



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.08.2021**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.13544 of 2021
(through video conference)

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G.Murugan

... Petitioner

-Vs-

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Assistant Director of Geology & Mining,
Mines Department,
Collectorate Complex,
Ramanathapuram District.

3.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to grant temporary licence in favour of the petitioner for taking out the brick clay (செங்கல் களிமண்) available when leveling the upland lands comprised in Survey No.18/4 (Part) situated at Perunkarai Village, Paramakudi Taluk, Ramanathapuram District and also Survey Nos.197/1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 196/1 situated at Kulanthapuri Village, Paramakudi Taluk, Ramanathapuram District, on the basis of the petitioner's representation dated 08.07.2021 within time frame stipulated by this Court.

For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.D.Gandhiraj
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to grant temporary licence in favour of the petitioner for taking out the brick clay (செங்கல் களிமண்) available when leveling the upland lands comprised in Survey No.18/4 (Part) situated at Perunkarai Village, Paramakudi Taluk, Ramanathapuram District and also Survey Nos.197/1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 196/1 situated at Kulanthapuri Village, Paramakudi Taluk, Ramanathapuram District, on the basis of the petitioner's representation dated 08.07.2021.

2.The case of the petitioner is that, the petitioner is having

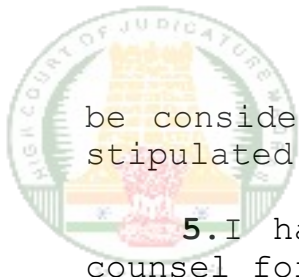
<https://hcservices.ecourts.gov.in/hcservices/>



land at S.No.165/3, 165/4A and 165/4B to the total extent of 1.41 hectares at Valaiyanenthal Village, Ilayankudi Taluk, Sivagangai District, wherein in order to extract bricks earth, already he obtained permission from the respondent District Collector. The petitioner is also having land at S.No. Nos.197/1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 196/1 at Kulanthapuri Village, Paramakudi Taluk, Ramanathapuram District. In order to extract brick earth from the said land at Kulanthapuri Village, Paramakudi Taluk, Ramanathapuram District, for the purpose of using his own brick-klin industry for which according to the petitioner, permission has been already obtained, he had made an application to the respondents on 08.07.2021.

3.In this context, Mr.P.Krishnasamy, learned counsel appearing for the petitioner has pointed out that based on the earlier request made in this regard, the third respondent, that is Tahsildhar at Paramakudi Taluk, having conducted the spot inspection, had given a detailed report to the first respondent District Collector on 11.03.2021, whereby he had recommended that permission to extract the brick earth can be given to the petitioner for the said land for which he had made application and in this regard, it is the further contention of the learned counsel appearing for the petitioner that all other relevant documents including the lease deed etc., had been given or submitted to the respondents for considering his request to give such permission as sought for. However, the same has not been considered and no orders have been passed. Therefore, he has filed the present writ petition with the aforesaid prayer.

4.Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who, on instructions would submit that, for giving such permission to anyone for extracting brick earth from any land, a detailed procedure has been contemplated, which has to be mandatorily followed under Rule 44 of the TamilNadu Mines and Mineral Concession Rules, 1959 [hereinafter referred to as "said Rules" for short]. The said rule has been inserted by way of amendment as per the notification appended to Government Order in G.O.Ms.No.129, Industries (MMC 1)Department, dated 26.02.2021. The learned Government Advocate would also submit that as per the said rule, such kind of application for giving permission for extracting brick earth has to be considered and decided either by the Assistant Director or Deputy Director of Geology and Mining concerned of the District. Therefore, in this context, if at all the petitioner had given any application as claimed by the petitioner through his representation dated 08.07.2021 along with necessary documents, the same would be processed by the second respondent and not by the first respondent District Collector, as under Rule 44 referred to above, the Assistant Director or Deputy Director are alone empowered to consider and process the application to grant or reject the said application and accordingly, on processing the same, strictly in accordance with the Rule 44 of the said Rules, the application would



be considered and decided on merits within a timeframe that may be stipulated by this Court.

5.I have considered the said submissions made by the learned counsel for the parties and perused the materials placed on record.

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6.As has been pointed out by the learned Government Advocate appearing for the respondents, Rule 44 of the said Rules has been inserted in the TamilNadu Mines and Mineral Concession Rules, 1959, by virtue of the notification issued along with the G.O.129, Industries (MMC.1) Department, dated 26.02.2021, as referred to above and in the said Rules, an exhaustive procedure has been contemplated, under which various conditions have been imposed, which should be fulfilled by any applicant, who seeks such permission for extraction of brick earth and therefore, as per the said procedure contemplated under Rule 44, on the application submitted by the petitioner dated 08.07.2021 prior to that any other application submitted in this regard, of course by taking into account the report submitted by the third respondent Tahsildar, dated 11.03.2021, final order can be passed either to grant or reject depending upon the merits of the claim made by the petitioner.

7.In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:-

that the second respondent is hereby directed to consider the application of the petitioner dated 08.07.2021 for grant of permission for extraction of brick earth from the patta land or lease land as has been claimed by the petitioner, of course by strictly following various procedures contemplated under Rule 44 of the TamilNadu Mines and Mineral Concession Rules, 1959, by taking into account the report submitted by the third respondent Tahsildar in Na.Ka.No.A4/1792/2021 dated 11.03.2021 and pass orders therein, within a period of six weeks from the date of receipt of a copy of this order.

8.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

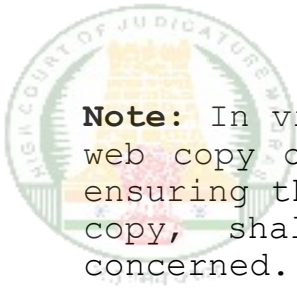
Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

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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 District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Assistant Director of Geology & Mining,
Mines Department,
Collectorate Complex,
Ramanathapuram District.
- 3.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

+1 CC to M/s.GP (SR-25515[F] dated 06/08/2021)

W.P. (MD) No.13544 of 2021

05.08.2021

_RD(23.08.2021) 4P 5C