



W.P(MD)Nos.24968 & 29171 of 2023 & 29023 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.12.2024

PRONOUNCED ON : 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)Nos.24968 & 29171 of 2023 & 29023 of 2024
and

W.M.P(MD)Nos.21160, 25238, 25240 & 22855 of 2023,
24583, 24584 & 24585 of 2024

1.W.P(MD)No.24968 of 2023:

D.Gnanasekar

... Petitioner

Vs

1.The District Collector,
Trichy, Trichy District.

2.The Joint Director/Member Secretary,
District Town and Country Planning Department,
Trichy District Town and Country Planning Office,
Khajamalai Main Road,
Khajamalai, Trichy – 620 023.

3.The Assistant Director of Geology and Mining,
Trichi District.

4.The Block Development Officer (Village Panchayat),
Thuraiyur Panchayat Union,
Thuraiyur,
Trichy District.

5.The Panchayat President,
Sorathur Panchayat,
Thuraiyur Taluk,
Trichy District.



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6.The Executive Engineer (O & M),
Tamil Nadu Generation and Distribution
Corporation Limited,
Thuraiyur,
Trichy District.

7.M/s.V.R.R.Oil Mills represented by its Partner,
Door No.60/2, Keela Theru,
Garudamangalam North Thuraiyur Taluk,
Trichy District – 621 106.

8.R.Sengutuvan

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6 to take action to restrain the respondents 7 and 8 or any other men claiming title to the land in Survey Nos.99/1A2A, 99/1A2B, 100/1 and 100/2 situated in Sorathur Village, Thuraiyur Taluk, Trichy District from constructing any superstructure or doing any commercial activities within prohibited distance of existing quarry and crusher unit run by the petitioner.

For Petitioner : Mr.R.J.Karthick

For RR 1 to 6 : Mr.R.Baskaran
Additional Government Pleader
Assisted by
Mr.S.Shanmugavel
Additional Government Pleader

For R – 7 : Mr.V.R.G.Mohan

For R – 8 : Mr.S.Ramsundar Vijayraj



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2.W.P(MDNo.29171 of 2023:

D.Gnanasekar

... Petitioner

Vs

- 1.The District Collector,
Trichy, Trichy District.
- 2.The Joint Director/Member Secretary,
District Town and Country Planning Department,
Trichy District Town and Country Planning Office,
Khajamalai Main Road,
Khajamalai,
Trichy – 620 023.
- 3.The Assistant Director of Geology and Mining,
Trichy District.
- 4.The Block Development Officer (Village Panchayat),
Thuraiyur Panchayat Union,
Thuraiyur,
Trichy District.
- 5.The Panchayat President,
Sorathur Panchayat,
Thuraiyur Taluk,
Trichy District.
- 6.The Executive Engineer (O & M),
Tamil Nadu Generation and Distribution
Corporation Limited,
Thuraiyur,
Trichy District.
- 7.M/s.V.R.R.Oil Mills represented by its Partner,
Door No.60/2, Keela Theru,
Garudamangalam North Thuraiyur Taluk,
Trichy District – 621 106.
- 8.R.Sengutuvan
- 9.R.Subash

... Respondents



W.P(MD)Nos.24968 & 29171 of 2023 & 29023 of 2024

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order in Na.Ka.No.372/2022/Thima-3 dated 26.06.2022 passed by the second respondent and quash the same.

For Petitioner : Mr.R.J.Karthick

For RR 1 to 6 : Mr.R.Baskaran
Additional Government Pleader
Assisted by
Mr.S.Shanmugavel
Additional Government Pleader

For R – 7 : Mr.V.B.R.Menon

For RR 8 & 9 : Mr.S.Ramsundar Vijayraj

3.W.P(MDNo.29023 of 2024):

R.Subash,
S/o.Rajasekar,
No.99/1A2A, VRR Oil Mills Compound,
Adivaram,
Thuraiyur Taluk,
Trichy District.

... Petitioner

Vs

- 1.The District Collector,
O/o.District Collector,
Trichy District.
- 2.The Commissioner,
Department of Geology and Mining,
Guindy, Chennai.
- 3.The Assistant Director,
Department of Geology and Mining,
Trichy District.



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4.The Tahsildar,
Thuraiyur Taluk,
Trichy District.

5.The Executive Engineer (O & M),
Tamil Nadu Generation and Distribution
Corporation Limited,
Thuraiyur,
Trichy District.

6.The State Level Environmental Impact
Assessment Authority,
No.9, Jeenis Road,
Chennai.

7.D.Gnanasekar

8.Thangaraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in RC.No.696/2019/Mines dated 12.10.2021 and quash the same and consequently directing the first respondent to take action against the respondents 7 and 8 as per the Tamil Nadu Minor Mineral Concession Rules, 1959.

For Petitioner : Mr.V.B.R.Menon

For RR 1 to 5 : Mr.R.Baskaran
Additional Government Pleader
Assisted by
Mr.S.Shanmugavel
Additional Government Pleader

For R – 6 : Mr.N.Dilip Kumar



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COMMON ORDER

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W.P(MD)No.24968 of 2023 has been filed by the petitioner for a direction directing the respondents 1 to 6 to take action by restraining the respondents 7 and 8 claiming title in respect of the property comprised in Survey Nos.99/1A2A, 99/1A2B, 100/1 and 100/2 situated at Sorathur Village, Thuraiyur Taluk, Trichy District from constructing any superstructure or doing any commercial activities within prohibited distance of existing quarry and crusher unit run by the petitioner.

2.W.P(MD)No.29171 of 2023 has been filed by the petitioner challenging the order passed by the second respondent dated 20.06.2022 thereby issuing approval of the building plan in favour of the 7th respondent.

3.W.P(MD)No.29023 of 2024 has been filed by the petitioner challenging the order passed by the first respondent dated 12.10.2021 thereby granting quarry licence in favour of the 7th respondent.



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4.The petitioner/D.Gnanasekar in W.P(MD)Nos.24968 and 29171 of 2023, who are one and the same, is hereinafter referred to as 'the petitioner' and the 7th respondent in both W.P(MD)Nos.24968 and 29171 of 2023, viz., R.Subash, V.R.R. Oil Mills, who is the petitioner in W.P(MD)No.29023 of 2024, is hereinafter referred to as 'the 7th respondent'. Therefore, this Court passes the common order.

5.The petitioner is doing quarrying business in the name and style of "Rajasekar Blue Metals" by purchasing land comprised in Survey No.1/4 to an extent of 2.64 acres situated at Nagalapuram Village, Thuraiyur Taluk, Tiruchirappalli District by the registered sale deed dated 09.04.2003. The first respondent by its proceedings dated 17.06.2003 granted permission for quarrying the rough stone in the subject property for a period of five years under Rule 19 of the Tamil Nadu Minor Minerals Concession Rules, 1959. That apart, the petitioner owns property comprised in Survey Nos. 100/8, 100/7, 100/5B1, 100/5B2, 100/3A, 100/3B, 100/6, 118/6, 118/8, 130/4, 117/1A, 117/2, 117/3, 117/1C, 117/1D, 117/4A, 117/4B, 118/2, 118/3A, 118/3B, 118/3, 118/4A, 118/4B and 118/4C in Muthaiyampalayam Village, Thuraiyur Taluk, Trichy



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District admeasuring 19 acre 2 cents and Survey Nos.1/3, 1/4, 2/1, 2/2, 2/3, 2/4, 2/5 in Nagalapuram Village, Thuraiyur Taluk, Trichy District admeasuring 16 acre 05 cents. All the above mentioned lands are purchased only for quarrying activities. Out of the above mentioned properties, the landed property in Survey Nos.100/8, 100/3A, 100/3B, 100/5B1, 100/5B2 and 100/7 totally measuring 5 acre 72 cents from the 8th respondent's mother vide sale deeds bearing Nos.2783 of 2021 and 2784 of 2021 dated 21.04.2021. Presently, the petitioner is doing quarrying operations in Survey Nos.1/4 and 2/1 in Nagalapuram Village. The petitioner is running crusher unit in Survey Nos.118/6 and 118/8 in Muthaiyampalayam Village and an M-sand unit in Survey No.2/2 in Nagalapuram Village which is located very near to the quarry site. The petitioner applied a fresh application for quarrying operation in Survey Nos.100/6, 100/5B2, 100/7 and 100/8 in Muthaiyampalayam Village is also pending before the first respondent. The petitioner also obtained licence from the competent authorities for the crusher unit. Subsequently, by the proceedings dated 12.10.2021, the first respondent granted permission to the petitioner for quarry lease for a further period of five years. It was granted after obtaining clearance from the State Level Environmental Impact Assessment Authority dated 24.02.2021. While being so, the property comprised



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in Survey Nos.99/1A2A, 99/1A2B, 100/1 & 100/2 to an extent of 1.36.50 hectares situated adjacent to the petitioner's property owned by the 7th respondent. As per Rule 19 of the Tamil Nadu Combined Development and Building Rules, 2019, the building for residential, commercial, industrial or institutional or any structure for occupation shall be constructed within 500 meters of an existing live quarry. Since the respondents 7 and 8 started to put up construction in the property comprised in Survey Nos.99/1A2A, 99/1A2B, 100/1 & 100/2, the petitioner filed a Writ Petition in W.P(MD)No.24968 of 2023. However, the building plan approval was granted in favour of the 7th respondent. The petitioner was issued licence to deal with the explosive substance used for quarrying. Therefore, the grant of building plan approval to the 7th respondent is in violation of the safety distance as contemplated under Schedule VIII of the Explosive Rules, 2008 and Section 47A of the Tamil Nadu Town and Country Planning Act and Rule 36(1-A)(C) of the Tamil Nadu Minor Minerals Concession Rules, 1959. Therefore, the petitioner challenged the building plan approval issued in favour of the 7th respondent in W.P(MD)No.29171 of 2023. Likewise, the 7th respondent challenged the licence for quarrying lease for a further period of five years dated 12.10.2021 issued in favour of the petitioner in W.P(MD)No.29023 of 2024.



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6.The learned counsel appearing for the 7th respondent would submit that Rule 36(1-A)(C) of the Tamil Nadu Minor Minerals Concession Rules, 1959, does not apply to the industrial building. Rule 36(1) r/w 36(1)(iii) of the Tamil Nadu Minor Minerals Concession Rules, 1959 is applicable and prescribes a prohibited distance of only 50 meters from the quarry sites for all types of building except residential sites. Further, Rule 19 of the Tamil Nadu Combined Development and Building Rules, 2019 r/w Clause (3) of Annexure XVII also does not apply, as it applies only in respect of existing live quarries. The quarry operations were not going on at the property owned by the petitioner when the application submitted for building plan approval was processed. Therefore, the 7th respondent was granted building plan approval since no live quarry was presented in the land owned by the petitioner to attract this provision. Further, the petitioner is no way an aggrieved person due to the granting of building plan approval, since it shall not interfere with the petitioner's right in any manner to continue his quarry activities. He further submitted that as against the building plan approval, there is an appeal remedy under Sections 79, 80 & 81 of the Tamil Nadu District Town and Country Planning Act, 1972, as against the building plan approval. Therefore, the Writ Petition



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itself is not maintainable under Article 226 of the Constitution of India. He further submitted that the licence dated 12.10.2021 granted in favour of the petitioner is in clear violation of Rule 36 of the Tamil Nadu Minor Mineral Concession Rules, 1959. As per the said Rule, 10 meter distance of quarry site from the Village road is not provided. Further as per Rule 36(1-A)(A) of the Tamil Nadu Minor Mineral Concession Rules, 1959, licence is also in violation, since there are pre-existing distance buildings within the prohibited distance of 300 meters from the present quarry run by the petitioner. Further, there are high-tension electricity lines lying within 50 meters from the quarrying site.

7. On perusal of the counter-affidavit filed by the second respondent in W.P(MD)No.29171 of 2021 and on the submissions made by the learned counsel appearing on either side would reveal that the petitioner is carrying on quarrying the rough stones in the land comprised in Survey Nos.1/4 and 2/1 admeasuring 2.64 acres situated at Nagalapuram Village, Thuraiyur Taluk, Trichy District by the licence dated 17.06.2003. Apart from that, the petitioner is running a crusher unit in Survey Nos.118/6 & 118/8 situated at Muthaiyampalayam Village and an M-sand unit in the land



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comprised in Survey No.2/2 in Nagalapuram Village, Thuraiyur Taluk. That apart, the petitioner has also applied a fresh application for quarrying operation in Survey Nos.100/6, 100/5B2, 100/7 and 100/8 in Muthaiyampalayam Village and it is pending for consideration on the file of the first respondent. The 7th respondent owned land comprised in Survey Nos.99/1A2A, 99/1A2B, 100/1 and 100/2 to an extent of 1.36.50 hectares situated in Sorathur Village, Thuraiyur Taluk, Trichy District. The 7th respondent completed the construction of industrial building to run oil mill by obtaining plan approval from the third respondent under Rule 19 of the Tamil Nadu Combined Development and Building Rules, 2019. As per the Tamil Nadu Combined Development and Building Rules, 2019, Annexure XVIII-(3)(b) prohibits only putting up residential, commercial, institutional buildings and approving of layouts within 500 meters, therefore, there is no bar to have industrial complex to run an oil mill. Further, there is no violation of the safety distance embedded under Schedule VIII of the Explosive Rules, 2008 and Section 47A of the Tamil Nadu Town and Country Planning Act and Rule 36(1-A) (C) of the Tamil Nadu Minor Minerals Concession Rules, 1959. In fact, the petitioner submitted a representation dated 25.09.2023 on the file of the first respondent and filed the Writ Petition before this Court in W.P(MD)No.24968 of 2023 for a direction directing the



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respondents 1 to 6 to take action to restrain the respondents 7 and 8 claiming title to the land comprised in Survey Nos.99/1A2A, 100/1 and 100/2 situated in Sorathur Village, Thuraiyur Taluk, Trichy District from constructing any superstructure or doing any industrial activities within the prohibited distance of existing quarry and crusher unit run by the petitioner. Since the building plan approval was granted in favour of the 7th respondent, the Writ Petition in W.P(MD)No.24968 of 2023 become infructuous. **Accordingly, W.P(MD)No.24968 of 2023 is dismissed as infructuous.**

8.As per the building plan approval, dated 20.06.2022, the 7th respondent completed the entire construction. That apart, the petitioner is calculating the distance from the boundary of the 7th respondent land and not from the unit of the quarry. Therefore, the distance between the quarry operation unit and the construction of the oil mill does not fall within the prohibited distance. As stated supra, the Tamil Nadu Combined Development and Building Rules, 2019 prohibit only residential and layouts and not manufacturing units like oil mills. Further, the petitioner was granted quarrying lease for rough stone to his patta lands and the details are as follows:



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Sl. No.	Village	S.F. No.	Extent (in hectares)	G.O./Proceedings No. & date	Lease period
1.	Nagalapuram	1/4 (Patta)	1.07.0	Rc.No.406/2003 dated 17.06.2003	10.07.2003 to 09.07.2008
2.	Nagalapuram	1/4 2/1 1/3 (Patta)	3.57.0	Rc.No.836/2008 dated 06.10.2008	13.10.2008 to 12.10.2013
3.	Nagalapuram	1/4 2/1 (Patta)	2.15.0	Rc.No.696/2019 dated 12.10.2021	24.11.2021 to 23.11.2026

9.As per Rule 36(1-A)(C) of the Tamil Nadu Minor Minerals Concession Rules, 1959, no new layout, building plans falling within 300 meters from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and mining is obtained. As per Clause (3) of Annexure XVII of the Tamil Nadu Combined Development and Building Rules, 2019, no sub division or layout for building proposals shall be made and no building for commercial, institutional or any structure or occupation shall be constructed within 500 meters from an existing live quarry. In view of the above, this Court finds no infirmity or illegality in the building plan approval granted in favour of the 7th respondent and the Writ Petition is devoid of merits. **Accordingly, W.P(MD)No.29171 of 2023 is dismissed.**



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10.The 7th respondent filed W.P(MD)No.29023 of 2024 alleging that the petitioner is doing quarrying operation beyond the mining plan which is against the lease granted by the first respondent. The said W.P(MD)No.29023 of 2024 has been filed by the 7th respondent for the reason that the petitioner challenged the 7th respondent's building plan approval dated 20.06.2022 in W.P(MD)No.29171 of 2023. As stated supra, there is absolutely no violation committed by the petitioner. Further, the application submitted by the petitioner seeking expansion of his quarrying operations for the lands comprised in Survey Nos.100/6, 100/5B2, 100/7 and 100/8 situated at Muthaiyampalayam Village is pending on the file of the first respondent. The second respondent categorically stated in the counter-affidavit that the said request for expansion of quarrying operations will not be extended if there is superstructure within the prohibited distance. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent, dated 12.10.2021 by granting quarrying lease in respect of the property comprised in Survey Nos.1/4 and 2/1 to an extent of 2.15.0 hectares situated at Nagalapuram Village, Thuuraiyur Taluk, Tiruchirappalli District for a period of five years. **In view of the above, W.P(MD)No.29023 of 2024 is also dismissed.**



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11.In the result,

(i) W.P(MD)No.24968 of 2023 filed by the petitioner/D.Gnanasekar is dismissed as infructuous.

(ii) W.P(MD)No.29171 of 2023 filed by the petitioner/D.Gnanasekar is dismissed.

(iii) W.P(MD)No.29023 of 2024 filed by the petitioner/R.Subash is dismissed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

03.01.2025

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

To



W.P(MD)Nos.24968 & 29171 of 2023 & 29023 of 2024

- 1.The District Collector,
Trichy, Trichy District.
- 2.The Joint Director/Member Secretary,
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Trichy District Town and Country Planning Office,
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G.K.ILANTHIRAIYAN, J.

ps

Pre-Delivery Order made in
**W.P(MD)Nos.24968 & 29171 of 2023
& 29023 of 2024**

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