



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.08.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.23691 of 2018

Nirmala Mathi Devi

... Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
At Nagercoil.
- 2.The District Forest Officer,
Kanyakumari District,
Vadasery, Nagercoil,
Kanyakumari District.
- 3.The Executive Engineer,
Agricultural Engineering Department,
Nagercoil,
Kanyakumari District.
- 4.The Deputy Director,
Town and Country Planning,
Tirunelveli.
- 5.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.
- 6.The Tahsildar,
Agasdeeswaram Taluk,
Nagercoil,
Kanyakumari District.
- 7.The Assistant Director,
Mines and Minerals Department,
Collectorate Office,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 to 6 to issue report for grant of rough stone quarrying permit in the petitioner's Patta land in survey No.478/7 of Eravipudhoor Village, Agasdeeswaram Taluk, Kanyakumari District on the petitioner's application dated 12.04.2018 based on the proceedings of the 1st respondent in Rc.No.42/G & M/2018 dated 18.04.2018.



For Petitioner : Mr.A.Rajkumar Sen
For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

WEB COPY
The prayer sought for herein is for a Writ of Mandamus, directing the respondents 2 to 6 to issue report for grant of rough stone quarrying permit in the petitioner's Patta land in survey No.478/7 of Eravipudhoor Village, Agasdeeswaram Taluk, Kanyakumari District on the petitioner's application dated 12.04.2018 based on the proceedings of the 1st respondent in Rc.No.42/G & M/2018 dated 18.04.2018.

2.The petitioner had made an application on 12.04.2018 to the respondents seeking permission for quarrying rough stone and jally stone over an extent of 0.39 hectares in patta land at Survey Nos.478/8-B and 478/7 of Eravipudhoor Village, Agasdeeswaram Taluk, Kanyakumari District for a period of five years under the relevant provisions of Tamil Nadu Minor Minerals Concession Rules, 1959.

3.For the process of the said application, it became necessity on the part of the authority to get reports from the sub-ordinate Officers from various departments to grant such permission and after getting such kind of reports only, the application can be processed by the first respondent and to pass orders. Since the said reports had not been given by the sub-ordinate Officers to the first respondent for consideration of the application of the petitioner dated 12.04.2018, the petitioner has filed this writ petition with the aforesaid prayer.

4.Reiterating the said prayer, Mr.A.Rajkumar Sen, learned counsel appearing for the petitioner would submit that if a direction is given to the respondents 2 to 7 to file a report with respect to enabling the first respondent to process and decide the application of the petitioner dated 12.04.2018 for granting quarrying permit for quarrying rough stone and jally stone in patta land referred to above, within a timeframe, the petitioner would be satisfied.

5.However, the learned Government Advocate appearing for the respondents, on instructions, would submit that, the said report expected from the respondents 2 to 7 having not been received by the first respondent and after having considered the same, the first respondent, by proceedings dated 12.08.2021, has rejected the plea of the petitioner for grant of quarrying permit and in support of the same, the learned Government Advocate has produced a copy of the said order passed by the first respondent dated 12.08.2021 in Rc.No.42/G&M/2018, where the following has been stated:

"In view of the above, based on the report of



District Forest Officer, Nagercoil, Assistant Director, Geology and Mining and Tahsildar, Agastheeswaram, the quarry lease application preferred by the applicant Tmt. Nirmala Mathi Devi for quarrying Rough Stone over an extent of 0.39.0 hects in Patta S.F.No.478/7, 478/8B of Eraviputhoor Village in Agastheeswaram Taluk, Kanniyakumari District is hereby rejected as habitations are situated within 300m from the applied area under the amended rule 19(1) & 20 of the Tamil Nadu Mines and Minerals Concession Rules, 1959.

If aggrieved, an appeal may be preferred before the Appellate Authority / the Director, Department of Geology and Mining, Guindy, Chennai-32, within 30 days from the receipt of this letter as per the provision contained in the Section 36 C (2) of the Tamil Nadu Mines and Minerals Concession Rules, 1959."

6. Therefore, the learned Government Advocate would submit that the prayer sought for herein has become infructuous, as the very application of the petitioner itself having been considered was rejected.

7. I have considered the said submissions made by both sides and have noted the subsequent development, where by order dated 12.08.2021, since the very application of the petitioner for seeking quarrying permit itself having been considered was rejected as against which, it is open to the petitioner to file an appeal before the appellate authority, which has also been mentioned in the order dated 12.08.2021, this Court feels that no further order is required to be passed in this writ petition.

8. Recording the aforesaid development, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

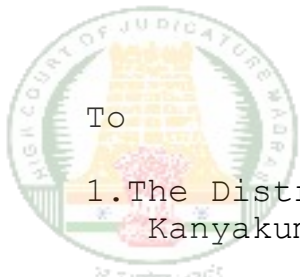
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/ /2021

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.



To

- 1.The District Collector,
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Kanyakumari District.
- 7.The Assistant Director,
Mines and Minerals Department,
Collectorate Office,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-27173[F] dated 25/08/2021)

W.P. (MD) No.23691 of 2018
24.08.2021

NSN(CO)
KB(05.10.2021) 4P 9C