



W.P(MD)No.15505 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.15505 of 2021

and

W.M.P(MD)Nos.12433 & 12434 of 2021

Riyas Kiliyamannil

... Petitioner

Vs

1.The District Collector,
Dindigul.

2.The Assistant Director,
Mines and Minerals Department,
Dindigul.

3.The Block Development Officer,
Muthunaickenpatti Circle,
Palani Taluk,
Dindigul District.

4.The President,
Muthunaickenpatti Circle,
Dindigul District.

5.Thangaraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the entire records in connection with the impugned proceedings passed by the fourth respondent vide proceedings Ref.No.1/2021/2022 dated 17.06.2021 and quash the same.



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For Petitioner : Mr.Niranjana S.Kumar
For RR 1 to 4 : Mr.D.Gandhi Raj
Special Government Pleader
For R – 5 : No appearance

ORDER

This Writ Petition has been filed by the petitioner challenging the planning permission granted in favour of the fifth respondent dated 17.06.2021 on the file of the fourth respondent.

2.The petitioner is a quarry operator. He was granted a lease to the extent of 1.74.0 hectares in the land comprised in Survey No.318/4 situated at Muthunaickenpatti Village, Palani Taluk, Dindigul District for the period from 24.09.2018 to 20.03.2023. Subsequently, the lease period has been extended and now the petitioner is operating the quarrying business. While being so, the fifth respondent, who is the owner of the adjacent land comprised in Survey No.315/5B measuring to an extent of 2.13.0 hectares situated at Muthunaickenpatti Village, Palani Taluk, Dindigul District, applied for planning permission to construct a house. One Shiras Edavan Kuzhi and the petitioner submitted objections and also filed Writ Petitions before this Court in W.P(MD)Nos.9762 & 9763 of 2021 seeking an injunction, restraining the authorities concerned not to



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grant any planning permission to the fifth respondent herein, since it is in violation of the Tamil Nadu Combined Development and Building Rules, 2019. The writ petitioner and one Shiras Edavan Kuzhi obtained interim injunction in the said Writ Petitions and even then, the fourth respondent herein granted planning permission to construct a house in favour of the fifth respondent. Of course, the fourth respondent is not a party in those Writ Petitions.

3.It is barred that no sub-division or layout for building purposes shall be made and no building for residential, commercial, industrial or institutions or any structure for occupation shall be constructed within 500 m from an existing live quarry. The fifth respondent was granted planning permission to construct a new house within a radius of 500 m from the petitioner's quarry. Therefore, it is a clear violation of the Tamil Nadu Combined Development and Building Rules, 2019. Without considering the same, the fourth respondent mechanically granted planning permission. That apart, as per Rule 36(1-A)(a) of the Tamil Nadu Mines and Minerals Concession Rules, 1959, a new layout or building plan falling within 300 meters cannot be given approval. In view of the above, the planning permission issued by the fourth



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respondent in favour of the fifth respondent cannot be sustained and the same is liable to be quashed.

4. Accordingly, the impugned order passed by the fourth respondent dated 17.06.2021 is quashed. The matter is remanded back to the third respondent for fresh consideration. The third respondent is directed to issue notice to the petitioner as well as the fifth respondent and after due enquiry and inspection, consider the application for planning permission to construct a new house in the property comprised in Survey No.315/5B measuring to an extent of 2.13.0 hectares situated at Muthunaickenpatti Village, Palani Taluk, Dindigul District and pass orders, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

02.01.2025
(1/3)

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



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To

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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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02.01.2025
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