



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.5737 of 2022

and W.M.P. (MD) .Nos.4582 & 4583 of 2022

WEB COPY

Valai Muthusamy

... Petitioner

Vs

1.The Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

2.The Executive Engineer,
Public Works Department (WRO),
Gundar Basin,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of 1st respondent made in Na.Ka.A1/877/2022, dated 28.03.2022 and quash the same and consequently, permit the petitioner to take Clay soil from Mudukankulam Tank for further period of four days.

For Petitioner	: Mr.R.Murali
For Respondents	: Mr.P.Thilak Kumar Government Pleader

ORDER

This writ petition has been filed challenging the impugned order of cancellation of the permission granted to the petitioner earlier on 25.03.2022, permitting the petitioner to draw clay soil from Mudukankulam Tank.

2.The petitioner has challenged the impugned order, dated 28.03.2022, on the ground of violation of principles of natural justice. According to him, though permission was granted to draw clay soil for the purpose of levelling the petitioner's property on 25.03.2022, by the first respondent, the same has been arbitrarily cancelled without affording any opportunity of hearing to the petitioner on 28.03.2022, by the very same first respondent. According to him, based on a phone call received from a third party, the impugned order has been passed cancelling the permission. In such circumstances, this writ petition has been filed.



3.Heard Mr.R.Murali, learned counsel for the petitioner and Mr.P.Thilak Kumar, learned Government Pleader, who accepts notice on behalf of the respondents.

4.As seen from the impugned order, no notice has been given to the petitioner before cancellation of the permission granted to the petitioner by the first respondent on 25.03.2022. The permission was granted on 25.03.2022 and within three days, the permission has been cancelled as seen from the impugned order. The contention of the petitioner is that only in accordance with the conditions imposed under the permission order, dated 25.03.2022, he has been drawing clay soil. Only based on a phone call received from a third party, the impugned order has been passed on 28.03.2022, cancelling the permission granted to the petitioner earlier on 25.03.2022.

5.After giving due consideration to the aforementioned factors, this Court is of the considered view that principles of natural justice has been violated as no opportunity of hearing has been granted to the petitioner before cancelling the permission granted earlier to the petitioner on 25.03.2022.

6.For the foregoing reasons, the impugned order has to be necessarily quashed and the matter has to be remanded back to the first respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing, within a time frame to be fixed by this Court.

7.Accordingly, the impugned order, dated 28.03.2022, passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing. The first respondent is directed to pass final orders, within a period of two weeks from the date of receipt of a copy of this order.

8.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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 Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

2.The Executive Engineer,
Public Works Department (WRO),
Gundar Basin,
Madurai.

+1 CC to M/s.SPL GP (SR-15737[F] dated 31/03/2022)

+1 CC to M/s.R.MURALI, Advocate (SR-16163[F] dated 01/04/2022)

W.P. (MD)No.5737 of 2022
31.03.2022

PA(08.04.2022) 3P 5C