



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)Nos.7940, 7941 and 7942 of 2021

1.N.Mathias ... Petitioner in W.P.No.7940/2021
2.K.Rajeswaran ... Petitioner in W.P.No.7941/2021
3.G.Abraham ... Petitioner in W.P.No.7942/2021

Vs.

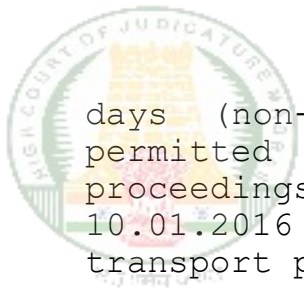
1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District. ... Respondent in all W.Ps

Prayer in WP.7940/2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to permit the petitioner to conduct stone quarrying operation in petitioner's Patta land in S.F.No.473/1(B) over an extent of 0.54.65 Ha in Ayacode Village at Kalkulam Taluk, in Kanyakumari District, for a period of 19 months 22 days (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.615/G & M/2014, dated 10.01.2016 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.

Prayer in WP.7941/2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to permit the petitioner to conduct stone quarrying operation in petitioner's Patta land in S.F.No.486/5 over an extent of 1.22.0 Ha in Kaliyal Village at Vilavancode Taluk, in Kanyakumari District, for a period of 19 months (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.181/G & M/2004, dated 18.11.2015 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.

Prayer in WP.7942/2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to permit the petitioner to conduct stone quarrying operation in petitioner's Patta land in S.F.No.397/1A2, over an extent of 2.00.0 Ha in Villukuri Village at Kalkulam Taluk, in Kanyakumari District for a period of 38 months 27



days (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.395/G & M/2009, dated 10.01.2016 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.

WEB COPY

For Petitioners (in all WPs)	: Mr.Isaac Mohanlal, Sr.Counsel For Mr.Samidurai
For Respondents (in all WPs)	: Ms.J.Padmavathi Devi Spl.Government Pleader

COMMON ORDER

These Writ Petitions have been filed by the petitioners praying to direct the 1st respondent to permit the petitioners to conduct stone quarrying operation in their respective Patta land, for non-operative period, for which, the petitioners were not permitted to quarry during the lease period, as per the permission granted and consequently, direct the 2nd respondent to issue transport permit to the petitioners for the said period.

2. Mr.Isaac Mohanlal, the learned Senior Counsel appearing for the petitioners would submit that the petitioners were granted permission to conduct stone quarrying operation, by the 1st respondent, for their patta land, bearing S.F.No.473/1(B), over an extent of 0.54.65 Ha in Ayacode Village at Kalkulam Taluk, in Kanyakumari District, for a period of 19 months 22 days (non-operative period); in S.F.No.486/5 over an extent of 1.22.0 Ha in Kaliyal Village at Vilavancode Taluk, in Kanyakumari District, for a period of 19 months (non-operative period) and in S.F.No.397/1A2, over an extent of 2.00.0 Ha in Villukuri Village at Kalkulam Taluk, in Kanyakumari District for a period of 38 months 27 days (non-operative period), for which, the petitioners were not permitted to quarry during the lease period, as against the permission granted by the 1st respondent in R.C.No.615/G & M/2014, dated 10.01.2016; in R.C.No.181/G & M/2004, dated 18.11.2015 and in R.C.No.395/G & M/2009, dated 10.01.2016 and consequently, direct the 2nd respondent to issue transport permit to the petitioners for the said period.

3. Adding further, the learned Senior Counsel for the petitioners submitted that as per the permission granted, the petitioner started quarrying operation in their patta land. Before end of the lease period, the 1st respondent had temporarily stopped all the quarry operations on the ground that the quarry is situated within 10 kilometers to Kanyakumari Wildlife Sanctuary, and therefore, 'No Objection Certificate' from the National Wildlife Board is mandated. Thereafter, the Government of India, Ministry of Environment, Forest and Climate Change, vide Notification SC.3236, dated 22.09.2020, revised the stipulated zone of ECO-Sensitive zone from 0 to 3 kilometers to 'Zero to Three Kilometers'. Pursuant to that, the



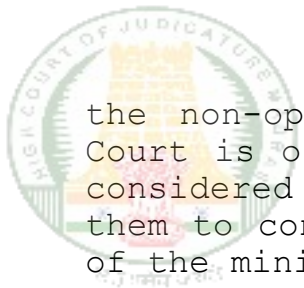
respondents lifted the temporary suspension of the petitioners' quarry operation and permitted to continue the quarry operation.

4. It was further contended by the learned Senior Counsel for the petitioners that temporary suspension was lifted after a period of 19 months; 18 months 17 days and 3 years respectively. The suspension order was passed by the 1st respondent, suspending the mining operation of the petitioners only on the ground that clearance from the Standing Committee of the National Board of Wild Life was not obtained by the respective petitioners. Subsequently, the 1st respondent revoked the earlier order of suspension on the ground that as per the Government of India in Ministry of Environment, Forest and Climate Change Notification SC.3236, dated 22.09.2020, the stipulated zone of ECO-Sensitive area had been revised as Zero to 3 kms. The petitioners were allowed to continue their quarry operation. Therefore, the learned Senior Counsels prays that the 1st respondent may be directed to permit the petitioners to conduct stone quarrying operation in their respective Patta land, for non-operative period, for which, the petitioners were not permitted to quarry during the lease period, as per the permission granted and consequently, direct the 2nd respondent to issue transport permit to the petitioners for the said period.

5. Ms.J.Padmavathi Devi, the learned Special Government Pleader appearing for the respondents would submit that it is true, the 2nd respondent, the Assistant Director, Department of Geology and Mining, Kanyakumari District by Notice, stopped the quarry operations, on the ground that the quarry is situated within 10 kilometers to Kanyakumari Wildlife Sanctuary and latter, the Government of India, Ministry of Environment, Forest and Climate Change, vide Notification SC.3236, dated 22.09.2020, revised the stipulated zone of ECO-Sensitive area as 'Zero to Three Kilometers'. Thereafter, the petitioners were permitted to continue the quarry operation. It is her specific contention that though the 2nd respondent stopped the quarrying operation for sometime, the learned Special Government Pleader wants to verify whether in the interregnum period, the petitioners were permitted to carry-out stone quarrying operation in their respective patta land by the State Government.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. After giving due consideration to the submissions made by the learned counsels appearing on either side, when the respondents have got power to grant permission to the respective petitioners to conduct stone quarrying operation over their respective lands, for the non-operative period, on account of suspension of the mining lease granted in favour of the respective petitioners for no fault on them, rejecting the request made by the respective petitioners to conduct stone quarrying operation in their respective lands for



the non-operative period, is not justifiable and therefore, this Court is of the considered view that the respondents ought to have considered the reasonable request of the petitioners, permitting them to conduct stone quarrying operation, on account of suspension of the mining lease granted in favour of them.

WEB COPY 8. In fine, the Writ Petitions are allowed and the 1st respondent is directed to permit the respective petitioners to conduct stone quarrying operation in their respective Patta land, for non-operative period, for which, the petitioners were not permitted to quarry during the lease period, as per the permission granted. Further, the 2nd respondent is directed to issue transport permit to the petitioners for the said period. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

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.

To

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.

+3 CC to M/s.K.SAMIDURAI, Advocate (SR-17016[F] to 17018 dated 22/04/2021)

+1 CC to M/s.SPL GP (SR-17169[F] dated 22/04/2021)

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SMV (CO)

KB(13.05.2021) 4P 7C