of law, all suitable actions are to be initiated against the writ petitioner also.

12.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Tirupur District,
Tirupur.
- 2.The Deputy Director,
Department of Geology and Mining,
District Collectorate Office Campus,
Tirupur.
- 3.The Revenue Divisional Officer,
Tirupur Division, Tirupur.

4.The Tahsildar,
Palladam Taluk,
Palladam, Tirupur District.

+1cc to Mr.N.Manokaran , Advocate, S.R.No.45540
+1cc to Mr.C.Prakasam , Advocate, S.R.No.45577
+1cc to Mr.P.M.Duraiswamy, Advocate, S.R.No.45604
+1cc to the Government Pleader, S.R.No.45769

W.P.No.29290 of 2013

MR (CO)
CS/24/07/18



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