



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.30861 of 2019 and
W.M.P. Nos.30948 and 30951 of 2019

K.Muthusamy

... Petitioner

vs

- 1.The Commissioner of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai - 600 032.
- 2.The District Collector,
Tiruppur District,
Tiruppur.
- 3.The Deputy Director,
Town and Country Planning,
Salem Region,
No.6,Sannathi Street,
Subramania Nagar,
Sooramangalam,
Salem - 636 005.
- 4.The Assistant Director of
Town and Country Planning,
Tiruppur Region,
Kumaran Commercial Complex (First Floor),
Tiruppur.
- 5.The Block Development Officer,
Uthukuli Panchayat Union,
Uthukuli.
- 6.The Special Officer,
Murattupalayam Panchayat,
Uthukuli Panchayat Union,
Tiruppur District.



7.S.Subramaniam

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus forbearing the official respondents 2 to 6 from granting any building planning permission within 300 meters from the quarry site particularly from Survey No.209/1A, 1B and 2 of Morattupalayam Village, Uthukuli Taluk, Tiruppur District and direct the official respondents 2 to 6 to take appropriate action against the seventh respondent for unauthorised construction made in Survey No.199/8B of Morattupalayam Village, Uthukuli Taluk, Tiruppur District.

For Petitioner : M.Muthappan

For Respondents :Mr.B.Vijay,

Additional Government Pleader
for R1 and 6

Mr.K.V.Sajeev Kumar,
Special Government Pleader
for R2 to 4

No appearance for R5

Mr.A.Manojkumar for R7

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court for issuance of writ of Mandamus forbearing official respondents 2 to 6 from granting any building planning permission within 300 meters from the quarry site, particularly from Survey Nos.209/1A, 1B and 2 of Morattupalayam Village, Uthukuli Taluk, Tiruppur District and directing them to take appropriate action against the seventh respondent for putting up un-authorized construction in Survey No.199/8B, situated at Morattupalayam Village, Uthukuli Taluk, Tiruppur District.

2.Learned counsel appearing for the petitioner submitted that the petitioner has been granted quarrying lease along with one P.K.Krishnasamy to quarry jalli/gravel in patta lands comprised in Survey Nos.209/1A, 209/1B and 209/2 measuring to the extent of 1.23.5, 0.04.5 and 0.97.5 hectares, totalling to 2.25.5 hectares in Morattupalayam Village, Uthukuli Taluk, Tiruppur District for a period of five years under 19(1) and 20 of the Tamil Nadu Minor Mineral Concession Rules, 1959 as per the District Collector's Proceedings dated 21.09.2016. Pursuant to the said proceedings, they have executed a Lease Deed in favour of the District Collector and the above said quarry area is



subject to the quarrying operation since 2006. While so, some of the third parties have made some un-authorized construction in S.F. Nos.199, 206, 207, 208, 210 and 211 situated at Morattupalayam Village. In this regard, the petitioner made a representation to the official respondents not to grant any building permission within 300 metres from the quarry area. Learned counsel appearing for the petitioner further submitted that as per 36(1-A)(c) of the Tamil Nadu Minor Mineral and Concession Rules, no new layout or building plan within 300 metres from the quarry site, shall be approved without prior clearance from the Director of Geology and Mining. But, the seventh respondent herein has been constructing a building in Survey No.199/8B, without obtaining any planning permission from the competent authority. Hence, the petitioner made a representation to all the official respondents not to grant any building permission and also to take appropriate action for the un-authorized construction, within the prohibited distance from the quarry area. Pursuant to his representation, the Special Officer, Morattupalayam Panchayat, the sixth respondent herein has issued a notice dated 16.09.2019 to the seventh respondent stating that the seventh respondent would stop the construction work immediately and if he fails to do so, appropriate action will be taken against him. In spite of the same, the seventh respondent has not stopped the construction work and continued the same, without obtaining any planning permission from the competent authorities. As the official respondents have not taken any further action to stop the construction work within the prohibited distance of 300 metres from the quarry site, the petitioner is before this Court seeking the above prayer.

3.Opposing the above prayer, learned counsel for the seventh respondent submitted that on earlier occasion, the seventh respondent came to this Court with W.P. No.30601 of 2019 to quash the Stop Work Notice issued by the Special Officer, Morattupalayam Panchayat, Tiruppur District/the fifth respondent therein dated 16.09.2019 as the same is illegal, arbitrary with a consequential direction to the official respondents to issue building approval, since his property is not falling within the ambit of prohibited area. Learned counsel for the seventh respondent further submitted that this Court, by order dated 18.11.2019, considering the fact that impugned notice was issued without affording any opportunity of hearing to the seventh respondent, setting aside the same, allowed the writ petition and also granted liberty to the Special Officer to initiate fresh proceedings, after issuance of notice to the seventh respondent and the petitioner herein, who was the sixth respondent in the above writ petition. Though the seventh respondent has given his



written objection not to extend the licence to the petitioner to continue the operation of quarry, in view of non considering his objections raised for the extension of the petitioner's mining licence, the seventh respondent also filed W.P. Nos.1429, 1430, 1432, 1434 and 1435 of 2021 before this Court and in the said writ petitions, the Revenue Divisional Officer, Tiruppur has filed his counter affidavit stating that he inspected the field along with the Firka Surveyor and yet to submit his report. Recording the same, the above writ petitions were disposed of by order dated 12.08.2021 directing the official respondents to consider the petitioner's representation in the event of filing an extension application. Learned counsel for the seventh respondent further submitted that as the seventh respondent has not been proceeding with any construction as on today, the prayer made by the petitioner has become infructuous.

4.Learned counsel for respondents 1 and 6, drawing our notice to 36(1-A)(c) of the Tamil Nadu Minor Mineral and Concession Rules, 1959, submitted that no new layout or building plan, falling within 300 metres from quarrying site, should be approved unless prior clearance of Director of Geology and Mining is obtained. Therefore, the aforementioned Rules are very clear that if there is any quarrying operation, which falls within 300 metres, the application seeking permission to undertake quarrying operation is not permissible.

5.Heard the learned counsels and perused the records.

6.Since the seventh respondent has submitted that he is not proceeding with any construction work, we are not inclined to issue suitable direction to the respondents concerned. Recording the submission made by the seventh respondent to the effect that he is not proceeding with any construction work, this writ petition stands disposed of. Consequently, W.M.P. Nos.30948 and 30951 of 2019 stand closed. No costs.

7.It is made clear that the application filed before the first respondent for grant of extension of licence for quarrying jelly shall be considered as per Rules.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

vga



To

1.The Commissioner of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai - 600 032.

2.The District Collector,
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Tiruppur.

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Murattupalayam Panchayat,
Uthukuli Panchayat Union,
Tiruppur District.

+lcc to Mr.M.Muthappan, Advocate SR.No.12073

+lcc to Mr.A.Manojkumar, Advocate SR.No.12734

+lcc to the Government Pleader, SR.No.12329, 12344

W.P.No.30861 of 2019 and
W.M.P. Nos.30948 and 30951 of 2019

MT (CO)
CB(29/03/2022)