



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.5448 of 2019

Rayan Exports,
represented by its Proprietor,
P.Thimmarayan, aged about 66 years,
Son of Pethappa Chetty,
10, 1st Cross, Co-operative Colony,
Krishnagiri - 635 001.

... Petitioner

vs.

1. Government of Tamil Nadu,
represented by its Secretary to Government,
Industries Department,
Fort St. George, Chennai 600 009.
2. The District Collector,
Krishnagiri.
3. The Chief Educational Officer,
School Education, Mathur,
Pochampalli Taluk,
Krishnagiri District - 635 203.
4. The Headmaster,
Government High School,
Alerhalli Village,
Kalarpathi Post,
Pochampalli Taluk,
Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records in proceedings Na.Ka.23915/2018/H3, dated 11.10.2018 and consequential proceedings in Na.Ka.No.23915/2018/H3, dated 11.11.2018, on the file of the 2nd Respondent and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.V.Raghavachari



For Respondents : Mr.M.S.Arasakumar,
Government Advocate

O R D E R

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Petitioner has come up with this Writ Petition challenging the proceedings of the 2nd Respondent vide Na.Ka.23915/2018/H3, dated 11.10.2018 and the consequential proceedings in Na.Ka.No.23915/2018/H3, dated 11.11.2018.

2. It is stated by the Petitioner that, they had applied for grant of lease to quarry grey granite over an extent of 1.20.0 hectares on 05.04.2007 and had complied with the necessary requirements for obtaining the lease and, the Department, after due assessment had issued an order vide G.O. (3D) No.20, dated 22.07.2009 granting lease to quarry grey granite. According to the Petitioner, they have been running Rayan Granites for a successful period of eight years and that, they were granted lease for a period of 20 years and based on the duration, they have also invested lakhs of rupees for the operation of the said quarry.

3. It is further stated by the Petitioner that, the land in Survey No.33 measuring an extent of 4.96.5 hectares adjacent to their quarry, is classified as Government poramboke land and that, construction work had been proposed in Survey No.33, to upgrade the Panchayat Union Middle School at Alerahalli to Higher Secondary School. According to the Petitioner, identifying the land adjacent to a quarry for the purpose of an educational institution is detrimental both to them as well as the Institution. Bearing in mind the safety of the children, the Petitioner furnished a letter on 24.10.2018 to the Respondent, setting out their grievance in detail. As there was no response to their representation, the Petitioner filed W.P.No.1653 of 2019. As permission for construction of the School was already granted on 11.11.2018, the Writ Petition was disposed of with liberty to the Petitioner to challenge the same vide separate proceedings.

4. Learned counsel for the Petitioner contended that, the 2nd Respondent had not conducted any inspection before granting permission and initiating construction of School near a quarry. He further contended that, the Collector ought not to have granted permission for construction of a School within the prohibitory distance. According to the learned counsel, when licence to quarry is granted to the Petitioner for a period of 20 years, it is strange on the part of the Respondents to grant permission for construction of a School adjacent to it.

5. On the other hand, learned Special Government Pleader



with reference to the counter Affidavit filed on behalf of the 3rd Respondent, submitted that, the granite quarry run by the Petitioner situated in Survey Nos.3/1A, 3/1B, 3/1E, 3/1E2, 3/3A in nearly 2.22.0 hectares of land is on the eastern side of the School land and it is lying idle without functioning, for the last 9 years. He pointed out that, as per the statement of the Village Administrative Officer, the School land is nearly 600 metres away from the quarry in question. He further submitted that, to construct a School building for the newly formed Government High School at Alerahalli, wide publicity was given among the public of Alerahalli Village on 12.09.2019 and no objections were received from the public. He went on to state that, the Tahsildar, Pochampalli inspected the land in person on 28.09.2018 and the Revenue Divisional Officer, Krishnagiri inspected the land in person on 04.10.2018 and offered their recommendations to transfer the land to School Education Department for constructing the School building for the newly formed Government High School, Alerahalli.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. On a perusal of the counter Affidavit filed by the 3rd Respondent, it is seen that, the School in question is located 600 metres away from the Petitioner's quarry. It is further stated in the counter Affidavit that, the School building of Government High School, Alerahalli had already been constructed in the year 2018 in the poramboke land measuring an extent of 1.00.00 hectares allotted to School by the District Collector, Krishnagiri, in Survey No.33/1 and that, the Government High School, Alerahalli is functioning in the newly constructed School building with effect from 28.02.2020.

8. At this juncture, it is relevant to refer to Rule 36(1-A)(a) of the Tamilnadu Minor Mineral Concession Rules, 1959, which states that, no lease shall be granted for quarrying stone within 300 metres from any inhabited site. For better appreciation, the said Rule is extracted hereunder:

36. (1-A) (a) No lease shall be granted for quarrying stone within 300 metres (three hundred metres) from any inhabited site:

Provided that the exiting 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



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undertake blasting operations only after getting permission of the Director of Mines Safety, Oorgaum.

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.

9. As the prohibited distance for a quarry to operate is 300 metres from any inhabited site and that, the School in question is situated 600 metres away from the Petitioner's quarry, and taking note of the statement of the 3rd Respondent in the counter Affidavit that, the quarry is kept idle without any functioning for the past nine years, this Court finds no reason to interfere with the orders impugned in this Writ Petition.

10. In view of the aforesaid discussion, this Writ Petition stands dismissed. However, the Petitioner is at liberty to work out their remedy in the manner known to law. No costs. Consequently, connected W.M.P.No.6194 ad 6196 of 2019 are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary to Government,
Government of Tamil Nadu,
Industries Department,
Fort St. George,
Chennai 600 009.
2. The District Collector,
Krishnagiri.
3. The Chief Educational Officer,
School Education, Mathur,
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4. The Headmaster,
Government High School,
Alerhalli Village,
Kalarpathi Post,
Pochampalli Taluk,
Krishnagiri District.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.66172
+1cc to the Government Pleader, S.R.No.67040

W.P.No.5448 of 2019

SR(CO)
CT 21/03/2022