



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD)No.8805 of 2021

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Anitha Raja bai

...Petitioner

Vs.

1.The District Collector,  
Kanyakumari District, Kanyakumari.

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

...Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to permit the petitioner to conduct stone quarrying operation in petitioner's patta land in S.F.No.521/3A and 521/4B over an extent of 1.43.50 Ha in Ponmanai Village at Kalkulam Taluk, Kanyakumari District for a period of 22 months 9 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.655/G & M/2014 dated 13.05.2017 and consequently direct the second respondent to issue transport permit to the petitioner for the said period.

For Petitioner : Mr.M.Suresh

For Respondents : Mrs.J.Padmavathi Devi  
Special Government Pleader

### **O R D E R**

This Writ Petition has been filed by the petitioner praying to direct the 1<sup>st</sup> respondent to permit the petitioner to conduct stone quarrying operation in her Patta land, for non-operative period, for which, the petitioner was not permitted to quarry during the lease period, as per the permission granted and consequently, direct the 2<sup>nd</sup> respondent to issue transport permit to the petitioner for the said period.

2. Mr.M.Suresh, the learned counsel appearing for the petitioner would submit that the petitioner was granted permission to conduct stone quarrying operation, by the 1<sup>st</sup> respondent, for her patta land in S.F.No.521/3A and 521/4B, over an extent of 1.43.50 Ha in Ponmanai Village at Kalkulam Taluk, Kanyakumari District, for a period of 22 months 9 days (non-operative period), for which, the petitioner was not permitted to quarry during the lease period, as against the permission granted by the 1<sup>st</sup> respondent in R.C.No.655/G



& M/2014, dated 13.05.2017 and consequently, direct the 2<sup>nd</sup> respondent to issue transport permit to the petitioner for the said period.

3. The learned counsel for the petitioner submitted that as per the permission granted, the petitioner started quarrying operation in her patta land. Before end of the lease period, the 1<sup>st</sup> 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 area as 'Zero to Three Kilometers'. Pursuant to that, the first respondent lifted the temporary suspension of the petitioner's quarry operation and permitted to continue the quarry operation.

4. It was further contended by the learned counsel for the petitioner that temporary suspension was lifted after a period of 22 months and 9 days. The suspension order was passed by the 1<sup>st</sup> respondent, suspending the mining operation of the petitioner only on the ground that clearance from the Standing Committee of the National Board of Wild Life was not obtained by the petitioner. Subsequently, the 1<sup>st</sup> 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 petitioner was allowed to continue her quarry operation. Therefore, the learned counsel for the petitioner prays that the 1<sup>st</sup> respondent may be directed to permit the petitioner to conduct stone quarrying operation in her Patta land, for non-operative period, for which, the petitioner was not permitted to quarry during the lease period, as per the permission granted and consequently, direct the 2<sup>nd</sup> respondent to issue transport permit to the petitioner for the said period.

5. Mrs.J.Padmavathi Devi, the learned Special Government Pleader appearing for the respondents would submit that it is true, the 2<sup>nd</sup> 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 petitioner was permitted to continue the quarry operation. It is her specific contention that though the 2<sup>nd</sup> respondent stopped the quarrying operation for sometime, the learned Special Government Pleader wants to verify whether in the



quarrying operation in his 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.

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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 petitioner to conduct stone quarrying operation over her land, for the non-operative period, on account of suspension of the mining lease granted in favour of the petitioner for no fault on her, rejecting the request made by the petitioner to conduct stone quarrying operation in her land 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 petitioner, permitting her to conduct stone quarrying operation, on account of suspension of the mining lease granted in favour of her.

8. In fine, the Writ Petition is allowed and the 1<sup>st</sup> respondent is directed to permit the petitioner to conduct stone quarrying operation in her Patta land, for non-operative period, for which, the petitioner was not permitted to quarry during the lease period, as per the permission granted. Further, the 2<sup>nd</sup> respondent is directed to issue transport permit to the petitioner for the said period. No costs.

Sd/-

Assistant Registrar(T&P)

//True copy//

/ /2021

Sub Assistant Registrar

AKV

**To**

1.The District Collector,  
Kanyakumari District, Kanyakumari.

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

+1 CC to Mr.M.SURESH, Advocate ( SR-18195[F] dated 30/04/2021 )

**Order made in  
W.P. (MD)No.8805 of 2021  
30.04.2021**

KUN(CO)

SRS/04.06.2021/3P/4C

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