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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP NOS.32257 & 32258 OF 2016

&

W.M.P.NOS.27971 TO 27974 OF 2016

Mrs.M.A.Jehosheba Rachel Mahima
W/o.Kirubakaran
Founder & Correspondent
Saint Paul Public School,
Kumbakonam Road,
Panikkan Kuppam,
Panruti, Cuddalore District.

.. Petitioner in both W.Ps.

vs.

1. The District Collector,
Office of the Collector,
Cuddalore,
Cuddalore District.
2. District Revenue Officer,
Office of the D.R.O.,
Cuddalore,
Cuddalore District.
3. The Tahsildar,
Office of the Tahsildar,
Panruti, Cuddalore District.

.. Respondents 1 to 3 in both W.Ps.

4. Assistant Manager of Mining,
Department of Mines & Minerals,
Office of the Collector,
Cuddalore District.

.. 4th Respondent in
W.P.Nos.32257/2016 & 32258/2016

5.H.Kaleel

.. 5th Respondent in W.P.No.32257/2016

6.Rajadthurai @ Antony Samy

.. 5th Respondent in W.P.No.32258/2016



Prayer in W.P.No.32257/2016: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in connection with Na.Ka. No. 278/ Pu. ma.Ka/ 2012 dated 24.09.2012 on the file of the first respondent herein and quash the same as illegal and improper and direct the respondents herein to maintain edge of the property for an extension of 7.5 meters or 25 feets land with a toe wall as a buffer zone in between the petitioners and 4th respondent property the mining operated areas in survey number 39/3A, 39/B, 39/4A1 at Pannikuppam Village, Panrutti, Cuddalore District.

Prayer in W.P.No.32258/2016: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records passed by the 1st respondent in connection with Na.Ka. No. 278/ Pu. ma.Ka/ 2012 by his order dated 25.09.2013 and quash the same as illegal and improper and direct the respondents herein to maintain the edge to an extent of 7.5 meters or 25 feets land with a toe wall as a buffer zone in between the petitioners and 4th respondents property in survey Numbers. 39/2 (39/2B) the mining operated areas in Survey Number 39/4B, Pannikuppam Village, Panrutti, Cuddalore District.

For Petitioner
in both W.Ps. : Mr.S.Sabarish

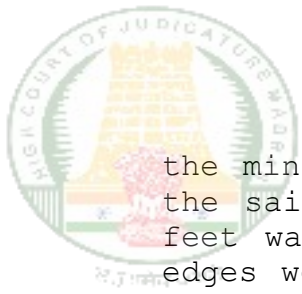
For R1 to R4 in
W.P.No.32257/2016
& R1 to R4 in
W.P.No.32258/2016 : Mr.B.Vijay
Additional Government Pleader

For R5 in
W.P.No.32257/2016
& R5 in
W.P.No.32258/2016 : No Appearance

COMMON ORDER

The orders impugned dated 24.09.2012 and 25.09.2013 passed by the District Collector, Cuddalore is under challenge in the present writ petitions.

2.The petitioner states that their School was established in the academic year 2009-2010 and 500 students were studying in the Institution during the relevant point of time. The petitioner states that Dalmia Cements Company had carried out



the mining operation. The petitioner's property is adjacent to the said place where the mining operations were conducted. 25 feet was left as a buffer zone and after leaving 25 feet, the edges were maintained as a bench system for Dalmia Cements with an intention to prevent collapsing of edge/land sliding and the petitioner states that they have constructed the School premises and it is the duty of the Government authorities to ensure that the buffer zone is maintained and under those circumstances, they made a request to the District Collector to make arrangement to protect the School building and premises and also the children. However, the request was rejected and the petitioner is constrained to move the present writ petitions.

3.The learned Additional Government Pleader appearing on behalf of the official respondents made a submission that the facts are suppressed by the petitioner as the mining operations were abandoned and the portion of the property was sold in favour of one Mr.Rajadurai @ Antony Samy. Being aware of the abandoned lease hold area, the petitioner constructed the School building and started functioning the School in the year 2009-2010. The petitioner has constructed the School building without leaving safety distance and safety arrangement by construction of toe wall in the School premises adjacent to the mining area. These factors are not brought before this Court in the present writ petitions.

4.It is contended that in respect of the private land, the District Collector cannot interfere nor construct any wall. Thus the request made by the petitioner was rejected. Further the mining operations were abandoned and thereafter, the petitioner has to make their own arrangements to protect their building and children studying in the School. In this regard, the respondents have stated in the counter affidavit as follows:

"Para 4 to 7:

It is submitted that it is true that the petitioner's school is situated in S.F.No.39/2B & 39/2C of Pannikankuppam Village, Panruti Taluk, Cuddalore District. The petitioner's school was constructed and stated functioning from the year 2009-10 subsequent to the mining operations by Tvl.Dalmia Cement Ltd., in the land adjacent to the lands in S.F.Nos.39/3A, 39/3B, 39/4A1 and 39/4B of Pannikankuppam Village, Panruti Taluk, Tvl.Dalmia Cement Ltd., were granted mining lease for Fire Clay for a period of 20 years in Old S.F.No.62/2 and 64/2 [Corresponding new S.F.No.39/3 - Subsequently subdivided as 39/3A & 39/3B] in G.O.Ms.No.4828 Industries Department dated 16.12.1966. Tvl.Dalmia



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Cement Ltd., were granted mining lease for Fire Clay for 20 years, over an extent of 24.75.0 Acres in Old S.F.Nos.61/2 and 64/2 [Corresponding new S.F.No.39/4 - Subsequently subdivided as 39/4A1, 4A2 and 4B in G.O.Ms.No.5445, Industries Department, dated 06.11.1962. After the expiry of the lease period the above lands [parts of lease hold area] were kept abandoned. Being aware of the above abandoned lease hold area the petitioner constructed the above school building and started functioning of the school in the year 2009-10 in the lands in S.F.No.39/2B & 39/2C of Pannikankuppam Village, Panruit Taluk adjacent to the abandoned mining lease area in new S.F.Nos.39/3A, 39/3B, 39/4A1 and 39/4B without leaving safety distance and safety arrangement by construction of toe wall in the school premises adjacent to the mined area in S.F.Nos.39/3A, 39/3B, 39/4A1 and 39/4B to protect the school building and the school children. Being aware of the above facts the petitioner has suppressed the above facts and has chosen to file this writ petition."

5.In view of the above facts and circumstances, it is left open to the petitioner to make all necessary arrangements to protect the School building and the children studying in the School. They cannot insist the Government authorities to put up construction of wall or otherwise.

6.With these observations, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

cse

To

1. The District Collector,
Office of the Collector,
Cuddalore,
Cuddalore District.



2. The District Revenue Officer,
Office of the D.R.O.,
Cuddalore,
Cuddalore District.

3. The Tahsildar,
Office of the Tahsildar,
Panruti, Cuddalore District.

4. The Assistant Manager of Mining,
Department of Mines & Minerals,
Office of the Collector,
Cuddalore District.

+1cc to the Government Pleader, S.R.No.6050

WP.Nos.32257 & 32258 of 2016

KSM(CO)
RLP(14/02/2022)