

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.01.2019
CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3274 of 2018
and WMP.No.4022 of 2018

N.Velusamy

... Petitioner

Vs.

1.Government of Tamil Nadu,
Industries (MMC-1) Department,
Represented by Additional Chief Secretary,
Fort St.George,
Chennai 600 009.

2.The Commissioner of Geology and Mining,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai 600 032.

3.The District Collector,
Tiruppur District, Tiruppur.

4.The Deputy Director,
Geology and Mining,
Tiruppur.

.... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records of the 3rd respondent made in RC.No.953/Mines/2007 dt 26.12.2017 Proceedings of the 2nd Respondent in LR.NO.9277/MM11 /2017 dated 29.12.2017 and the consequential proceedings of the 1st respondent in Lr.No.120/MMC.1/2018-1 dt.08.01.2018 and quash the same as arbitrary, illegal and unreasonable and further direct the respondents herein to permit the petitioner to carry on quarrying operation for the entire lease period in the mining lease granted by the third respondent in Na.Ka.No.589/Minerals/2013 dt 31.05.2015.

For Petitioner : Mr.V.P. Sengottuvel

For Respondents : Mr.N.Srinivasan
AGP

O R D E R

This writ petition has filed by the petitioner praying to issue a Writ of Certiorarified Mandamus calling for the entire records of the 3rd respondent made in RC.No.953/Mines/2007 dated 26.12.2017 and the consequential proceedings of the 1st respondent in Lr.No.120/MMC.1/2018-1 dated 08.01.2018 and quash the same and further direct the respondents to permit the petitioner to carry on quarrying operation for the entire lease period in the mining lease granted by the third respondent in Na.Ka.No.589/Minerals/2013 dt 31.05.2015.

2. According to the learned counsel for the petitioner, the petitioner is the absolute owner of the dry lands comprised in S.No.99/4B measuring an extent of 4.67.60 Hect and S.No.100 measuring an extent of 4.06.50 Hec., total measuring an extent of 8.71.1Hec situated at Kanakkampalayam Village, Tiruppur Taluk, Tiruppur District. On 05.11.2013, the petitioner was submitted an application to the third respondent for quarry lease for a period of five years with respect to S.No.99/4B and 100 measuring an extent of 2.38.0 Hec. Out of an extent of 8.71.1 Hec situated at Kanakkampalayam Village along with approvals from the competent authorities including from State Environment Impact Assessment Authority. The competent authority inspected the lands for which lease was sought for and after confirming the lands are not attracted under any of the restrictions in respect of grant of quarry lease envisaged under Rule 36 of the Tamil Nadu Miner Mineral Concession Rules, 1959. Pursuant to the order of grant of mining lease both the third respondent and the petitioner entered into an agreement for quarrying operation. But the respondent has granted for a period of five years commencing from 05.06.2015 to 04.06.2020. On 05.06.2015 entered into an agreement for quarrying and carrying away minor minerals under Rule 19(1) and 22 of the Tamil Nadu Miner Mineral Concession Rules, 1959. The petitioner had approached the District Collector, Coimbatore for quarry lease for quarrying and carrying away minor minerals and he was granted Mining Lease under Rule 19(1) and 22 of the Tamil Nadu Mine Mineral Concession Rules, 1959 for a period of 5 years from 30.11.2008 .

3. It is further submitted that the petitioner received the proceedings of the 1st respondent in Lr.No.120/MMC/.1/2018-1 dated 08.01.2018 directing the petitioner to appear for personal hearing on 15.02.2018 under Section 4A(2) of Mines and Minerals (Development and Regulation) Act, 1957 on the recommendation made by the

respondent 2 and 3 for premature termination of mining lease as the petitioner's quarry situated within 300 meters distances from the proposed project of the Tamil Nadu Slum Clearance Board for construction of tenements. The third respondent had taken action without notice to the petitioner. While the petitioner is having valid lease upto 04.06.2020, he is not using high power explosives in the aforesaid quarry area. The respondents without following the principles of natural justice after affording opportunity to the petitioner. Hence the petitioner has come forward with the present writ petition.

4. The learned Special Government Pleader appearing for the respondents would submit that the third respondent has issued proceedings in Rc.No.953/Mines/2017 dated 26.12.2017 to the respondents 1 and 2 wherein it is stated that the Deputy Director (mines) has recommended that a clearance may be accorded to the Slum Clearance Board for the construction of tenements in S.F.No.597/1(Part) of Neruperichal Village, Tiruppur North Taluk, under Rule 36 (1A) of the Tamil Nadu Minor Mineral Concession Rule 1959 without making premature termination of the quarry leases since the quarries are not using high power explosives. The Tamil Nadu Slum Clearance Board has informed that the Government has to sanction for the construction of 1248 multi storeyed tenements comprising the total built up area exceeding 20000 sq.meters in S.F.No.597/1 (Part) of Neruperichal Village. It was reported from the Deputy Director (Mines) that high power explosives are used in the petitioner's quarry for breaking of rocks. Hence the lease may be terminated under Section 4A(2) of Mines and Minerals (Development) and Regulation) Act 1957. Further, the third respondent has forwarded a proposal seeking concurrence under Section 4A(2) of the Act, 1957 for premature termination of rough stone quarry. The third respondent viz., District Collector, Tiruppur District recommended for termination of lease deed and the same is pending before the Government. The writ petition filed at the premature stage, is not maintainable. The learned counsel for the petitioner has filed an affidavit of undertaking which reads as under:

The petitioner herein undertakes to carry on quarrying operations in S.F.No.99/4B and 100 over an extent of 2.38.0 Hec.out of 8.71.1 Hectare situated at kanakkampalayam Village, Tiruppur North Taluk, Tiruppur District which is falling beyond 300 metres from the proposed construction of tenements by Tamil Nadu Slum Clearance Board in the land in S.F.No.597/1 Part, Neruperichal Village

and within the lease hold area granted by the 3rd respondent in its proceedings in Na.Ka.No.589/Minerals/2013 dated 31.05.2015. The petitioner herein further undertakes not to carry on quarrying operations in the lands falling within 300 meters from the proposed construction of tenements by Tamil Nadu Slum Clearance Board in the land in S.F.No.597/1 Part, Neruperichal Village. It is submitted that no prejudice would be caused to the proposed construction of TNSCB, as the petitioner herein undertake to quarry beyond 300 meters from the proposed construction. It is further submitted that the restrictions in respect of quarrying operations under Rule 36(1-A) (a) of the Tamil Nadu Minor Mineral Concession Rules, 1959 is 300 meters from any inhabited site".

5. The learned counsel for the petitioner also submits that the first respondent issued notice to appear before the first respondent and to submit written submission. In the oral enquiry, the petitioner requested the first respondent to reject the proposal submitted by the District Collector.

6. By considering the submission of the learned counsel for the petitioner and taking note of the undertaking affidavit filed by the petitioner, the first respondent is directed to pass appropriate orders on merits and in accordance with law, on the report submitted by the District Collector under Rc.No.953/Mines/2017, dated 26.12.2017 by considering the undertaking affidavit filed by the petitioner, after providing opportunity to the parties concerned, within a period of 12 weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kkd

To

1. Additional Chief Secretary,
Government of Tamil Nadu,
Industries (MMC-1) Department,
Fort St.George,
Chennai 600 009.

2.The Commissioner of Geology and Mining,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai 600 032.

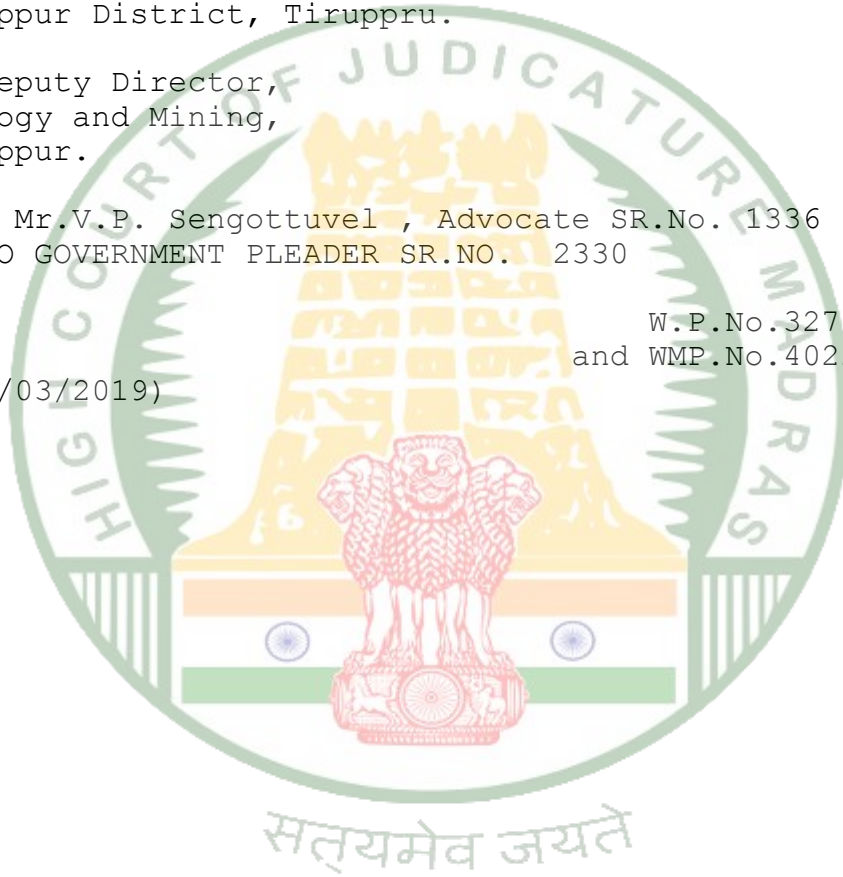
3.The District Collector,
Tiruppur District, Tiruppru.

4.The Deputy Director,
Geology and Mining,
Tiruppur.

+1cc to Mr.V.P. Sengottuvel , Advocate SR.No. 1336
+1 CC TO GOVERNMENT PLEADER SR.NO. 2330

W.P.No.3274 of 2018
and WMP.No.4022 of 2018

A.SK(18/03/2019)



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