



W.P(MD)No.19598 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19598 of 2022

and

W.M.P.(MD)No.14305 and 14307 of 2023

K.Bose

... Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate,
Theni.
- 2.The Assistant Director / Assistant Director of
Geological and Mines,
Office of the Assistant Director,
Theni.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Periyakulam, Theni.
- 4.The Tahsildar,
Office of the Tahsildar,
Periyakulam, Theni.
- 5.M.M.Murugan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,



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calling for the records pertaining the impugned proceedings of the 2nd respondent in Na.Ka.No.756/Mines/2020 dated 14.07.2022 and quash the same and consequently directing the respondents to grant license to the petitioner for doing rough stone quarrying operations in S.Nos.974, 975/1, and 976 of Thamaraikulam Village, Periyakulam Taluk in Theni District.

For Petitioner : Mr.K.Sridhar,
For Mr.S.Ramsundarvijayraj.

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader for R1 to R4.
Mr.N.Vallinayagam for R5.

ORDER

Heard both sides.

2.The petitioner applied to the second respondent for grant of license to quarry rough stones and gravel in the petition mentioned survey numbers under Rule 19 Tamil Nadu Minor and Mineral Concession Rules, 1959. The petitioner's request was rejected vide order dated 14.07.2022. Questioning the same, the present writ petition came to be filed.



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3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He also took me through the materials enclosed in the typed set of papers. He called upon this Court to grant relief as prayed for.

4.The official respondents have filed counter affidavit and the learned counsel for the fifth respondent who was the objector had also filed his counter affidavit. The learned Additional Government Pleader and the learned counsel for the fifth respondent called upon this Court to sustain the impugned order. They would primarily contend that the petitioner has an effective alternative remedy and that therefore, the Writ Court ought not to interfere in this matter. Reliance is placed on the decision reported in 2002 (1) CTC 254 (State of Bihar and Others Vs. Jain Plastics and Chemicals Limited) and the order dated 12.07.2023 made in W.P.No.1088 of 2023 (S.Krishnasamy Bhattar Vs. The Joint Commissioner, HR & CE Administration Department, 11/20, A.K.Thagavelar Street, Kancheepuram and Others).



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5.I carefully considered the rival contentions and went through the materials on record. The only reason for rejecting the petitioner's application was that the fifth respondent had obtained an injunction decree in O.S.No.185 of 2014 of the file of the District Munsif Court, Periyakulam.

6.The fifth respondent herein figured as the plaintiff in the said suit. One G.Jaya figured as sole defendant. The defendant remained ex-parte. The fifth respondent herein had marked three documents namely Ex.A1 / Adangal, Ex.A2 / Chitta and Ex.A3 / sale deed dated 11.05.2006 executed in the name of G.Jaya. It would not be proper for this Court to traverse at length on the validity of the said decree because the writ petitioner already filed O.S.No.102 of 2022 on the file of the District Munsif Court, Periyakulam against the fifth respondent and others for invalidating the said decree. However, the materials on record clearly show that patta issued in the name of one G.Jaya was cancelled vide proceedings dated 29.12.2008 passed by the Revenue Divisional Officer, Periyakulam. Therefore, when the fifth respondent filed the suit for permanent injunction against the said G.Jaya, she was not the



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pattadar. When the patta is standing in the name of the writ petitioner, the second respondent could not have been relied on the decree made in O.S.No.185 of 2014. The petitioner had also produced certified copy of the adangal for the pasli year 1423 and the name of the fifth respondent is not shown therein. I, therefore, hold that the reason set out in the impugned order for denying the petitioner's request for license is incorrect.

7.In this view of the matter, the impugned order is set aside and the matter is remitted to the file of the second respondent. The second respondent shall reconsider the petitioner's application and pass an appropriate order on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

8.This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

To:-

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