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W.P.No.848 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.848 of 2023

N.Santhosh

... Petitioner

versus

1.The District Collector,
Tirupur District

2.The Deputy Director,
Geology and Mining,
Tirupur District

3.The Revenue Divisional Officer,
Dharapuram Taluk,
Dharapuram

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the respondent to extend the mining lease for a further period from 23.03.2023 to such period equivalent to the period for which the transport permit was not issued by the 2nd respondent and also direct the 2nd respondent to grant transport permit to the petitioner in pursuance of the mining lease granted by the 1st respondent in Form of Joint agreement for quarrying and carrying away minor minerals by the lessees in ryotwari lands in which the minerals belong to the Government dated 23.03.2018, registered as Doc.No.962 of 2018, in the office of the Sub Registrar – Chennimalai and valid until 22.03.2023 and for such extended period.



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unapproved residential lands and buildings. The second respondent, without assigning any reason had stopped issuing transport permits to the petitioner herein. Complaining that there has been violation of principles of natural justice, and that during the existing period of lease, the petitioner should be granted with transport license and for the period when transport license was not granted, the lease period should be corresponding extended, the writ petition has been filed.

3. This Court wanted a stated report to be filed by the third respondent/Revenue Divisional Officer at Dharapuram after inspecting the entire place and also after putting the petitioner and the complainant on notice.

4. A status report had been filed by the third respondent. It had been stated that the petitioner had purchased the quarry in the year 2016 and had obtained license from the District Collector. Thereafter an agreement had been entered into and was also registered as Document No. 962 of 2018 in the office of the Sub Registrar, Chennimalai. The said lease was for a period of five years from 23.03.2018 till 22.03.2023.



5. In the report of the third respondent/District Revenue Officer, he has stated as follows:

" I submit that on the basis of field inspection made by me on 03.02.2023, I hereby state that the details and distances of houses situated around the petitioner's quarry located in Survey No. 407/1, 407/2, No. 6 Maravapalayam Village, Kangeyam Taluk, Tiruppur District as follows:

North- One ACC sheeted house sited in survey No. 403/2 in the distance of 288 meters, which is mentioned in the name of Devasigamani S/o. Palanisamy Gounder in Patta No. 220 in Maravapalayam Village records.

East:

1. One RCC house and coconut drying yard sited in survey No. 398/A1 in the distance of 160 meters which is mentioned in the name of Devaraj S/o. Sellappa Gounder in patta No. 289 in Maravapalayam Village records.

2. One Roofing sheeted house and poultry fram sited in survey No. 399/A in the distance of 220 meters which is mentioned in the name of Thirumoorthy7 S/o. Muthusamy Gounder in patta No. 1196 in Maravapalaymam village records.

3. One RCC house and drying yard sited in survey No. 398/A3 in the distance of 272 meters which is mentioned in the names of Devaraj S/o. Arumuga Gounder-1, Kittusamy S/o. Arumuga Gounder -2 in patta No. 298 in Maravapalayam village records.

4. I most respectfully submit that the above mentioned quarry is functioning from the year of 2007 with the permission of first respondent District Collector, Tiruppur. The petitioner purchased the said quarry in the year 2016 and has obtained permission from 1st



respondent District Collector, Tiruppur. The above specified houses and buildings have been built only after the quarry came into existence and operation. It is submitted on enquiry the land owners stated that their houses were approved by local panchayat but have not produced any document to the effect till date."

6. The statements are clear.

7. It is seen that the houses are situated within 300 meters but they have not been approved by manner known to law. The Panchayat had apparently approved putting up those houses but those individuals have not produced necessary documents for such approval. Moreover, the petitioner had been quarrying much prior to the date when the residential houses were put up.

8. The learned Special Government Pleader brought to the notice of this Court to Rule 36 1 (c) of the Tamil Nadu Mine and Mineral Concession Rules, 1959, which is as follows:

" No new layout, building plans falling within 300 meters 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".

9. It is thus seen that in the vicinity of an existing quarry particularly within 300 meters, no permission should be granted to put up any residential house. However the said two individuals appear to have got around that particular rule and had apparently obtained permission from the Panchayat. Such permission is not valid. It is illegal. It is violative of the Rules. The petitioner is therefore directed to continue with his quarrying works and a further direction is given to the second respondent that the second respondent must issue the transport permit. With respect to the extension of period of lease, the first respondent may pass separate orders taking note of the dates for which the petitioner was not able to quarry and then issue a considered separate order about extension of lease or otherwise. Such order should be passed within a period of four weeks from the date of receipt of a copy of this order. The writ petition stands allowed. No costs. Consequently, WMP No.838 of 2023 is closed.

13.02.2023

Index: Yes/no
mrn



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To

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C.V.KARTHIKEYAN, J.
(mrn)

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