



W.P.No.28399 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.28399 of 2023

S.Selvaprabhakaran

...Petitioner

Vs.

- 1.The District Collector
Salem District
Fort Main Road
Salem 636 001.
- 2.The Commissioner /Block Development Officer
Edappadi Panchayat Union
Edappadi
Salem District.
- 3.The President
Vembaneri Panchayat
Vembaneri Post, V.Valasu via
Edappadi Taluk
Salem District 637 105.
- 4.The Director of Geology and Mining
Guindy
Chennai 600 032.



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5.The Deputy Director of Town and Country Planning
No.6, Sannadhi Street
Suramangalam
Salem 636 005.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 2 & 3 from granting any planning permission to construct a building or approve any layout within a radius of 300 metres from the quarry that had been leased out to the petitioner in Survey No.11 (part), Vembaneri Village, Edappadi Taluk, Salem, by considering the petitioner's representation dated 13.09.2023.

For Petitioner : Mr.Naveen Kumar Murthi
for Ms.S.Varsha

For Respondents : Mrs.S.Anitha for R1, R4 & R5
Special Government Pleader
Mr.SJ.Mohammed Sathik for R2 & R3
Government Advocate

ORDER

The petitioner herein seeks Writ of Mandamus, forbearing the respondents 2 & 3 from granting any planning permission to construct a building or approve any layout within a radius of 300 metres from the quarry



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that had been leased out to the petitioner in Survey No.11 (part) Vembaneri Village, Edappadi Taluk, Salem, by considering the petitioner's representation dated 13.09.2023.

2. Mrs.S.Anitha, learned Special Government Pleader takes notice for the respondents 1, 4 & 5 and Mr.SJ.Mohammed Sathik, learned Government Advocate takes notice for the respondents 2 & 3.

3. It is the case of the petitioner that he applied for lease for mining minerals in the above said Survey No.11 (part) in Vembaneri Village, Edappadi Taluk, Salem and emerged as a successful bidder.

4. The petitioner has been awarded lease for mining for a period of five years by the order passed by the Deputy Director, Department of Geology and Mines on 02.09.2023. The quarry site of the petitioner is surrounded by patta lands, which are classified as punja-dry land in the revenue records. One of the conditions on which the quarry lease has been granted is that it shall not be surrounded by residential houses within the prohibited distance of radius 300 metres. Eventhough there is no residential



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house within the prohibited distance, if any approval for building residential house is granted within the prohibited distance, the residents are likely to raise objections for carrying out quarrying operation. Therefore, the petitioner submitted a representation to the respondents on 13.09.2023 requesting them not to sanction any planning permission to construct any building or approve layout within the 300 metres distance from the quarry site of the petitioner.

5. The learned counsel for the petitioner by taking this Court Rule 36 (1-A) (C) of the Tamil Nadu Mines and Mineral Concession Rules, submitted that any layout or residential buildings are prohibited within 300 metres distance from the quarry site. Therefore, the respondents shall not approve construction of any building for the residential purpose or grant approval to the layout.

6. In support of his contention, the learned counsel for the petitioner relied on the order passed by this Court in the case of ***Selvam Vs. The District Collector, Salem District, and others in*** W.P.No.29793 of 2008 dated 10.06.2010.



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7. In view of the apprehension raised by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner, this Court is inclined to issue a direction to the third respondent to consider the representation of the petitioner dated 13.09.2023 in the light of the Rule 36 (1-A) (C) of the Tamil Nadu Mines and Mineral Concession Rules and pass final orders within a period of 8 weeks from the date of receipt of copy of this order, after giving an opportunity to the petitioner.

8. With the above directions, this Writ Petition is disposed of. No costs.

27.09.2023
(1/2)

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
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S.SOUNTCHAR, J.

dna

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