

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21962 of 2019
and WMP.No.21195 of 2019

T.Arun Prasad,
S/o.Thangavel.

... Petitioner

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore-641 018.
2. The Assistant Director of
Geology and Mines,
Collectorate Complex,
Coimbatore-641 018.
3. The Revenue Divisional Officer,
Mettupalayam Road,
Thudiyalur North,
Coimbatore-641 034.
4. Muduthurai Village Panchayat
Rep. by the Special Officer,
Karamadai Panchayat Union,
Muduthurai Village,
Mettupalayam Taluk,
Coimbatore District.
5. S.Ponnusamy,
S/o.Senniappa Gounder.
6. N.Ganesamurthy,
S/o.K.Nataraj Gounder.
7. R.Ravindran,
S/o.Ranganathan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondent 1 to 3 from giving quarry lease to the respondents 5 to 7 in the land comprised in

S.F.Nos.433/1, 3, 4, 6 and 434/1,2,3 and 431 Muduthurai Village, Mettupalayam Village, Coimbatore District in violation Rule 36 (1A) of the Tamilnadu Minor Mineral Concession Rules, 1959 by considering the petitioner's representation dated 08.07.2019.

For Petitioner : Mr.N.Manokaran

For Respondents : Ms.A.Rajalakshmi, for RR1 to 3
Additional Government Pleader.

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the time of admission stage itself.

2. This writ petition has been filed seeking issuance of Mandamus, forbearing the respondents 1 to 3 from giving quarry lease to the respondents 5 to 7 in the land comprised in S.F.Nos.433/1, 3, 4, 6 and 434/1,2,3 and 431 Muduthurai Village, Mettupalayam Village, Coimbatore District in violation Rule 36 (1A) of the Tamilnadu Minor Mineral Concession Rules, 1959 by considering the petitioner's representation dated 08.07.2019.

3. The petitioner is the owner of the land measuring 60½ cents in S.F.No.435/2 and 1.10 acres in S.F.No.435/3, Muduthurai Village, Mettupalayam Taluk, Coimbatore District by virtue of a sale deed dated 21.03.2016 executed by one M.Karuppusamy @ Chinnakaruppusamy and Gunal K.Kothari. After the purchase, the petitioner had spent lot of money to level the lands and to form 46 house sites pursuant to the approval by the Deputy Director of Town and Country Planning Authority, Coimbatore by its approval letter dated 08.11.2018 and formed a layout in the name and style as 'S.P.A.City'. Thereafter, the petitioner also executed a gift deed dated 04.12.2018 in favour of the 4th respondent for formation of park in 5005 sq.ft. and for formation of road in 18409 sq.ft. While being so, the 5th respondent, who is the owner of the lands measuring 9.65 acres situated at S.F.Nos.433/1, 3, 4, 6 and 434/1, 2, 3 and 431 by virtue of a sale deed dated 02.05.2001 had applied for carrying on rough stone quarrying lease in his above said lands for a period of five years from 17.08.2003 to 16.08.2008. The 1st respondent also granted quarry lease in favour of the 5th respondent under a joint agreement dated 17.08.2003 for quarrying and carrying away minor minerals. Accordingly, the 5th respondent was carrying on rough stone quarrying in his patta lands by violating the conditions incorporated in the lease agreement dated 17.08.2003. Thereafter, the 5th respondent had executed a sale deed dated 06.06.2016 in favour of respondents 6 and 7. After purchase, the respondents 6 and 7 along with 5th respondent are taking steps to get quarry lease in said patta

lands purchased under the sale deed dated 06.06.2016. The petitioner has already obtained layout approval from the DTCP and layout was formed in S.F.Nos.435/2 and 435/3 just abutting the lands owned by the 4th respondent and later purchased by the respondents 5 and 6 in S.F.Nos.433/1, 3, 4, 6 and 434/1 and 2, which is within 300 meters radius from any inhabited site. The officials attached to the office of the respondents 1 and 3 have also inspected the lands purchased by respondents 5 and 6. Immediately thereafter, the petitioner has submitted a representation dated 08.07.2019 to the official respondents objecting for the grant of quarry lease to the respondents 5 and 6. Since no orders have been passed, the petitioner has filed the present petition with the aforesaid prayer.

4. Heard both sides.

5. The learned counsel for the petitioner submitted that the respondents fail to follow the rules and regulations prescribed in Tamil Nadu Minor Mineral Concession Rules, 1959, before granting the lease for quarrying of rough stone in their lands by the respondents 5 to 7. Hence, he seeks for a direction to the respondents 1 to 3 to consider the petitioner's representation dated 08.07.2019 and pass appropriate orders following the Tamil Nadu Minor Minerals concession Rules, 1959.

6. The learned Additional Government pleader appearing for respondents 1 to 3 would submit that the District Collector, Coimbatore has sent a letter to the 3rd respondent viz., The Revenue Divisional Officer, Karamadai on 17.07.2019 calling for the report whether the proposed quarry site is within 300 meters radius from the approved layout. The learned Additional Government Pleader would further submit that the District Collector is yet get the report from the Revenue Divisional Officer, thereafter necessary orders will be passed.

7. In view of the above submission made by the learned Additional Government Pleader, without going into the merits of the case, this Court is inclined to direct the 1st respondent to consider the petitioner's representation dated 08.07.2019 and conduct an enquiry and pass orders on merits and in accordance with law after giving due opportunity to the petitioner as well as to the private respondents 5 to 7 before granting lease to the private respondents.

8. With the above observation, this writ petition stands disposed of. No costs. Connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Coimbatore District,
Coimbatore-641 018.
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3. The Revenue Divisional Officer,
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4. The Special Officer,
Muduthurai Village Panchayat
Karamadai Panchayat Union,
Muduthurai Village,
Mettupalayam Taluk,
Coimbatore District.

+1 cc to Mr.N.Manokaran, Advocate, S.R.No.63980

+1 cc to the Government Pleader, S.R.No.63851

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LN(CO)
SSM(29/08/2019)

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