



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Petition (MD).No.2782 of 2018
and
W.M.P.(MD).No.2944 of 2018

H.Bhagavath Singh

... Petitioner

Vs.

1. The Deputy Director,
Town and Country Planning,
Tirunelveli.

2. The Special Officer / Block Development Officer,
Tharuvai Panchayat,
Palayamkottai Panchayat Union,
Tirunelveli District.

3. The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

4. The Deputy Director,
Geology and Mining Department,
District Collectorate Campus,
Tirunelveli District.

5. Thiru.Thangamuniyasamy
The Deputy Director,
Geology and Mining Department,
District Collectorate Campuns,
Tirunelveli District.

6. G.Jebarajan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with impugned order in Letter No.A1/7767/2017 dated 03.01.2018 on the file of the respondent No.3, and consequential order in Na.Ka.No. 6/6451/2017 dated 04.01.2018 on the file of the respondent No.2 and quash the same as illegal.

For Petitioner
For R1 to R4

: Mr.R.Alagumani
: Mr.D.Muruganantham
Additional Government Pleader
: Mr.G.Prabhu Rajadurai for
Mr.Maharaja

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

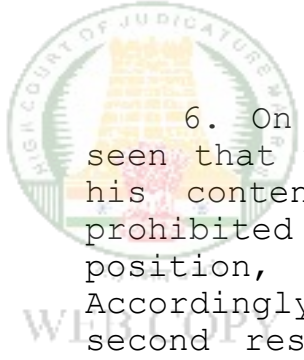
Heard Mr.R.Alagumani, learned counsel for the petitioner, Mr.D.Muruganantham, learned Additional Government Pleader for the respondents 1 to 4 and Mr.G.Prabhu Raja Durai, learned counsel accepts notice on behalf of the sixth respondent. Considering the nature of relief that we propose to grant, notice to the fifth respondent is dispensed with.

2. By consent of either side, the writ petition itself is taken up for final disposal.

3. The petitioner has completed his B.Tech degree and purchased lands comprised in Survey No.821/3C1 in Taruvai Village measuring an extent of 6.88 cents. The petitioner wanted to use the land for manufacturing of plastic articles and for the purpose, he had underwent a training in the District Industrial Centre and loan of Rs.10,00,000/- was sanctioned by the Indian Overseas Bank. The petitioner was also granted subsidy of 35% by the Khadi Village and Industries Commission. The petitioner appears to have started construction. At this juncture, there was an objection raised by the fourth respondent stating that the petitioner's property is situated within the prohibited distance of 300 meters from the stone quarries which are situated in Survey Nos.844, 848, 847 and 851. Though the petitioner has made certain personal allegations against the sixth respondent, we do not propose to go into those allegations as the petitioner's grievance is that he had no opportunity to put forth his contentions and the distances between his property and those three stone quarries was not measured in his presence. Thus, the petitioner would submit that there has been serious violation of principles of natural justice.

4. The learned counsel for the sixth respondent submits that the petitioner has purchased the property very recently and his property is situated within the prohibited distance and the petitioner yet to secure a building plan approval from the second respondent Panchayat. The learned counsel for the petitioner in reply would submit that the petitioner's application for planning permission is pending before the second respondent and in the mean time, by communication dated 04.01.2018, the second respondent stated that the petitioner's property is situated within the prohibited distance from the stone quarries.

5. The learned counsel for the petitioner would point out that the Tahsildar, Palayamkottai, in his proceedings dated 03.01.2018, addressed to the Deputy Director of Town and Country Planning and other officials, has stated that the environmental clearance to be obtained from the District Level Expert Appraisal committee in respect of the four stone quarries which is still pending.



6. On a perusal of the communication dated 04.01.2018, it is seen that the petitioner did not have any opportunity to put forth his contention to state that his property is well beyond the prohibited distance of 300 meters. Thus, considering the factual position, the following direction will meet the ends of justice. Accordingly, the writ petition stands disposed of by directing the second respondent to inspect the petitioner's property with the assistance of Taluk Surveyor of the concerned Taluk in the presence of the petitioner as well as the sixth respondent and measure the distance of the petitioner's property from those three stone quarriers and after taking into consideration all the records, pass a speaking order on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. Till then, the status quo prevailing as on today (12.02.2018) in respect of the petitioner's property shall be maintained. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. It is made clear that the above direction should be complied with without being any manner influenced by the observation made in the earlier order passed by the second respondent.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Director,
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Tirunelveli.
2. The Special Officer / Block Development Officer,
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Palayamkottai Taluk,
Tirunelveli District.
4. The Deputy Director,
Geology and Mining Department,
District Collectorate Campus,
Tirunelveli District.

+5cc to M/S.M.Maharaja, Advocate SR.No. 47689

+1cc to M/S.R.Alagumani, Advocate SR.No. 47777

+1cc to Special Government Pleader, SR.No. 48528

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