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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.4482 of 2020

and

W.M.P.Nos.5314 to 5316 of 2020

1.P.Perumal
2.Thailan
3.P.Jaganathan
4.P.Madhaiyan

...Petitioners

Vs

1.The District Collector,
Salem District.

2.The Revenue Divisional Officer,
Mettur, Salem District.

3.The Deputy Director,
Geology and Mining,
Salem District.

4.The Tahsildar,
Mettur Taluk,
Salem District

5.S.Ravichandran

...Respondents

[R-5 impleaded vide order dated 14.02.2022 made in
WMP.No.21091 of 2021 in W.P.No.4482 of 2020]

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the Notification published in the Salem District Gazette No.3 dated 22.01.2020 on the file of the 1st respondent herein in so far as the same relates to S.No.21 (Part) of Bukkampatti Village, Mettur Taluk and quash the same and consequently restrain the respondents herein from granting any lease or permission to carry out any Stone quarry operation in S.No.21 (Part) of Bukkampatti Village.



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For Petitioners : Mr.V.R.Rajasekaran
For Respondents : Mr.B.Vijay (for R1 to R4)
Additional Government Pleader
: Mr.P.Valliappan (for R5)
For M/s.PV Law Associates

O R D E R

Read this order in conjunction with order dated 15.03.2022 that reads as follows:

'Heard Mr.V.R.Rajasekaran, learned counsel for the petitioner, Mr.B.Vijay, learned Additional Government Pleader for R1 to R4 and Mr.P.Valliappan, learned counsel for R5/successful bidder in the auction conducted under the impugned notification published in Salem District Gazette No.3 dated 22.01.2020. The impugned notification relates to a quarry license granted to R5 in relation to the land in S.No.21 (Part) of Bukkampadi Village, Mettur Taluk(land/land in question).

2. The prime objection expressed by the petitioner is to the effect that he resides very proximate to the area for which the quarry license is to be granted. In this regard he would draw attention of the Court to Rule 36 (1-A) of the Tamil Nadu Minor Mineral Concessions Rules, 1959 ('Rules').

3. Rule 36, falling under Section-V titled, 'Miscellaneous', imposes general restrictions in respect of quarry operations. The aforesaid Rule places an embargo upon the grant of license for leasing operations for quarrying stones within three hundred meters from any habitable site.

4. The proviso thereto states that existing quarries subsisting under leases that are current shall be entitled to continue their activities till the expiry of the lease period, but such quarries shall undertake blasting operations only with due permission from the Director of Mines and Safety.

5. In order to ensure that the distance of three hundred meters is maintained at all costs, 36 (1-A) (c) imposes a simultaneous embargo upon approval for proposed new layouts for building plans that fall within three hundred meters from any quarry. In such



circumstances approval may be granted only if there is quarry clearance obtained from the Directorate of Geology and Mining.

6. Clause (a) and (c) of Section 36 (1-A) reads as follows:-

(a) No lease shall be granted for quarrying stone within 300 metres (three hundred metres) from any inhabited site:

Provided that the existing quarries which are subsisting under current leases shall be entitled for continuance till the expiry of the lease period. The lessees whose quarries lie within a radius of 300 metres from the inhabited site shall undertake blasting operations only after getting permission of the Director of Mines Safety, Gorgaum:

(c) No new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining shall decide upon the continuance or closure, as the case may be, of any quarry which is situated within 300 metres from the new layout, buildings sought for such clearance.

7. The intention is thus clear, that a distance of three hundred meters must be maintained for the conduct of quarry operations qua habitable areas, since such operation touch upon the safety and security of inhabitants.

8. The grievance of R5 as against the prayer sought in this writ petition is also legitimate insofar as he is a successful bidder and has made necessary payments in this regard as early as on 13.02.2022, despite which he is not in a position to operate the licenses.

9. The petitioner has filed a representation as early as on 31.10.2019, despite the pendency of which the impugned tender notification has come to be issued. It would thus be appropriate that the petitioner's objections be considered by R1 and for this purpose both petitioner and R5 are permitted to appear before R1 on Thursday, the 24th of March at 10.30 a.m.



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10. No further notice need be issued in this regard and upon hearing the parties, considering the representation of the petitioner dated 31.10.2019 as well as the averments contained in this writ petition, let R1 pass a speaking order within a period of four weeks of the personal hearing as aforesaid.

11. List this matter on 18.04.2022 for production of orders of R1.'

2. The matter is listed today for production of orders. A compliance report has filed by the 3rd respondent/Deputy Director, Department of Geology and Mining, Salem, wherein from paragraph 9 onwards till paragraph 12, the R3 states as follows:

'9.It is submitted that, as per the direction of the Hon'ble High Court of Madras, a memorandum has been issued to the Petitioner and Thiru.S.Ravichandran for conducting personal hearing on 25.03.2022 and 08.04.2022 vide District Collector, Salem memo Rc.No.192/2020/Mines-A dated 19.03.2022 and 28.03.2022. Accordingly the petitioner and Thiru.S.Ravichandran were enquired on that days and submitted their statements on 08.04.2022 before the District Collector, Salem.

10.It is submitted that, after careful examination of the report submitted by the Tahsildar, Mettur, the Deputy Director of Geology and Mining, Salem, statements submitted by the Petitioner and Thiru.S.Ravichandran and as per rule 36(1-A)(e) of Tamil Nadu Minor Mineral Concession Rules, 1959, the area in S.F.No.21 (Part) over an extent of 2.50.0 hectare of Government poramboke land in Pukkampatti Village, Mettur Taluk, Salem district published in Serial No.23 of Salem District Gazette Extra- Ordinary No.3 dated 22.01.2021 and thereby confirmed through auction as successful higher bidder for grant of quarry lease for quarrying Roughstone was cancelled vide Proceedings of the District Collector, Salem Rc.No.192/2020/Mines-A dated 08.04.2022 and the same was communicated to the highest bidder of Thiru.S.Ravichandran S/o. Samynathan.

11.It is submitted that, in continuation of the above order, the proposal was sent to the Government through the Director of Geology and Mining, Chennai vide District Collector letter Rc.No.192/2020/Mines-A dated 08.04.2022, to refund the one time lease amount of Rs.72,65,000/- (Rupees seventy two lakhs sixty five



thousand only) remitted for the period of ten years by Thiru.R.Ravichandran S/o.Samynathan, Kottaikovil street, Dharmapuri.

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12.It is submitted that, the area for grant of quarry lease for quarrying Roughstone in S.F.No.21 (part) over an extent of 2.50.0 hectare of Government Poramboke land in Pukkampatti Village, Mettur Taluk, Salem District was cancelled on the grounds that granting of quarry lease could not be processed as per the amended rule 36(1-A)(e) of the Tamil Nadu Minor Mineral Concession Rules, 1959 as the Reserve Forest situated within the 1 Km radius from the proposed area. The petitioner's request also considered and action taken as per Act and Rules.'

3.Prior to passing of the orders dated 08.04.2022, the District Collector has obtained reports of the Tahsildar as well as the Deputy Director of Geology and Mining in compliance with order dated 15.03.2022. Though the conclusion of the District Collector is in favour of the petitioner, in so far as the licence allotted to R5 now stands cancelled, the reasoning adduced by R1 for cancellation of the licence is that the land falls within 1 km radius from the adjoining reserved forest.

4.As far as the objections raised by the petitioner that the land was within 300 metres from sites inhabited by him and many others, the authority states that on survey, it was found that there was no approved layout within 300 meters of the land. Rule 36(1-A)(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959 reads as follows:

'.....

(c)No new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining shall decide upon the continuance or closure, as the case may be of any quarry which is situated within 300 metres from the now layout, building sought for such "clearance".'

5.This is an inclusive definition and covers any village, town or house site as referred to in the revenue records or an approved layout. Thus, the District Collector cannot restrict the operation of Rule 36 only to an approved layout and would also have to consider instances of inhabited sites of proximity of 300 meters and less from the land being quarried. The order



of the District Collector, in so far as it rejects the reasoning adduced by the petitioner, is incorrect.

6. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vs/jeni

To

1. The District Collector,
Salem District.
2. The Revenue Divisional Officer,
Mettur,
Salem District.
3. The Deputy Director,
Geology and Mining,
Salem District.
4. The Tahsildar,
Mettur Taluk,
Salem District.

+1cc to Mr.V.R.Rajasekaran, Advocate SR. No. 25992
+1cc to Mr.P.Valliappan, Advocate SR. No. 26299
+1cc to Government Pleader SR. No. 26755

W.P.No.4482 of 2020 and
W.M.P.Nos.5314 to 5316 of 2020

PMK (CO)
PR (02/05/2022)