



W.P(MD)No.23:

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23504 of 2022

A.Rameshkannan

..Petitioner

Vs

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Paramakudi Division,
Ramanathapuram District.

3.The Assistant Director of Geology & Mining,
Mines Department,
Collectorate Complex,
Ramanathapuram District,
Ramanathapuram.

4.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to grant temporary licence in favour of the petitioner for taking out the excess soil (உபரி மண்) available when leveling the upland lands comprised in Survey Nos.49/4, 45/1A, 107/1 and 107/2A situated at Thenpodhuvakkudi Village, Paramakudi Taluk, Ramanathapuram District, on the basis of the petitioner's representation, dated 03.10.2022 within time frame stipulated by this Court.

For Petitioner

:Mr.P.Krishnasamy

For R1 to R4

:Mr.R.Ragavendran

Government Advocate

ORDER

The Petitioner has filed this Writ Petition seeking a direction to the respondents to grant temporary licence in favour of the petitioner for taking out the excess soil (உபரி மண்) available when leveling the upland lands comprised in Survey Nos.49/4, 45/1A, 107/1 and 107/2A situated at Thenpodhuvakkudi Village, Paramakudi Taluk, Ramanathapuram District, on the basis of the petitioner's representation, dated 03.10.2022 within time frame stipulated by this Court.



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2. Heard Mr.P.Krishnasamy, learned Counsel appearing for the petitioner,

Mr.R.Ragavendran, learned Government Advocate appearing for the respondents.

3. The learned counsel appearing for the petitioner would submit that one Arul Prakash executed the undertaking affidavit in favour of the petitioner comprised in Survey Nos.49/4, 45/1A, 107/1 and 107/2A to an total extent of 3.13.38 Hectares situated at ThenPodhuvakkudi Village, Paramakudi Taluk, Ramanathapuram District. the petitioner had applied the temporary licence and submitted the representation on 22.07.2021 before the respondents for taking out the excess soil available when leveling the upland lands for manufacturing the bricks comprised in Survey Nos.49/4, 45/1A, 107/1 situated at Then Podhuvakkudi Village, Paramakudi Taluk, Ramanathapuram District contemplated under the provisions of Rule 8 of the Tamil Nadu Mines and Mineral Concessions Rules, 1959. He would submit that the respondents herein are the competent authority under the statute to grant licence the excess soil in the Patta lands and there is no legal bar to grant licence for taking out the excess soil in the Patta lands. He is entitled for grant of licence for taking out the excess soil within patta lands. But after receipt of his earlier application, there was no consideration or reply.

4. On the basis of his representation, the first respondent issued the Memorandum to the fourth respondent stated that carrying out the audit, certified the F.M.B.Register



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copy, “A” Register, Chitta, Adangal and to send their recommendation as a report. After that, the fourth respondent submitted the report in Na.Ka.No.A4/6122/2021 dated 17.08.2021 to the first respondent stated that on the basis of his representation, the petitioner has entered into a lease agreement with the landlord to take out the excess soil available during the compaction of the upland lands in the above said lands. Thereafter, the petitioner filed a writ petition in W.P(MD)No.18027 of 2021 and this Court directed the respondents 1 & 2 to consider the representation of the petitioner, dated 19.08.2021 and pass orders thereon, on merits and in accordance with law by taking into account of G.O(Ms)No.213 Industries (MMC-1) Department, dated 03.09.2021 and if need arises, after giving opportunity of being heard by the petitioner, final orders shall be passed within a period of six weeks from the date of receipt of copy of this order and the same shall be communicated to the petitioner forthwith”. Thereafter, the petitioner submitted the representation to the third respondent and the same was received. The third respondent stated that the application is applicable only to Tamil Nadu Small Mineral Resources Rule 17 and 18. Therefore, the petitioner has filed a writ petition in W.P(MD)No.22636 of 2021 seeking to grant temporary licence in favour of the petitioner for taking out the excess soil available when leveling the upland lands comprised in Survey Nos.49/4, 45/1A, 107/1 and 107/2A situated at ThenPodhuvakkudi Village, Paramakudi Taluk, Ramanathapuram District, on the basis of the petitioner's representation dated 12.11.2021 within time frame stipulated by this



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Court and the same was dismissed by this Court, dated 04.01.2022. Thereafter, he filed Review Petition in Review Petition (MD)No.20 of 2022 before the Court and the same was dismissed on 30.03.2022. In the meantime, he has filed the writ appeal in W.A(MD)No.470 of 2022 before this Court and the same was withdrawn on 30.09.2022. Thereafter, the petitioner has preferred the representation dated 03.10.2022 through post and the same was received. Since, no action has been taken, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

5.The learned Government Advocate appearing for the respondents submit that appropriate direction may be given to the respondents to consider the petitioner's representation in accordance with law, within a time frame.

6. Considering the limited scope of the prayer sought for by the petitioner, without going into the merits of the matter, this Court directs the respondents to consider the petitioner's representation dated 03.10.2022 and pass orders on merits and in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order.



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7. With the above direction, the writ petition stands disposed of. No costs.

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V.BHAVANI SUBBAROYAN, J.

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