



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **25.01.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 34479 of 2022

M/s. Shri Ponguru Blue Metal Mines
Rep. by its Partner S.Shiva
SF No. 186, New SF No.12/2,
Shri Ponguru Magnesite Mines Office Compound
Jagir Ammapalayam
Salem – 636 302.

... Petitioner

..Vs..

1. The District Collector
Dharmapuri.
2. The Deputy Director
Department of Geology and Mining
Dharmapuri.
3. The Revenue Divisional Officer
Arur, Dharmapuri District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents 1 & 2 herein to forthwith consider the application dated 23.06.2022 for grant of stone quarry in the lands of an extent of 0.83.00 hectares in Survey No. 147/3, 0.79.00 hectares in Survey No. 147/4 and 1.72.5 hectares part in Survey No.



148 totalling an extent of 3.34.5 hectares of Thenkaraikottai Village, Pappireddipatti Taluk, Dharmapuri District.

For Petitioner	:: M/s. AL. Gandhimathi Senior Counsel for Mr.A.Saravanan
For Respondents	:: Mr. V.Baranidharan Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the first and second respondents, namely, the District Collector, Dharmapuri and the Deputy Director, Department of Geology and Mining, Dharmapuri, who should actually be the Assistant Director, Department of Geology and Mining, Dharmapuri, to consider the application dated 23.06.2022 filed by the petitioner herein for grant of stone quarry in the lands of an extent of 0.83.00 hectares in Survey No. 147/3, 0.79.00 hectares in Survey No. 147/4 and 1.72.5 hectares part in survey No. 148 totalling an extent of 3.34.5 hectares of Thenkaraikottai Village, Pappireddipatti Taluk, Dharmapuri District.



2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner, a partnership firm, had entered into a Deed of Consent and a Lease Deed with the owner of the aforementioned lands, S.Shiva, son of Sundarrajan, to quarry rough stones. This lease agreement / Deed of Consent was entered on 27.05.2022. The petitioner then applied for grant of lease on 23.06.2022 to the respondents. The first respondent had also requested the third respondent to inspect the lands and send a report. The third respondent through the Tahsildar inspected the lands and had given a report on 29.08.2022 stating that the lands are separate patta lands of Shiva son of Sundarrajan. No further objections were raised. There are also no electrical lines or highways within 15 meters and there are no valid road within 10 meters and there is already a quarry operated within 500 meters and there are no archaeological monuments and there are no panjami lands. In view of all these aspects, a favourable report for grant of lease was given by the third respondent to the first respondent. However, the first respondent had not passed any orders necessitating the petitioner to approach this Court by filing a present Writ seeking a Mandamus.



3. Mr. V.Baranidharan, learned Additional Government Pleader,

had taken notice on behalf of the respondents and the learned counsel pointed out that there was a civil suit pending in O.S.No. 194 of 2022 before the District Munsif Court at Pappireddipatti Taluk and such suit was filed by two separate individuals Krishnan and Ravi and the petitioner herein had been made as the first defendant. The second respondent had been made as the third defendant. The Tahsildar is also party to the said suit. The first respondent herein had been impleaded as seventh defendant.

4. It had been stated by the learned Additional Government Pleader that since the said suit is pending, the respondents had not considered the application of the petitioner herein. However, the petitioner having had the benefit of an inspection report by the third respondent and also owing to the aforementioned facts that there are no electrical lines, road, Panjami lands, near the vicinity of the area and that also another quarry is also being operated within 500 meters, let the first respondent pass necessary orders on the application for grant of lease by the petitioner herein. The said order shall be passed on or before 15.02.2023.



5. Necessary undertaking may be obtained from the petitioner that such grant of lease is subject to the Judgment and Decree of the suit and to any consequent appeals thereof. The petitioner must also give such undertaking that they would abide by the decision of the Civil Court and by the statutory hierarchy of Court. On obtaining such undertaking, necessary orders may be passed. The respondents may also insist that the requisite rules and regulations also must be complied by the petitioner.

6. The Writ Petition stands disposed of. No order as to costs.

25.01.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The District Collector
Dharmapuri.
2. The Deputy Director
Department of Geology and Mining
Dharmapuri.
3. The Revenue Divisional Officer
Arur, Dharmapuri District.



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C.V.KARTHIKEYAN, J.,
vsg

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