

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 02.11.2020

PRONOUNCED ON : 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.NOS.23248, 23254, 23258, 9668 OF 2019, 73 OF 2020
AND W.M.P.NOS.22943, 22958, 22968, 22969, 28526, 28528, 28529,
23254, 23258, 22944, 22946, 22966, 22959, 22960 OF 2019, WMP 85
OF 2020

WP No.23248, 23254, 23258 of 2019

K.Raj Kumar ...Petitioner in WP No.23248 of 2019
P.Venkatachalam ...Petitioner in WP No.23258 of 2019

M/s.GS and Company
a Partnership Firm
Represented by its Partner Mr.S.Balasubramanian,
D.No.740, Trichy Road, Ramanathapuram,
Coimbatore - 641 045 ...Petitioner in WP No.23254 of 2019

Vs.

1. The Principal Secretary
Industries Department,
Government Of Tamil nadu,
Secretariat, Chennai 600 009.
2. The Principal Secretary,
Housing and Urban Development department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
3. The District Collector,
District Collectorate,
State Bank Road,
Coimbatore - 641 018.
4. The Commissioner,
The Director of Town and Country Planning,
Fourth Floor,
807, Annasalai, Chennai 600 002.
5. The Commissioner,
Department of Geology and Mining
Guindy, Chennai 600 032.

6. The Member Secretary,
The Coimbatore Local Planning Authority,
Corporation Shipping Complex,
Sivananda Colony,
Coimbatore - 641 012.
 7. The Assistant Director,
Department of Geology and Mining,
District Collectorate.
Coimbatore - 641 018
 8. The Block Development Officer,
Sulur Panchayat Union,
Coimbatore District.
 9. The Block Development Officer,
Sulthanpet Panchayat Union,
Coimbatore District.
 10. The Sub Registrar,
Singanallur Sub - Registrar Office,
Pechiannan Devar Complex,
Chinthamani Pudur,
Coimbatore - 641 016.
 11. The President / Special Officer,
Peedampalli Village,
Sulur Taluk,
Coimbatore District.
 12. The President / Special Officer,
Kallapalayam Village,
Sulur Taluk,
Coimbatore District.
 13. Mr.R.Vijayakumar
 14. Mr.M.Devaraj
- ...Respondents
WP No.23248, 23254, 23258 of 2019

Common Prayer in WP No. 23248, 23254, 23258 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned lay out approvals, vide (i) Registration No. DTCP/ 0050754/2017 dated 09/03/2018 and ii) Registration No.DTCP/L/0041789/2017 dated 28/09/2018 issued by the 6th respondent based on the recommendation of the 4th respondent and to quash the same and consequently direct the respondents 4, 6, 11 and 12 not to grant any approval for layout or construction within prohibited distance of 300 meters radius

from the Existing stone quarries of Peedampalli Village and Kallapalayam village, Sulur Taluk, Coimbatore District.

WP No.9668 of 2019

Mr.K.Raj Kumar

..Petitioner in WP No.9668 of 2019

Vs.

1. The District Collector,
Disctrict Collectorate,
State Bank Road,
Coimbatore - 641 018.
2. The Commissioner,
The Director of Town and Country Planning,
Fourth Floor, 807, Annasalai,
Chennai 600 002.
3. The Commissioner,
Department of Geology and Mining,
Guindy, Chennai 600 032.
4. The Member Secretary,
The Coimbatore Local planning Authority,
Corporation Shopping Complex,
Sivananda Complex,
Coimbatore - 641 012.
5. The Assistant Director,
Department of Geology and Mining,
District Collectorate,
Coimbatore - 641 012.
6. The District Registrar,
District Registrar Office,
Collectorate Compound, State Bank Road,
Coimbatore - 641 018.
7. The Sub Registrar,
Singanallur Sub-Registrar Office,
Pechiamman Devar Complex,
Chinthamani Pudur,
Coimbatore - 641016

...Respondents in WP No.9668 of 2019

Prayer in WP No. 9668 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1,2, 4 and 7 to consider the representations of the petitioner dated 08.02.2013 and 30.07.2018 and consequently, direct the respondents 2 & 4 to cancel the approval /regularisation of layout if any issued for

the land situated within the prohibited distance of 300 metres radius of existing stone quarries of Peedampalli Village and Kallapalayam Village, Sulur Taluk, Coimbatore District.

WP No.73 of 2020

Mr.R.Vijayakumar

..Petitioner in WP No.73 of 2020

Vs.

1. The Principal Secretary,
Industries department,
Government Of Tamil Nadu,
Secretariat, Chennai 600 009.

2. The District Collector,
District Collectorate,
State Bank Road,
Coimbatore - 641 018.

3. The Commissioner,
Department of Geology and Mining,
Guindy, Chennai 600 032.

4. The Assistant Director,
Department of Geology and Mining,
District Collectorate,
Coimbatore - 641 018.

5. The Block Development Officer,
Sulthanpet Panchayat Union,
Coimbatore.

6. K.Rajkumar ...Respondents in WP No.73 of 2020

Prayer in WP No.73 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records in Proceedings R.C.No.223/MM-2/2013, dated 04.08.2016 passed by the 2nd respondent herein and quash the same.

For Petitioners : Mr.Abdul Saleem
in WP No.23248, 23254, 23258, 9668 of 2019
For Petitioner
in WP No.73 of 2020 : Mr.G.Karthikeyan
For Respondents : Mr.E.Manoharan
Special Government Pleader
for Assistant Director Department
of Geology and Mining
and District Collector
Mr.S.N.Parthasarthy
Government Advocate
for other official respondents
Mr.G.Karthikeyan for 13th respondent
in WP No.23248, 23254, 23258 of
2019

COMMON ORDER

The issue involved in all these writ petitions are common and hence, they were taken up together and heard and this common order is passed.

2. The Petitioners in Writ petition Nos.23248, 23254 and 23258 of 2019 are challenging the impugned layout approvals issued by the 6th respondent dated 09.03.2018 and 28.09.2019, based on the recommendations made by the 4th respondent and for a consequential direction to the respondents not to grant any approval for layout or construction within 300 metres radius from the existing stone quarries at Peedampalli Village and Kallapalayam Village, Sullur Taluk, Coimbatore District.

3. The petitioner in WP No.73 of 2020, who is the 13th respondent in the above three writ petitions, has questioned the proceedings of the District Collector, Coimbatore dated 04.08.2016, granting permission to one K.Rajkumar (Petitioner in WP No.23248 of 2019) to quarry rough stone and gravel in the subject property for a period of 5 years from 04.08.2016 to 03.08.2021.

4. The petitioner in WP No.23248 of 2019 had earlier filed WP No.9668 of 2019 for the issue of writ of Mandamus directing the respondents to cancel the approval / regularization of layout if any issued for the property situated within the prohibited distance of 300 metres radius of the existing stone quarries. During the pendency of this writ petition, the above three writ petitioners came to know about the approvals granted

by the 6th respondent and hence, they independently filed writ petitions challenging those approvals.

5. The petitioner in WP No.23248 of 2019 has been granted approval for running a quarry from the year 2008 onwards by the 3rd respondent. Similarly, the petitioner in WP No.23254 of 2019 and 23258 of 2019 were given similar approvals by the 3rd respondent during the years 2009 and 2013 respectively. The particulars of the permission granted to these writ petitioners is captured by way of a Tabular Column hereunder :-

Sl.No.	Lessee Name and Writ petition Number	District Collector's Proceeding No. and Date	Stone Quarry Location and Extent	Lease Period
1.	Tvl.G.S.& Company W.P.No.23254 of 2019	R.C.No.861/Mines/2015 dated 09.03.2017	Sullur Kallapalayam 24/2E2, 25/1, 25/2, 25/3 (P), 2.74.5 Patta Land	5 Years 09.03.2017 to 08.03.2022
2.	Thiru K.Raj Kumar WP No.23248 of 2019	R.C.No.223/MM@/2013 dated 04.08.2016	Sulur Peedampalli 380/2(P) and 381/4 2.03.5 Patta Land	5 Years 04.08.2016 to 03.08.2021
3.	Thiru P.Venkatachalam WP No.23258 of 2019	RC No.859/Mines / 2017 Dated 25.01.2019	Sulur Peedampalli 378/1 1.55.5 Patta Land	5 Years 25.01.2019 to 24.01.2024

6. The 1st respondent has issued a Government Order in G.O.Ms.No.88 dated 18.10.2002, which specifically prohibits any new layout / building which falls within 300 metres radius from an existing quarry. This Government Order amended Rule 36 (1-A) of the Tamil Nadu Minor Mineral Concession Rules, 1959. For proper understanding, Rule 36 (1A) (c) is extracted hereunder :-

No new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining shall decide upon the continuance

or closure, as the case may be of any quarry which is situated within 300 metres from the new layout, building sought for such "clearance".

7. It is clear from the above Rule that no new layout or building plans falling within 300 metres from any quarry can be given approval by any agency unless there is a prior clearance of the Director of Geology and Mining.

8. The petitioner in WP No.23248 of 2019 raised an objection by way of submitting a representation dated 08.02.2013 not to grant approval to any new layout within 300 metres radius from the quarry. This objection given by the petitioner was taken on file by the 4th respondent and the 4th respondent directed the Director of Town and Country Planning, Coimbatore Zone to record the same in the Caution register maintained by him. Accordingly, the objection was recorded in the Caution Register.

9. After the judgement of the Hon'ble Supreme Court in Deepak Kumar case in the year 2012, Environment Impact assessment and Environmental clearance was made mandatory for granting quarry lease. Therefore, the application submitted by the petitioner in WP No.23248 of 2019 in the year 2013 (12.04.2013) underwent this process and only after the entire clearance by various authorities, quarry lease was issued for a period of five years from 04.08.2016 to 03.08.2021.

10. The same was the case of the writ petitioners in WP No.23254 and 23258 of 2019, who also underwent the same process and after getting clearance from all the authorities, were granted quarry lease for a period of five years.

11. The petitioner in WP No.23248 of 2019 in the year 2018, noticed that some real estate agent had formed a layout within the prohibited distance of 300 metres. He immediately gave a representation to the 6th respondent namely the Member Secretary of the Local Planning Authority not to grant any approval for layout within the prohibited distance. Since no action was taken, the same petitioner filed WP No.9668 of 2019 and this Court also passed an interim order on 01.04.2019, directing the respondents to consider the objection given by the petitioner before granting any approval to any 3rd party. A Counter affidavit came to be filed by the Member Secretary of the Local planning authority in this writ petition. In the said counter affidavit, the 4th respondent took a stand that two approvals have been granted by proceedings dated 09.03.2018 and 28.09.2018 in the names of R.Vijayakumar and M.Devaraj. The stand taken in the Counter affidavit is that the approvals were granted based on the Government orders in G.O.Ms.No.78 dated 04.05.2017 and

G.O.Ms.No.172 dated 13.10.2017. Aggrieved by the same, three independent writ petitions have been filed by the quarry lease holders challenging both the layout approvals issued by the 6th respondent based on the recommendation of the 4th respondent dated 09.03.2018 and 28.09.2018.

12. Even though, separate counter affidavits have been filed in all the writ petitions by the District Collector, the contents are the same and hence, it will be enough to take into consideration the counter affidavit filed in WP No.73 of 2020.

13. The relevant portions in the counter affidavit filed by the District Collector for himself and on behalf of the Assistant Director of Department of Geology and Mining are extracted hereunder :-

13. With regard to Para 11 of the affidavit, it is respectfully submitted that the following quarries are under operation from the year 1997 to till date.

Quarry No.	Lessee Name	District Collector's Proceedings No. and Date	Village S.F.No. And Extent (Hects.)	Lease Period
1.	a) Thiru K.A.Krishnamay	RC No.114850/XI/1996 dated 02.10.1996	Kallapalayam 25/3 (P) 2.78.5	5 Years 05.01.1997 to 04.01.2002
	b) Thiru P.Subramaniam	RC No.947/MM2/2004 dated 26.05.2004	Kallapalayam 24/2E2 (P) 25/1 (P) 25/3 1.99.0	5Years 12.07.2004 to 11.07.2009
	c) Thiru C.Subramaniam	RC No.712/MM2/2009 dated 18.12.2009	Kallapalayam 24/2E2 (P) 25/1, 25/2 25/3 (P) 2.74.5	5 Years 09.03.2017 to 08.03.2022

Quarry No.	Lessee Name	District Collector's Proceedings No. and Date	Village S.F.No. And Extent (Hects.)	Lease Period
	d) Tvl.G.S.& Company, 740, Trichy Road, Ramanathapuram District, Coimbatore	R.C.No.861/Mines/ 2015 dated 09.03.2017	Kallapalayam 24/2E2, 25/1, 25/2, 25/3 (P) 2.74.5	5 years 09.03.2017 to 08.03.2022
2.	Thiru K.Rajkumar S/o.R.Krishnaswamy 15/156-A Palakkad Main Road, Marapalam Madukkarai Coimbatore	i) RC No.151/2008/XI Dated 08.09.2008	Kallapalayam 24/2E2 (P) 25/1, 25/2, 25/3 (P) 2.47.0	5 years 09.03.2017 to 08.03.2022
		ii) RC No.223/MM2/2013 dated 04.08/2016	Peedampalli 380/2 (P) and 381/4 2.03.5	5 Years 04.08.2016 to 03.08.2021
3	Thiru P.Venkatachalam S/o.Peerumal 15/38, Kasuvarettipatti, Kattuvallavu, Tharamangalam Salem	i) R.C.No.168/MM2/2012 dated 29.07.2013	Peedampalli 378/1, 1.55.5 Patta Land	4 years 29.07.2013 to 28.07.2017
		ii) Rc.No.859/ Mines/2017 dated 25.01.2019		5 years 25.01.2019 to 24.01.2024

Quarry No.	Lessee Name	District Collector's Proceedings No. and Date	Village S.F.No. And Extent (Hects.)	Lease Period
4.	Thiru.K.P.Sh anmugasundar am, S/o.Palaniap pan 3/55B, Nachammal thottam, Kallapalayam Post, Chettipalaya m, Coimbatore.	R.C.No.919/Mines/ 2015 dated 07.03.2017	Peedampalli 381/1A 1.08.0 Patta Land	5 years 07.03.2017 to 06.03.2022

14. With regard to para 12 of the affidavit, it is respectfully submitted that the above mentioned valid quarry lease are in existing within 300 meter radial distance from the petitioner's layout area.

15. With regard to Para 13 of the affidavit, it is respectfully submitted that the 6th respondent herein had been granted a quarry lease over an extent of 2.03.5 hectars of Patta land in S.F.No.380/2(P) and 381/4 in Peedampalli village, Suler Taluk, Coimbatore District, for a period of five years from 08.01.2008 to 07.01.2013 vide District Collector Coimbatore, Proceedings R.C.No.151/2008/XI Dated 08.09.2008. Subsequently, the petitioner had applied for grant of rough stone/gravel quarry lease over an extent of 2.03.5 hectares of patta land in S.F.Nos.380/2(P) and 381/4 in Peedampalli Village, suler Taluk, Coimbatore District vide his application dated 12.04.2013. The petitioner has submitted all relevant records along with application for grant of quarry lease. The copy of the application was forwarded to Revenue Divisional Officer, Coimbatore (South) for inspection and land availing report.

Subsequently, the Revenue Divisional Officer Coimbatore had furnished land availability report vide letter L.Dis.No.3240/2013/A6 dated 30.10.2013 in which it has been stated that the lands in S.F.Nos.380/2(P) over an extent of 1.95.5 Hec and 381/4 over an extent of 0.38.0 stands registered in the name of Tmt.Kalamani, W/o.R.Krishnaswamy vide patta No.670 and

246 Respectively. The concerned pattadars have given their consent to the petitioner Thiru.K.Raj Kumar for carrying out quarrying operation in the above mentioned areas. Further the Revenue Divisional Officer, Coimbatore, has reported that no approved layouts and village natham situated within a radial distance of 300 meters from the subject quarry area. Finally the Revenue Divisional Officer, Coimbatore, has recommended for the grant of quarry lease in favour one Thiru.K.Raj Kumar (6th respondent). The Deputy Director, Coimbatore, had also recommended for the issue of quarry lease to the 6th respondent. Based on the above recommendations, quarry lease had been granted to the 6th respondent vide District Collector Rc.No.223/MM2/2013 dated 04.08.2016 after submission of approved Mining Plan and Environmental clearance. The quarry lease had been issued to the 6th respondent only after adhering all the statutory provisions enacted in the Acts and Rules in force. Hence the request of the petitioner to quash the said order is not acceptable.

14. The stand taken by the Local planning Authority in the counter affidavit in WP No.23248 of 2019 is extracted hereunder :-

3. I respectfully submit that the petitioner carrying on a business of Rough stone Quarrying in S.F.No.3802/2, 381/4 of Peedampalli Village, Sulur Taluk, Coimbatore. The Petitioner existing quarry have lease granted by the 3rd respondent in R.C.No.223/MM-2/2013 dated 04.08.2016 for a period of 5 years (From 04.08.2016 to 03.08.2021) under rule 19(1) of TNMM Concession Rules, 1959.

4. I respectfully submit that on consideration of the petitioner's representation 4th respondent reply to the petitioner via letter Na.Ka.No.3012/2013/HSBA dated 15.03.2013 had informed that the petitioner objections were taken into consideration and the same was recorded in Caution Register.

5. I respectfully submit that 4th respondent reply to the petitioner via letter Na.Ka.No.815/2013/LPA-2 dated 01.04.2013 had informed that the petitioner objection was considered and the same was recorded in 6th respondent's Caution Register.

6. I respectfully submit that the 6th respondent inspected the site on 05.04.2019, and found that within the distance of 300 meters radius the existing stone quarries of S.F.No.380/2, 381/4 of Peedampalli Village, Sulur Taluk, Coimbatore is as follows :-
 North side of Petitioner's Stone quarry : Vacant land
 East side of Petitioner's Stone quarry : Kannampalayam to Peedampalli
 BT road and small hollow brick making unit and regularised unapproved layout No.436/2018 namely Thirumal Nagar
 West side of Petitioner's Stone quarry : Vacant land
 South side of Petitioner's stone quarry : G.S.mixing plant and regularised unapproved layout No.260/2018 namely Millan Lively garden.

Details of approval / regularization within prohibited distance of 300 meters radius from the existing stone quarries :-

Sl .N o.	Approved Details	As on ground	Approval granted by the G.O.	Distance of location
1	Coimbatore District, Sulur Taluk, Kallapalayam Village, S.F.No.26/2 Pt, 29/2pt, 31/2A pt, 33/1-10.98 Acres unapproved layout approved No.Ma.Va./Ko.Uthiku (in Principle) En.206/2018 order Registration No.DTCP/L/0050754/2017 dated 09.03.2018	Unapproved layout formed as Regularized layout (vacant & plot)	H&UD {UD4 (3)} Department G.O.(MS.) No.78 dated 04.05.2017 and H&UD {UD4 (3)} Department G.O.(Ms) No.172 dated 13.10.2017	149 meter from the stone quarry

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Sl .N o.	Approved Details	As on ground	Approval granted by the G.O.	Distance of location
2.	Coimbatore District, Sulur Taluk, Kallapalayam Village, S.F.No.36/6B, 37/3B-3.29 Acres unapproved layout approved No.Ma.Va./Ko.Uthiku (In Principle) En.436/2018 order Registration No..DTCP/L/0041789 /2017 dated 28.09.2018	Unapproved layout formed as per Regularised layout (Vacant & Plot)	H&UD [UD4 (3)] Department G.O.(Ms) No.78 dated 14.05.2017 and H&UB [UD4 (3)] Department G.O.(Ms) No.172 dated 13.10.2017	243 Meter from the stone quarry

8. It is submitted that on the basis of the per Housing and Urban Development [UD4(3)} Department G.O. (MS) No.78 dated 04.05.2017 and Housing and Urban Development [UD4{3}] Department G.O. MS No.172 dated 13.10.2017 by the respondent order passed by Ma.Va./Ko.Uthiku (In Principal) En 206/2018 proceeding letter Registration No.DTCP/L/0041789/2017 dated 28.09.2018 to the applicants viz. Hence the order passed by the 4th respondent is sustainable in law and not violated any rules followed by the Department.

15. The 13th respondent in these writ petitions has subsequently filed WP No.73 of 2020 challenging the lease granted in favour of the petitioner in WP No.23248 of 2019 on the ground that the quarry lease ought not to have been granted in a residential locality.

16. Heard Mr.Abdul Saleem, learned Counsel appearing on behalf of the petitioners in WP No.23248, 23254, 23258 of 2019. Mr.G.Karthikeyan, learned Counsel appearing on behalf of the petitioner in WP No.73 of 2020 (13th respondent in the other writ petitions), Mr.E.Manoharan, learned Special Government Pleader appearing on behalf of Assistant Director, Department of Geology and Mining and District Collector and Mr.S.N.Parthasarathy, learned Government Advocate appearing on behalf of the other official respondents.

17. The short issue that arises for consideration in this case is as to whether the 6th Respondent namely, the Member Secretary, Coimbatore Local Planning Authority can grant layout approvals based on the recommendation of the Commissioner of Town and Country Planning, within the prohibited distance of 300 meters radius from the existing stone quarry.

18. The official Respondents in these Writ Petitions have taken a categorical stand that the property for which the layout approval has been granted is situated within the prohibited distance of 300 meters radius from the existing stone quarry. There is no dispute with regard to this fact and it is found in both the counter affidavits filed by the Local Planning Authority as well as the District Collector. Even though the learned counsel for the 13th Respondent (Petitioner in W.P. No. 73 of 2020) requested this Court to appoint an Advocate Commissioner, to conduct an inspection and file a report in this regard, this Court does not find any necessity to undertake that exercise. This is in view of the fact that the Official Respondents have clearly taken a stand in their respective counter affidavits that the property for which the layout approval was granted is within the distance of 300 meters radius from the existing stone quarry.

19. This is one of those rare cases where the officials belonging to two departments have taken a contrary stand to justify their actions. The District Collector and the Assistant Director of the Department of Geology and Mining have taken a stand that approval for the layout ought not to have been granted and it is in violation of the Tamil Nadu Minor Minerals Concession Rules, 1959. Admittedly in this case, the layout approval was granted without the clearance of the Director of the Department of Geology and Mining. The Member Secretary of the Coimbatore Local Planning Authority has taken a stand that such an approval can be granted in the light of G.O.(Ms) No. 78, dated. 04.05.2017 and G.O.(Ms) No. 172, dated. 13.10.2017, which deals with regularization of unapproved plots and layouts. According to this Authority, Rule 23 of the Rules provides for such approval of layout even in a case where it is inconsistent with any other Rules in force.

20. It is an admitted case that the objections given by the Petitioner in W.P No. 23248 of 2019 dated. 15.03.2013 was recorded in the Caution Register by the 6th Respondent. In spite of the same, the 6th Respondent has proceeded further to grant layout approval by relying upon the above mentioned Government Orders.

21. Rule 36(1A)(c) of the Rules which has been extracted supra specifically prohibits any new layout falling within 300 metres from any quarry unless prior clearance of the Director of Department of Geology and Mining is obtained. This Court has dealt with the scope of this rule in various judgements. It will be relevant to take note of certain judgements in this regard.

22. This Court in [A. Velusamy vs. District Collector, Coimbatore and Ors., reported in (2010) 3 CTC 57] has held as follows:

13. In the above said background we have to construe the relevant provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959. Rule 36 (1g.sasikala-A) of the said Rules dealing with the general restrictions in respect of quarrying operations which is as follows:

36.General restrictions in respect of quarrying operations.-

(1-A)(a). No lease shall be granted for quarrying stone within 300 metres (three hundred metres) from any inhabited site:

Provided that the existing quarries which are subsisting under current leases shall be entitled for continuance till the expiry of the lease period. The lessees whose quarries lie within a radius of 300 metres from the inhabited site shall undertake blasting operations only after getting permission of the Director of Mines Safety, Corgaum:

Provided further that the new and existing units of quarries shall also be required to comply with the pollution control measures [(i.e.) dust control measures] besides complying with the other conditions in regard to Pollution Control Measures.

(b) The methodology specified in column (2) of the Table shall be adopted in respect of the operational sources specified in column (1) thereof for rock quarrying operations. Table (1) (2) (3)

Operational sources Methodology to be adopted for controlling the dust Drilling Liquid injection (water with a wetting agent) of capturing and venting emissions to a control device. Blasting Adoption of good blasting practices. Loading (at mines) Water wetting. Transport Watering treatment with surface agents, soil stabilisation on paving.

(c) No new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining shall decide upon the continuance or closure, as the case may be, of any quarry which is situated within 300 metres from the new layout, buildings sought for such clearance.] Explanation.- [for the purpose of sub-rules (1) and (1-A)]

(i) public road shall mean a road which has been constructed by artificially surfaced as distinct from a track resulting from repeated use;

(ii) village road shall mean and include any track shown in the revenue record as village road;

[(ii-a) 'stone' shall mean rough stones including khandas, boulders, size-reduced (broken or crushed) materials including metal jelly, ballasts, mill stones, hand chakais and building and road construction stones other than black, red, pink, grey, green, white or other coloured or multi coloured granites or any other rocks suitable for use as ornamental and decorative stones];

[(iii) 'inhabited site' shall mean a village site or town site or a house site as referred to in the revenue records or a house site or layout approved by a Local Body or Town or Country or Metropolitan Planning Authority, where the said Body or Authority is created under a statute and empowered to approve such an area as a house site or lay-out area.] (2) The quarrying permit holder or the lessee shall strengthen and support to the satisfaction of the Railway Administration concerned or the State Government, as the case may be, any part of the quarry which in the opinion of the Railway Administration or, as the case may be, the State Government requires such strengthening or support for the safety of any railway, reservoir, canal, road or any other public works or structures.

(3) If any mineral not specified in the lease deed or agreement is discovered, the quarrying permit holder or the lessee shall not mine or dispose of such mineral without obtaining the permission of the authority empowered to grant permit or lease for quarrying of the discovered mineral and without

payment of the seigniorage fee. If the quarrying permit holder or the lessee fails to intimate to the State Government or the District Collector or the District Forest Officer, as the case may be, of the discovery of such new minerals within a period of thirty days from the date of the discovery of the mineral, the State Government or the District Collector or the District Forest Officer, as the case may be, may levy enhanced seigniorage fee upto fifteen times of ordinary seigniorage.

(4) The lessee shall, at his own expense, erect boundary marks round the area shown in the plan annexed to the lease or agreement and in which he works minerals and, at all times, maintain and keep such boundary marks in good repair.

(5)(a) The quarrying permit holder or the lessee or his tenant or lessee, etc, shall keep correct accounts showing the quantity and other particulars of all minerals obtained and despatched from the quarry. He shall also allow any officer authorised by the [State Government], director of Geology and Mining, Chief Conservator of Forests, the Collector or the District Forest Officer, as the case may be, to examine such accounts and furnish him with such informations and returns as may be specified by them.

[(aa) Joint Director (Geology and Mining), Deputy Director (Geology and Mining), Assistant Director (Geology and Mining), Assistant Geologist, Special Tahsildar (Mines), Special Deputy Tahsildar (Mines) and Special Revenue Inspector (Mines) in the district offices of the Department of Geology and Mining and Presidents of Village Panchats, Executive Officers of Town Panchayats or Townships and the Commissioners of Municipalities or Corporation shall exercise the powers and discharge the duties as may be required and as the circumstances of the cases warrant in respect of the provisions of clause (a) and within their respective jurisdiction:

Provided that the said powers and duties exercisable and dischargeable by the local body authorities specified above shall be exercisable and dischargeable only in respect of minor minerals, namely, building and road construction stones including gravel, ordinary sand, earth and turf and ordinary clay including silt, brick and tile clay and within their jurisdiction relating to all lands excepting the

reserved forest lands and lands reserved under the Tamil Nadu Forest Act, 1882 (Tamil Nadu Act V of 1882).

(b) the quarrying permit-holder or the lessee shall remove, or allow removal and transportation of any mineral from the area where quarrying is permitted only after obtaining bulk transport permit and facsimiled despatch slips in the Forms prescribed [in Appendices XII, XII-A and XIII, XIII A to these rules from the officer authorised in this behalf by the State Government, District Collector] or the District Forest Officer, as the case may be. The person who has been permitted to quarry in any area or his men, in turn, shall issue the facsimiled despatch slips to the vehicles used for removal or transportation of the mineral furnishing the particulars in the despatch slips specifically indicating the vehicle number, the quantity of the mineral allowed to be transported by the vehicle by using that despatch slip and the time of issue of the despatch slip to the vehicle. All the vehicles used for transporting any mineral from any area shall be in possession of the individual despatch slips for the quantity of the minerals available in the vehicle at all the times of transportation of the mineral by the vehicles:

Provided that the vehicles used for transporting any mineral free of charge for bonafide domestic or agricultural purpose shall have a letter of authorization from the person for whose use the mineral is intended and the vehicle driver or owner shall be responsible for establishing the bonafide transport of the mineral for such purpose when called upon to do so.

[(bb) In respect of minor minerals namely, building and road construction stones including gravel, ordinary sand, earth and turf and ordinary clay including silt, brick and tile clay occurring in any land except those lands constituted as reserved forests under section 16 of the Tamil Nadu Forests Act, 1882 (Tamil Nadu Act V of 1882) and reserved lands notified under section 26 of the said Act V of 1882, the Presidents of Village Panchayats, Executive Officers of Town Panchayats and Townships and Commissioners of Municipalities and Corporations shall collect lease amount, seigniorage fee or dead rent or area assessment or any other payment, as the case may be, in relation to the lessees or permit holders, sign and issue transport permits and despatch slips to the quarrying permit holders and lessees and collect

penalty amount and compounding fee from the persons liable to pay the penalty or compounding fee, as the case may be:

Provided that in the case of Village Panchayats, the transport permit and despatch slips shall be jointly signed by the Village Panchayat President and Vice-President. In the absence of Vice-President, any member authorised by the Panchayat for this purpose shall jointly sign the transport permits and despatch slips in the place of Vice-President:

Provided further that the issue and use of transport permits and despatch slips for transportation of any minor mineral shall be subject to the conditions stipulated in these rules and instructions of the State Government, Director of Geology and Mining and or the District Collector or the District Forest Officer issued, from time to time].

(c) The quarrying permit holder or the lessee shall carryout quarrying operations in a skillful, scientific and systematic manner keeping in view proper safety of the labourers, structure and the public and public works located in that vicinity of the quarrying area and in a manner to preserve the environment and ecology of the area. makes it clear that the grant of quarrying lease within 300 mts. of inhabited site is prohibited and no new lay out or building plan falling within 300 mts. from quarry site should be approved without prior clearance of the Director of Geology and Mining.

14. On the facts of the present case which I have elicited above, there is no difficulty to conclude that there is no building plan or lay out granted within 300 mts. radius from the place where the stone quarrying permit has been granted to the petitioners in W.P.Nos.21006 and 21007 of 2009. Now, the term inhabited site in Explanation III to Rule 36(1-A) (a), (b) and (c) of the Tamil Nadu Minor Mineral Concession Rules, 1959 shows that it must be a village site, town site or house site as per the revenue records or house site or lay out as approved by the Town and Country Planning or Metropolitan authority which authority is empowered to approve it as a house site or lay out area. There is absolutely nothing on record to show that survey No.148, as claimed by the petitioner in W.P.Nos.26246 and 26247 of 2009, is either a village site or town site or house site.

15. On the other hand, it is stated to be a punja land by the petitioners in W.P.Nos.21006 and 21007 of 2009 and it is not a natham land or house site. The field map relied upon by the petitioner in W.P.Nos.26246 and

26247 of 2009 in respect of survey Nos.136 and 148, as it is seen in page 51 of the typed set of papers filed, even though refers to a small portion as a house and another portion as a well, there is no other revenue records or document issued by the competent authority showing that the said land is a house site or lay out area and therefore, the field map is not sufficient to hold that it is an approved house site or village site or town site as per the term inhabited site found in the said Rules. Inasmuch as the area stated by the petitioner in W.P.Nos.26246 and 26247 of 2009 is neither a residential house approved by the authorities competent under the statute, nor approved by the revenue authorities in the revenue records, even if it is taken that there is electricity connection in the hut or in the area in question, that is not sufficient, in my considered view, to come to the conclusion that the said area can be safely declared as inhabited site within the meaning of the said Rules.

23. This Court in [Jagannatha Samy v. District Collector, Coimbatore and Ors.] in W.P.No. 22442 etc. of 2007, dated. 19.12.2007 has held as follows:

30. As per Rule 36(1-A)(c) of the Rules, no new lay out, buildings plans falling within 300 metres from any quarry should be given approval by any agency, unless prior clearance of the Director of geology and Mining is obtained. On receipt of the proposals for recording clearance, the Director of Geology and Mining shall decide upon the continuance or closure, as the case may be, of any quarry which is situated within 300 metres from the new layout, buildings sought for such clearance.

31. Admittedly, the the petitioner has not produced any building plan or any order of approval of any agency with the clearance of Director and Geology and Mining and therefore, the construction of any building put up by the petitioner on his agricultural land cannot be construed as construction approved by the Mining Authorities. No other supporting documents have been produced by the petitioner to prove that any other lands located near the disputed property have been described as "house site" by the revenue authorities.

32. As regards the contention of the petitioner that the respondents 1 and 2 have not issued any public notice and not followed the proper procedure, before granting lease to quarry operators, it is evident from the impugned orders that the Deputy Director of

Geology and Mines along with the Revenue Inspector (Mines) had conducted an inspection on 06.03.2007 and they have noticed that there is no house site or village site or dwelling place within 300 metres from the quarry site and on consideration of the Report from the said Officer along with the Certificate of the Village administrative Officer, leases have been granted to the respondents 3 and 4, quarry operators. Had there not been any public notice for quarry, there would not have any occasion for submission of the application by the petitioner to quarry in the same site. Perusal of the impugned order makes it clear that no objection was raised from any quarters for the disputed quarry site. Therefore, the contention of the petitioner as regards violation of procedure before grant of quarry lease is not tenable.

24. This Court in [G. Sasikala vs. District Collector, Coimbatore and Ors.] in W.P. No. 15414 of 2019, dated. 17.07.2019, has held as follows:

6. The learned counsel for the impleaded fifth respondent, produced the copy of the quarry lease renewal upto 23.11.2023 issued by the first respondent vide proceedings dated 24.11.2018 and would submit that, as per the Tamil Nadu Minor Minerals Concession Rules, 1959, there shall be no quarrying of stone within a radial distance of 300 meters from any inhabited site. In this connection, the Hon'ble Supreme Court in Tamil Nadu Building Material Manufacturers and Transport Association vs. State of Tamil Nadu and others (Civil Appeal No.6742 of 2001) has clarified that this embargo shall not come in the way of grant of quarrying licence if the habitation is unauthorised.

8. The Hon'ble Supreme Court in Tamil Nadu Building Material Manufacturers and Transport Association vs. State of Tamil Nadu and others (cited supra) has held that, unapproved layout will not fall under the inhabited site. Therefore, it is for the Department of Geology and Mines who has given the quarry lease to the fifth respondent. To decide, 'whether the residence of the petitioner is within 300 meters' and 'whether the layout is an approved layout or not', the second respondent cannot unilaterally give service connection to the petitioner without clearance from the Department of Geology & Mining.

9. In this regard, it is useful to extract Rule 36(1-A) (c) of the Rules, which reads as follows:-

(c) No new layout, building plans falling within 300 metres from any quarry should be given approval by any

agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining shall decide upon the continuance or closure, as the case may be of any quarry which is situated within 300 metres from the now layout, building sought for such "clearance".

10. In such circumstances, when the conflict between one citizen's 'right to live with dignity' and other citizen's 'right of trade' arise, the authorities are bound to weigh their claims based on Rules without any extraneous consideration. As on date, in this case, the fifth respondent is a valid lease holder to quarry. Whereas, the petitioner is inhabitant of unapproval settlement. The relief sought for in this writ petition runs contrary to Rule 36(1-A) and Explanation III thereunder, further also, contrary to the dictum of the Hon'ble Supreme Court. If the petitioner wants electricity service connection, she has to get clearance from the Director of Geology and Mining of Tamil Nadu Government as per Rule 36(1-A)(C) of the Rules. In the absence of clearance from Department of Geology and Mining, TANGEDCO is barred by statute to give electricity service connection to the petitioner.

25. It is clear from the above judgements that this Court has taken a consistent view that no permission or approval can be granted within 300 meters radius from a quarry without the clearance from the Department of Geology and Mining. In the instant case, the Local Planning Authority has attempted to take umbrage under two Government Orders mentioned herein above to justify the grant of approval for the layout. The 6th Respondent was fully aware of the fact that there was a quarry within 300 metres radius. He has stated so at paragraph 6 of the counter affidavit filed in W.P. No. 23248 of 2019. The 6th Respondent had also recorded the objection given by the Petitioner in the Caution Register. Therefore in the fitness of things, the 6th Respondent ought to have taken clearance in accordance with Rule 36(1A)(c) of the Rules from the concerned authority. This is more so since there are three live quarries for which license has been granted for a period of 5 years to the Petitioners and the Petitioners are also carrying on with the quarry operations. It is complete recklessness on the part of the 6th Respondent to have gone ahead and granted layout approval without considering the objection and without getting the clearance from the concerned authority.

26. The counter affidavit of the 6th Respondent has attempted to justify the grant of layout approval by relying upon two Government Orders. A specific reliance has been placed on the newly added Rule 23 which states that provisions of any other Rules regarding approval of plot or layout which are inconsistent with the new Rules shall not apply while considering the regularization of any plot or layout.

27. This Court does not understand as to how the above Rule will empower the 6th Respondent to grant regularization of the layout without the clearance of the concerned authority. The 6th Respondent was under the mistaken impression that the newly added Rule 23 is inconsistent with Rule 36(1A)(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959. In the first place, the Minor Mineral Concession Rules does not deal with granting approvals for plot or layout. Both these Rules operate in different spheres independently. That apart, there is no inconsistency in these Rules since the Minor Mineral Concession Rules only mandates clearance from the Director of Department of Geology and Mining, where the new layout falls within 300 meters radius from any quarry. The 6th Respondent ought to have taken this clearance from the concerned authority before granting layout approval. Only after getting such a clearance, the 6th Respondent could have proceeded further to consider the application for approval in accordance with the above mentioned Government Orders. Admittedly, the 6th Respondent has not obtained any clearance before granting the layout approval and therefore, the approval granted by the 6th Respondent is unsustainable in law.

28. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned layout approvals granted by the 6th Respondent and accordingly the same is hereby quashed. This Court does not find any ground to interfere with the proceedings of the District Collector, dated. 04.08.2016 granting quarry lease in favour of the Petitioner in W.P. No. 23248 of 2019 and this permission has been granted after following all the procedures and it is in accordance with law.

29. In the result, W.P. No. 9668 of 2019, W.P. No. 23248 of 2019, W.P. No. 23254 of 2019 and W.P. No. 23258 of 2019 are allowed as prayed for. W.P. No. 73 of 2020 is dismissed. No

costs. Consequently, all connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary
Industries Department,
Government Of Tamil nadu,
Secretariat, Chennai 600 009.
2. The Principal Secretary,
Housing and Urban Development department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
3. The District Collector,
District Collectorate,
State Bank Road,
Coimbatore - 641 018.
4. The Commissioner,
The Director of Town and Country Planning,
Fourth Floor,
807, Annasalai, Chennai 600 002.
5. The Commissioner,
Department of Geology and Mining
Guindy, Chennai 600 032.
6. The Member Secretary,
The Coimbatore Local Planning Authority,
Corporation Shipping Complex,
Sivananda Colony,
Coimbatore - 641 012.
7. The Assistant Director,
Department of Geology and Mining,
District Collectorate.
Coimbatore - 641 018

8. The Block Development Officer,
Sulur Panchayat Union,
Coimbatore District.
9. The Block Development Officer,
Sulthanpet Panchayat Union,
Coimbatore District.
10. The Sub Registrar,
Singanallur Sub - Registrar Office,
Pechiannan Devar Complex,
Chinthamani Pudur,
Coimbatore - 641 016.
11. The President / Special Officer,
Peedampalli Village,
Sulur Taluk,
Coimbatore District.
12. The President / Special Officer,
Kallapalayam Village,
Sulur Taluk, Coimbatore District.
13. The District Registrar,
District Registrar Office,
Collectorate Compound,
State Bank Road,
Coimbatore-641018

+1cc to the Government Pleader, S.R.No.36497
+8ccs to M/s.Abdul Saleem, Advocate, S.R.No.36276
+2ccs to M/s.Abdul Saleem, Advocate, S.R.No.36275

Pre-Delivery Order in
W.P.Nos.23248, 23254, 23258, 9668 of 2019, 73 of 2020
and W.M.P.Nos.22943, 22958, 22968, 22969, 28526, 28528, 28529,
23254, 23258, 22944,22946, 22966, 22959, 22960 of 2019, WMP 85
of 2020

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