



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.04.2021

Pronounced on : 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15117 of 2020

and

W.M.P.(MD)Nos.12725 and 12727 of 2020

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P.John Peter

... Petitioner

-Vs-

- 1.The Secretary,
Ministry of Mines,
Government of India,
Shastri Bhavan,
New Delhi.
- 2.The Secretary,
Department of Environment and Forests,
Government of Tamilnadu,
Tamilnadu.
- 3.The Secretary,
Department of Mines and Geology,
Government of Tamilnadu,
Tamilnadu.
- 4.The chief Conservator of Forests,
Ministry of Environment and Forests, (SZ)
Kendriasadan, IV Floor, E & F Wings,
17th Main Road,
Koramangala II Block,
Bangalore-560 034.
- 5.The Chairman,
Central Pollution Control Board,
Parivesh Bhavan,
CBD-cum-Office Complex,
East Arjun Nagar,
New Delhi-110 032.
- 6.The Chairman,
Tamilnadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai-600 032.
- 7.The District Collector,
Kanyakumari District,
At Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>



8.The Controller of Geology and Mines,
Guindy, Chennai-600 032.

9.EI Division,
Ministry of Environment and Forests,
Paryavaran Bhawan,
New Delhi.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the 7th respondent in Rc No.43/Pu Ma Su/2010 dated 01.02.2019 and quash the same and direct the 7th respondent to extend the period of quarrying which has been limited upto 31.03.2020 to enable the petitioner to quarry upto the limit sanctioned by the 7th respondent.

For Petitioner : Mr.K.Raajasekaran

For Respondents: Mr.R.Senthilkumar,

Central Govt. Standing Counsel for R1, R4 & R9

: Mrs.M.Rajeswari,

Govt. Advocate for R2, R3, R7 & R8

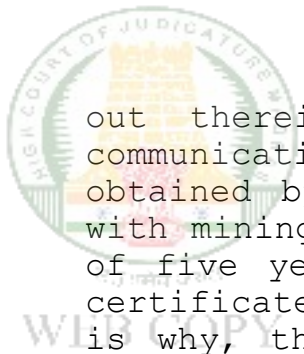
: Mr.I.Irulappan for R5

ORDER

The petitioner is a leaseholder of the property comprised in R.S.Nos.23/8 and 24/10 in Kapiyarai Village, Kakulam Taluk, Kanyakumari District, measuring extent of 2.12.20 hectares. He applied for grant of permission to quarry rough stone / jelly in the said lands. He submitted an application dated 18.06.2010. The request was rejected vide order dated 19.09.2014. Questioning the same, the petitioner filed an appeal before the Commissioner of Geology and Mining, Guindy, Chennai. By order dated 10.03.2015, the order passed by the District Collector was set aside and the matter was remanded back to him with a direction to consider the environment clearance certificate issued by the State Land Environment Impact Assessment Authority. Thereafter, by order dated 01.04.2015, the District Collector, Kanyakumari District issued quarry lease for a period of five years.

2.The petitioner was permitted to quarry 6,14,327 Cu.M. of rough stone / jelly. The petitioner had only quarried 4,34,324 Cu.M. and he is entitled to quarry 1,79,041 Cu.M more. However, the petitioner was issued with show cause notice dated 01.02.2019, calling upon him to submit the environment clearance certificate. It was pointed out that the earlier certificate was issued on 10.04.2013 and its validity period had expired on 09.03.2018 itself. Questioning the same, this writ petition came to be filed.

3.The respondents have filed counter affidavits. It is pointed



out therein that no exception can be taken to the impugned communication. The terms of the environment clearance certificate obtained by the petitioner are fairly clear. It was coterminous with mining lease period; however it would be maximum for a period of five years from the date of issue. The environment clearance certificate obtained on 10.04.2013 got expired on 09.04.2018. That is why, the petitioner was given 60 days time to obtain a fresh environment clearance certificate. The petitioner had no cause of action to even file this writ petition. The seventh respondent pressed for dismissal of the writ petition. The fifth respondent had also filed a counter affidavit. It has been stated therein that the contest is one between the petitioner and the seventh respondent and that the fifth respondent has not much to say.

4.I have to necessarily sustain the stand taken by the respondents. However, the core issue is whether the petitioner, who was granted mining lease should be denied the fruits of the same before the expiry of the lease period. I have to take note the fact that even though the petitioner was very much having the environment clearance certificate, his application was originally rejected by the District Collector, Kanyakumari, vide order dated 19.09.2014 and only after the appellate authority set aside the same and remanded the matter, the petitioner was issued with mining lease. It must also be noted that the application was submitted way back in the year 2010. Thus the time gap between the date of issuance of environment clearance certificate and the date of issuance of mining lease by the seventh respondent has given rise to the current situation. During the pendency of this writ petition, the lease period had also expired. However, the grievance of the petitioner is very much remaining and therefore, the matter cannot be closed as infructuous. The land on which the quarry operations were being done is not a government poramboke land. It is a private land. It is stated by the petitioner that the lease executed by the land owner in his favour is very much holding good. Since the petitioner cannot be imputed with any wrong doing, it is only just and fair that he is allowed to enjoy the fruits of the mining lease granted in his favour originally. In these circumstances, the petitioner is permitted to submit a fresh application to the District Collector, Kanyakumari as well as before the State Land Environment Impact Assessment Authority. If there is no other impediment and subject to fulfilment of usual formalities, the said authorities are directed to grant clearance and permission to the petitioner herein. However, that would be limited to permitting the petitioner to quarry balance quantity of 1,79,041 Cu.M. Of rough stone / jelly. The petitioner's counsel states that the petitioner would move the authorities concerned within a period of three weeks from the date of receipt of a copy of this order. The State Land Environment Impact Assessment Authority is directed to issue the certificate within a period of four weeks from the date of application by the petitioner herein. The District Collector, Kanyakumari will issue

<https://hcdirectorsportal.gov.in/hcdirectorsportal/> the petitioner herein within a period of four weeks



thereafter.

5.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1.The Secretary,
Department of Environment and Forests,
Government of Tamilnadu,
Tamilnadu.

2.The Secretary,
Department of Mines and Geology,
Government of Tamilnadu,
Tamilnadu.

3.The District Collector,
Kanyakumari District,
At Nagercoil.

4.The Controller of Geology and Mines,
Guindy, Chennai-600 032.

+1 CC to M/s.K.RAJASEKARAN, Advocate (SR-17401[F] dated 26/04/2021)

+1 CC to M/s.I.IRULAPPAN, Advocate (SR-17709[F] dated 27/04/2021)

+1 CC to M/s.R.SENTHIL KUMAR, Advocate (SR-17869[F] dated 28/04/2021)

W.P. (MD)No.15117 of 2020

26.04.2021

GS (9.06.2021) 4P 8C

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