



W.P.Nos.17478 of 2019 and 33041 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.17478 of 2019 and 33041 of 2022
and W.M.P.Nos.16956 and 16958 of 2019

W.P.No.17478 of 2019:-

T.Subramani

... Petitioner

-

1. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
Opp. to L.I.C., Chengalvarayan Building,
4th Floor,
No.807, Anna Salai,
Chennai – 600 002.
2. The Deputy Director of Town and Country Planning,
Salem Zone,
No.6, Sannadhi Street,
Subramaniya Nagar,
Sooramangalam,
Salem – 636 005.
3. The Block Development Officer,
Modakurichi,
Modakurichi Taluk,
Erode District.



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4. The Special Officer,
Thuyyampoonthurai Panchayat,
Thuyyampoonthurai,
Modakurichi Taluk,
Erode District.
5. The Junior Engineer,
Distribution and Maintenance,
TANGEDCO, Erode Distribution Circle,
Mullamparappu,
Modakurichi Taluk,
Erode District.
6. The Deputy Director of Geology and Mining,
2nd Floor, Collectorate,
Salem – 636 001.
(R6 suo motu impleaded as per
order dated 05.06.2024
in W.P.No.17478 of 2019)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 4 herein not to grant any approval for the layout in respect of the land bearing R.S.Nos.172/1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, situated at Thuyyampoonthurai Village, Modakurichi Taluk, Erode District and also directing the 5th respondent herein not to give any electricity service connection for the land bearing R.S.Nos. 172/1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, situated at Thuyyampoonthurai Village, Modakurichi Taluk, Erode District.



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For Petitioner : Mr.T.N.Rajagopalan

For R1 to R4 : Mr.E.Vijay Anand
Additional Government Pleader

For R5 : Mr.I.Syed Sibghatulla
Standing Counsel

W.P.No.33041 of 2022:-

R.Duraisamy

... Petitioner

-

1. The District Collector,
Erode District.
2. The Assistant Engineer,
Distribution and Maintenance,
TANGEDCO,
Erode Distribution Circle, Mullamparappu,
Mudakuruchi Taluk, Erode District.
3. The Deputy Director of Town and Country Planning,
Salem Zone,
No.6, Sannadhi Street,
Subramaniya Nagar,
Sooramangalam,
Salem – 636 005.
4. The Block Development Officer,
Modakurichi Taluk,
Erode District.



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5. The Thasildar,
Revenue Department,
Erode.

6. The Revenue Divisional Officer,
Erode District.

7. The Deputy Director of Geology and Mining,
2nd Floor, Collectorate,
Salem – 636 001.
(R7 suo motu impleaded as per
order dated 05.06.2024
in W.P.No.33041 of 2022)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Mandamus, directing the second
respondent to grant electricity connection to petitioner house.

For Petitioner : Mr.L.Ramu

For R1, R3 to R6 : Mr.E.Vijay Anand
Additional Government Pleader

For R2 : Mr.I.Syed Sibghatulla
Standing Counsel

COMMON ORDER

W.P.No.17478 of 2019 has been filed for direction directing the
respondents 1 to 4 not to grant any approval and not to grant electricity
service connection for the layout in respect of the land bearing
R.S.Nos.172/1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, situated at



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Thuyyampoonthurai Village, Modakurichi Taluk, Erode District

2. W.P.No.33041 of 2022 has been filed for direction directing the second respondent to grant electricity service connection to the petitioner's house.

3. Heard and perused the materials available on record.

4. Though the writ petitions are filed by different petitioners, the issues involved in these writ petitions are one and the same. Therefore, this Court is inclined to pass common order.

5. The petitioner in W.P.No.17478 of 2019 was permitted to quarry rough stones and gravel by the District Collector, Erode District in respect of the property bearing R.S.Nos.172/13 and 172/14, ad-measuring to an extent of 0.43.5 hectares and 1.07.0 hectares for a period of five years from 03.02.2003. Subsequently, the permission was extended for another five years from 20.02.2008. Once again, the petitioner was permitted to do quarrying operations for another five years



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and accordingly, entered into an agreement for quarrying operations.

After completion of quarrying operations, the owners of the land comprised in S.Nos.172/1, 2, 3, 4, 5, 7, 8, 9, 10 and 11 had plotted out the lands into house plots to sell the plots to the third parties. Since the plots are unapproved plots, the petitioner submitted representation to the respondents not to grant any approval and also not to provide electricity service connection for the house construction put up by the purchasers in those lands.

6. Pending writ petitions, this Court *suo-motu* impleaded the Deputy Director of Geology and Mining, Salem and directed to inspect and file a report.

7. A perusal of the report revealed as follows:-

“ 6. I submit to state that an extent of 1.50.5 Hect. of patta land in S.F. Nos. 172/13 and 172/14 was granted on lease in favour of Thiru. T. Subramani to quarry rough stone for a period of 5 years from 03.02.2003 to 02.02.2008 vide Proceedings of the District Collector, Erode in R.C. No. 67306/2000/XI dated 04.01.2003. The same area was once again granted on lease for a period of 5 years from



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20.02.2008 to 19.02.2013 vide Proceedings of the District Collector, Erode in R.C. No. 54387/2007/?1 dated 20.02.2008. The above area was further granted on lease for a period of 5 years from 21.03.2017 to 20.03.2022 vide Proceedings of the District Collector, Erode in R.C.No.37611/2012/X1 dated 21.03.2017. The petitioner Thiru. T. Subramani was also being granted a lease to quarry rough stone and gravel in an extent of 1.07.62 Hect of patta land in S.F. Nos. 166/1A, 1B, 2A (part), 167/5A (part) and 5B of Thuyyampoonthurai Village, Modakurichi Taluk, Erode District for a period of 10 years from 09.02.2023 to 08.02.2033 vide Proceedings of the Deputy Director of Geology and Mining, Erode in R.C. No. 745/Mines/2020 dated 09.02.2023. As on date the lease granted in respect of S.F. Nos. 166/1A, 1B, 2A (part), 167/5A (part) and 5B is in existence and operative.

7. I submit to state that though the above survey numbers which were granted on lease are not covered in the survey numbers indicated in the writ petition filed by the lessee Thiru. T. Subramani, they are situated nearer to the survey numbers 172/1,2,3,4,5,7,8,9,10 and 11 proposed for layout.

8. I submit to state that as per Rule 36-A (1) (a) of TNMMCR, 1959 no lease shall be granted for stone within a radius of 300m from the inhabited site. Rule 36-A (1) (c) of TNMMCR, 1959 stipulates as follows:-

"No new layout, building plans falling within 300m from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained..."



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9. I Submit to state that the proposed layout in S.F. Nos. 172/1,2,3,4,5,7,8,9,10 and 11 are situated within 300m from the stone quarry already held under quarry lease and also in existence the petitioner Thiru. T. Subramani has filed a present writ petition with a prayer not to approve any layout as per Rule 36-A (1) (c) of TNMMCR, 1959. If approval is granted to the layout proposed in S.F. Nos. 172/1,2,3,4,5,7,8,9,10 and 11 then it will attract Rule 36-A (1) (a) of TNMMCR, 1959 which will be detrimental to the stone quarries which were held and presently in existence of the petitioner Thiru. T. Subramani.

10. I submit to state that there are 7 houses in S.F. Nos. 172/1,2,3,4,5,7,8,9,10 and 11 within 300m from the existing quarry lease in S.F. No. 166/1A, 1B, 2A (part), 167/5A (part) and 5B of Thuyyampoonthurai Village, Modakurichi Taluk. It is given to understand that approval was given to the above houses by the Block Development Officer, Modakurichi and subsequently it was withdrawn.”

8. Therefore, as per Rule 36 (1-A)(a) of the Tamil Nadu Minor Mineral Concession Rules, 1959, no lease shall be granted for stone within a radius of 300 m from the inhabited site. Since the petitioner in W.P.No.17478 of 2019 was granted quarrying permission to quarry the land comprised in S.F.Nos.166/1A, 1B, 2A (part), 167/5A (part) and 5B situated at Thuyyampoonthurai Village, Modakurichi Taluk, Erode District, it is situated within 300 meters from the subject property



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comprised in R.S.Nos.172/1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, situated at Thuyyampoonthurai Village, Modakurichi Taluk, Erode District.

9. Therefore, the respondents 1 to 4 in W.P.No.17478 of 2019 is directed not to grant any approval and not to grant electricity service connection for the layout in respect of the land bearing R.S.Nos.172/1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, situated at Thuyyampoonthurai Village, Modakurichi Taluk, Erode District for any constructions put up by the purchasers. Accordingly, W.P.No.17478 of 2019 is allowed.

10. In view of the order passed in W.P.No.17478 of 2019, W.P.No.33041 of 2022 is dismissed. Consequently, connected Miscellaneous petitions are closed. No costs.

28.06.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
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To

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Erode District.
2. The Thasildar,
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3. The Revenue Divisional Officer,
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G.K.ILANTHIRAIYAN. J.

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