



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.06.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.10248 of 2021

WEB COPY

C.Suresh

... Petitioner

Vs.

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

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the 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.408/6A, 6 (B) and 7(P) over an extent of 0.99.5 Ha in Villukkuri Village Kalkulam Taluk, in Kanyakumari District for a period of 2 years and 76 days (non-operative period) for which the petitioner was permitted to quarry during the lease period accorded vide the proceedings of the respondent in bearing R.C.No.108/G & M/2012, dated 22.06.2016 and consequently direct the 2nd respondent to issue transport permit to the petitioner for the said period.

For Petitioner : Mr.K.Samidurai

For Respondents : Mr. P.Thilakkumar
Government Advocate

O R D E R

This Writ Petition has been filed 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.408/6A, 6(B) and 7(P) over an extent of 0.99.5 Ha in Villukkuri Village Kalkulam Taluk, in Kanyakumari District for a period of 2 years and 76 days (non-operative period) for which the petitioner was permitted to quarry during



the lease period accorded vide the proceedings of the respondent in bearing R.C.No.108/G & M/2012, dated 22.06.2016 and consequently direct the 2nd respondent to issue transport permit to the petitioner for the said period.

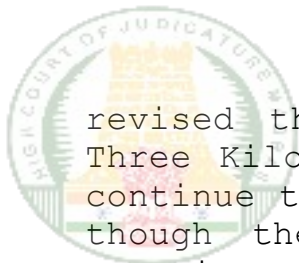
2. Mr.P.Thilakkumar, learned Government Advocate accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Mr.K.Samidurai, the learned counsel appearing for the petitioner would submit that the petitioner was granted lease of rough stone / jelly quarrying in his patta land in S.F.No.408/6A, 6(B) and 7(P) over an extent of 0.99.5 Ha in Villukkuri Village Kalkulam Taluk, in Kanyakumari District, vide proceeding of the 1st respondent, bearing R.C.No.108/G & M/2012, dated 22.06.2016, for a period of five years, as per Rule 19 & 20 of Tamil Nadu Minor Mineral Concession Rules 1959. On the basis of the said proceedings of the 1st respondent, an agreement for quarrying was executed by the Government with the petitioner on 22.06.2016 and it expires on 21.06.2021.

4. While so, suddenly the 1st respondent had temporarily stopped all the quarry operations, by Notice, dated 05.04.2019, on the ground that they quarry is situated within 10 Kilometers to Kanyakumari Wildlife Sanctuary and hence NOC from 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 respondents lifted the temporary suspension of the petitioners' quarry operation and permitted to continue the quarry operation.

5. It was further contended by the learned Counsel for the petitioner that temporary suspension was lifted after after a period of 2 months and 76 days. Therefore, the learned Counsel prays that the 1st respondent may be directed to permit the petitioner to conduct stone quarrying operation in his patta land in S.F.No.408/6A, 6(B) and 7(P) over an extent of 0.99.5 Ha in Villukkuri Village Kalkulam Taluk, in Kanyakumari District, for the non operative period of 2 years and 76 days and consequently direct the 2nd respondent to issue transport permit to the petitioner for the said period.

6. Mr.P.Thilakkumar, the learned Government Advocate appearing for the respondents would submit that it is true the quarry operations was stopped 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 his specific contention that though the 1st respondent stopped the quarrying operation for sometime, the learned Government Advocate wants to verify whether in the interregnum period, the petitioner was permitted to carry-out stone quarrying operation in his patta land by the State Government.

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

8. 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 his patta land, for the non-operative period, on account of suspension of the mining lease granted in favour of the petitioner for no fault on him, rejecting the request made by the petitioner to conduct stone quarrying operation in his 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 him to conduct stone quarrying operation, on account of suspension of the mining lease granted in favour of them.

9. In fine, the Writ Petitions are allowed and the 1st respondent is directed to permit the petitioner to conduct stone quarrying operation in his patta land in S.F.No.408/6A, 6(B) and 7 (P) over an extent of 0.99.5 Ha in Villukkuri Village Kalkulam Taluk, in Kanyakumari District, for a period of 2 years and 76 days (non-operative period) for which, the petitioner was permitted to quarry during the lease period accorded vide the proceedings of the respondent in bearing R.C.No.108/G & M/2012, dated 22.06.2016 and consequently the 2nd respondent is directed to issue transport permit to the petitioner for the said period. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note: (i) 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,
At Nagercoil,
Kanyakumari.
- 2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-20302[F] dated 25/06/2021)

+1 CC to M/s.K.S.AMIDURAI, Advocate (SR-20072[F] dated 24/06/2021)

W.P(MD)No.10248 of 2021

24.06.2021

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