



W.P.(MD)No.13982 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.13982 of 2024

P.Krishnamoorthy

: Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Natural Resources Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Geology and Mining,
Guindy,
Chennai – 600 032.

3.The Deputy Director of Geology and Mining,
Virudhunagar,
Virudhunagar District.

4.The Assistant Director of Geology and Mining,
Virudhunagar,
Virudhunagar District.

5.The District Collector,
Virudhunagar District,
Virudhunagar.



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6.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

7.N.Kannan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the third respondent to execute the Lease Agreement in respect of the Gravel Quarry over an extent of 1.55.0 hectares of patta lands in SF.Nos. 209/2B (0.05.00), 209/2C (0.04.50), 209/3B (0.05.50), 209/3C (0.04.44), 209/4B (0.19.00), 209/4C (0.04.0), 209/4D (0.20.00), 209/4E (0.22.00), 223/3B (0.22.00), 223/3C (0.24.00) and 223/3D (0.25.00) in Mustakurichi Village, Kariapatti Taluk, Virudhunagar District for a period of three years by considering the representation of the petitioner dated 03.01.2024.

For Petitioner : Mr.T.Lajapathi Roy,
Senior Counsel
for Mr.A.Balaji

For Respondents 1 to 6 : Mr.S.Shanmugavel
Additional Government Pleader

For Respondent No.7 : Mr.S.Anand Chandrasekar
for M/s.Sarvabhouman Associates



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ORDER

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This Writ Petition has been filed for a Mandamus, to direct the third respondent to execute the Lease Agreement in respect of the Gravel Quarry over an extent of 1.55.0 hectares of patta lands in SF.Nos.209/2B (0.05.00), 209/2C (0.04.50), 209/3B (0.05.50), 209/3C (0.04.44), 209/4B (0.19.00), 209/4C (0.04.0), 209/4D (0.20.00), 209/4E (0.22.00), 223/3B (0.22.00), 223/3C (0.24.00) and 223/3D (0.25.00) in Mustakurichi Village, Kariapatti Taluk, Virudhunagar District, for a period of three years, by considering the representation of the petitioner dated 03.01.2024.

2.The petitioner submitted an application before the third respondent for grant of quarry lease for quarrying gravel for an extent of 2.36.00 hectares of patta land comprised in “SF.Nos. 209/2B (0.05.00), 209/2C (0.04.50), 209/3B (0.05.50), 209/3C (0.04.44), 209/4B (0.19.00), 209/4C (0.04.0), 209/4D (0.20.00), 209/4E (0.22.00), 223/1B (0.39.50), 223/2 (0.41.50), 223/3B (0.22.00), 223/3C (0.24.00) and 223/3D (0.25.00) in Mustakurichi Village, Kariapatti Taluk, Virudhunagar District” [hereinafter called “subject lands”], for a period of three years under Rule 19(1) of “the Tamil Nadu Minor Mineral Concession Rules, 1959” [hereinafter called “the Rules”].



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3.The subject lands belongs to one Giri and he was also issued Patta No.1964. The petitioner had entered into an agreement for lease with the said Giri on 27.09.2021, for carrying out quarrying operations for gravel in the subject lands for a period of five years. Thereafter, the petitioner was granted license for quarrying gravel in the subject lands by proceedings dated 02.02.2024, by the third respondent on the basis of the recommendations of the respondents 4 & 6 and on the basis of the Environmental Clearance Certificate obtained from the State Environmental Impact Assessment Authority, for a period of three years, under sub-rule (1) of Rule 19 and sub-rule (1) & (3) of Rule 20 of the Rules, subject to conditions.

4.While that being so, the seventh respondent herein had sent a legal notice dated 01.04.2024, alleging that the petitioner's lessor had entered into an agreement for sale with the seventh respondent in respect of the subject lands. Accordingly, the petitioner's lessor had agreed to sell the subject lands on 20.01.2010 and on that day, the petitioner's lessor has handed over all original documents pertaining to the subject lands to the seventh respondent. Thereafter, the petitioner's lessor failed to execute the sale deed in favour of the seventh respondent. Further, the petitioner's lessor has also filed a suit in O.S.No.09 of 2019, on the file of the District



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Munsif Court, Aruppukottai, for permanent injunction as against the seventh respondent. Therefore, the seventh respondent called upon the petitioner to cancel the agreement for lease entered into between the petitioner and his lessor.

5. In the meanwhile, the petitioner has been issued with the license for quarrying gravel in the subject lands. Based on the license, the petitioner submitted a representation for execution of lease agreement to support the quarrying operation in the subject lands.

6. The learned Counsel for the seventh respondent filed counter affidavit and the submission made by the learned Counsel for the seventh respondent reveals that petitioner's lessor had entered into an agreement for sale in respect of a property measuring about more than 250 acres. Except the property of 35 acres other lands were sold out in favour of the seventh respondent. At the time of execution of the agreement, the original parent deeds were handed over to the seventh respondent and the seventh respondent is in possession of all original documents. However, the petitioner's lessor failed to execute any sale deed in respect of the subject property along with other properties. That apart, the petitioner's lessor has filed a suit for permanent injunction in O.S.No.



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09 of 2019, on the file of the District Munsif Court, Aruppukottai and it is pending without any interim order. In fact, after receipt of notice in the present Writ Petition and after attaining knowledge about the execution of lease deed by the said Giri in favour of the petitioner, the seventh respondent also filed an application in the said suit not to change the physical features of the subject lands and it is also pending without any interim order. He further submitted that the possession of the subject lands is under dispute and it has to be determined by the Civil Court. Therefore, no lease agreement can be executed for quarrying the said lands. If the petitioner is permitted to quarry the said land, the interest of the seventh respondent would be affected.

7. Admittedly, the seventh respondent though entered into an agreement for sale in respect of the subject lands along with other properties with the petitioner's lessor, so far the seventh respondent did not file any suit to execute the agreement for sale. Further, the seventh respondent is a mere agreement holder. That apart, the petitioner's lessor has filed a suit for permanent injunction as if he is in possession of the property and the seventh respondent is interfering with the petitioner's lessor's physical possession and enjoyment of the subject lands. Further, the subject land is lying vacant. The subject land was leased out in favour of the petitioner for



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a period of five years. On the strength of the said lease deed, the petitioner applied for license for quarrying the subject lands. After considering the recommendations of the fourth and sixth respondents and also the Environmental Clearance Certificate, the third respondent had issued license on 02.02.2024 and thereby, permitted the petitioner to quarry the said lands for a period of three years. However, no lease deed has been executed in favour of the seventh respondent. Therefore, the seventh respondent has no say in execution of agreement for lease in favour of the petitioner by the third respondent. In accordance with the license issued in favour of the petitioner, the third respondent ought to have executed the lease agreement in favour of the petitioner to quarry the subject lands.

8.In view of the above, the third respondent is directed to execute the lease agreement in respect of the gravel quarry over an extent of 2.36.00 hectares of patta land comprised in SF.Nos.209/2B (0.05.00), 209/2C (0.04.50), 209/3B (0.05.50), 209/3C (0.04.44), 209/4B (0.19.00), 209/4C (0.04.0), 209/4D (0.20.00), 209/4E (0.22.00), 223/1B (0.39.50), 223/2 (0.41.50), 223/3B (0.22.00), 223/3C (0.24.00) and 223/3D (0.25.00) in Mustakurichi Village, Kariapatti Taluk, Virudhunagar District, within a period of two [2] weeks from the date of receipt of a copy of this order.



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9.With the above direction, this Writ Petition stands allowed. There shall be no order as to costs.

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Index :Yes / No

Internet : Yes / No

NCC : Yes/No

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G.K.ILANTHIRAIYAN, J.

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