



W.P.(MD) No.18849 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.18849 2024

and

W.M.P.(MD)Nos.15945 & 15946 of 2024

- 1.K.Koodalingam
- 2.A.Chinnavarathaperumal
- 3.V.Raja
- 4.K.Karuppaiya
- 5.P.Rajasankar
- 6.K.Sundaram

...Petitioners

-VS-

- 1.The District Collector,
O/o.the District Collector,
Madurai, Madurai District.
- 2.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Usilamapatti, Madurai District.
- 3.The Tahsildar,
O/o.the Tahsildar,
Peraiyur, Madurai District.
- 4.The Assistant Director,
Mines and Minerals Department,
Madurai.

...Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, to direct the Respondent No.1 to grant permission to run the Petitioners brick kiln in their respective patta lands in Patta Nos. 3198, 3799, 3784, 3785, 3197, 3696 and 1111 situated at Thullukuttinayakanoor, Peraiyoor Taluk, Madurai District and consequently restrain the Respondents from stopping the Petitioners from manufacturing of bricks in the said patta lands and keep in abeyance the proceedings of the Respondent No.2 dated 20.02.2024 in Na.Ka.No.4902/A1 till pending disposal of the Writ Petition by considering the Petitioners common representation dated 31.07.2024.

For Petitioner : Mr.T.Thirumurugan
For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

This writ petition has been filed to direct the first respondent to grant permission to run the petitioners brick kilns in their respective patta lands in Patta Nos. 3198, 3799, 3784, 3785, 3197, 3696 and 1111 situated at Thullukuttinayakanoor, Peraiyoor Taluk, Madurai District and consequently to restrain the Respondents from stopping the Petitioners



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from manufacturing of bricks in the said patta lands and keep in abeyance the proceedings of the Respondent No.2 dated 20.02.2024 in Na.Ka.No.4902/A1 till the disposal of the Writ Petition by considering the Petitioners common representation dated 31.07.2024.

2.The petitioners are the owners of the small level brick kilns in their patta lands. The second respondent has passed an order imposing fine against the petitioners under Rule 36-A of Tamil Nadu Minor Mineral Concession Rules, 1959 without giving an opportunity of hearing to the petitioners. According to them, as per G.O.Ms.No.49, Housing and Urban Development Department (002.2), dated 24.03.2003, no prior clearance from the authorities to run a brick kiln is required. They have also appealed to the respondents to carry out their brick kiln. The said appeals are also pending for consideration. Hence, the petitioners have filed this writ petition to keep the order of the second respondent in abeyance.

3.At the outset, the applicability of the Government Order relied upon by the petitioners to the facts of the present case is misconceived.



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The said Government Order only relates to hill area. The petitioners lands are not declared as hill area. When the law mandates prior permission for quarrying or removing the clay, without any permission such activities cannot be permitted in the eye of law. Such being the position, it is for the petitioners to file an appeal before the first respondent challenging the order of the second respondent.

4. Accordingly, the petitioners are directed to file an appeal before the first respondent challenging the order dated 20.02.2024 passed by the second respondent within a period of ten days from the date of receipt of a copy of this order. On such filing, the first respondent/District Collector shall decide the same on its own merits and in accordance with law within a period of two weeks thereafter. It is needless to mention that if any appeals are filed by the petitioners under Section 19 of the Tamil Nadu Minor Mineral Concession Rules, 1959 seeking permission/license for their brick kilns, the same shall also be decided on its own merits and in accordance with law.



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5.This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

12.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The District Collector,
O/o.the District Collector,
Madruai, Madurai District.
- 2.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Usilamapatti, Madurai District.
- 3.The Tahsildar,
O/o.the Tahsildar,
Peraiyur, Madurai District.
- 4.The Assistant Director,
Mines and Minerals Department,
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N.SATHISH KUMAR, J.

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