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W.P. No. 3100 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2023

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THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

W.P. No. 3100 of 2023

Rajadattan

... Petitioner

-VS-

1. Additional Chief Secretary to Government
Industries Department
Fort St. George
Chennai – 600 009.

2. The Commissioner
Department of Geology and Mining
Guindy Industrial Estate
Guindy, Chennai-600 032.

3. The District Collector
Villupuram District
Villupuram.

Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the respondents to refund the total amount of Rs.57,02,250/- (Fifty Seven Lakhs Two Thousand Two Hundred and Fifty Only) remitted by the petitioner with respect to the rough stone quarry in Survey No. 37/3 (part 1) of Papantangal Village, Melmalaiyanur Taluk, Villupuram District along with interest from the date of remittance i.e., 17.02.2021 within a time frame to be fixed by this Court.



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For Petitioner : Mr. C.Munusamy
For Respondents : Mr. V.Baranitharan
Additional Government Pleader

ORDER

This writ petition has been filed in the nature of writ of Mandamus seeking a direction to the respondents to refund the total amount of Rs.57,02,250/- (Fifty Seven Lakhs Two Thousand Two Hundred and Fifty Only) remitted by the petitioner with respect to the rough stone quarry in Survey No. 37/3 (part 1) of Papantangal Village, Melmalaiyanur Taluk, Villupuram District together with interest.

2. In the affidavit, the petitioner had stated that the third respondent /the District Collector, Villupuram District, Villupuram had granted quarry license to the petitioner for the aforesaid land. It is stated that the Government had passed a resolution that in the adjacent lands, they would put up a building for a proposed Samathuvapuram. It is under those circumstances the petitioner expressed willingness to withdraw from the quarry lease and sought return of the amount remitted by him.



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WEB COP 3. The learned Additional Government Pleader appearing for the respondents has placed on record the written instructions dated 16.02.2023 received from the District Collector, Villupuram District. Let me extract the relevant portion from that:-

“

viii. In the reference 11th cited, the Additional Collector (Development)/ Project Director, DRDA has informed that as per the Tamil Nadu Government's Special Scheme viz., “Periyar Nenaivu Samathuvapuram” an extent of 9.15 acre in S.F.Nos.43/7 and 43/4 at Peruvalur Village of Melmalaiyanur Block Panchayat, Villupuram District was selected and accordingly, no objection report was requested from the Deputy Director of Geology and Mining for transferring the land in the name of the Commissioner of Melmalaiyanur Block Panchayat so as to establish Samathuvapuram. In this regard, the Deputy Director of Geology and Mining in her report has informed that the process of establishing a rough stone quarry is already under



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way in Pappanthangal village near survey number 43 of Peruvalur Village therefore she has refused to give no objection letter. Therefore, the process of transferring the land in the name of Commissioner of Melmalaiyanur Block Panchayat is dropped and as on date no proposal has been sent to the District Collector, Viluppuram for establishment of “Periyar Ninaivu Samathuvapuram” in S.F. No. 43/7 and 43/4 of Peruvalur Village, Melmalaiyanur Taluk, Viluppuram District as Deputy Director of Geology and Mining refused to give no objection report.

In the circumstances stated above, based on the report of the Additional Collector (Development) /Project Director, DRDA it is informed that as on date there is no such proposal initiated for establishment of “Periyar Nenaivu Samathuvapuram” in S.F.Nos. 43/7 and 43/4 of Peruvalur Village, Melmalaiyanur Taluk, Viluppuram District which is adjacent to the petitioner's subject land in S.F. No. 37/3 (part-I) of Pappanthangal Village. Therefore, it is stated that if the



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petitioner is willing to get quarry lease in S.F. NO. 37/3 (part-I) of Pappanthangal Village the petitioner would be granted on quarry lease on production of Environment Clearance to the Deputy Director of Geology and Mining, Villupuram as per the prescribed Act and Rules.

*Sd/-(C.Palani)
District Collector
Villupuram.*

Sd/- dated 16.02.2023
For Collector
Villupuram.”

4. It has been very categorically stated that construction of Periyar Nenaivu Samathuvapuram in S.F. Nos. 43/7 and 43/4 of Peruvalur Village, Melmalaiyanur Taluk, Villupuram District is not proceeded with and that the petitioner can get the quarry license. If the petitioner seeks return of the amount remitted he can make a representation to the first respondent. I am confident that the respondents would pass appropriate orders. The choice is with the petitioner to either take the quarry lease or to seek refund.

5. This Court cannot take that decision on behalf of the petitioner, since the petitioner has to express first the nature of his intention to either press to



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take the quarry on lease or to seek refund. Therefore, the petitioner has to choose either one of the two choices as stated above.

6. In view of this reasoning, nothing remains for consideration in the matter.

7. With the above observation, this writ petition is disposed. No costs.

27.02.2023

Maya

Index: Yes/No

NCS : Yes

To

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C.V.KARTHIKEYAN, J.

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