

(2002) 06 MAD CK 0032

In the Madras High Court

Case No : Writ Petition No. 17134 of 2002

A.D. Sukavaneshwar represented by Power of Attorney,
Thiru. A.N. Dyaneswaran

APPELLANT

Vs

The District Collector, Sivaganga District, Sivaganga and The
Assistant Director, Department of Geology and Mining,
Sivaganga

RESPONDENT

Date of Decision : 25-06-2002

Acts Referred:

Citation : (2002) 06 MAD CK 0032

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : V.L. Somayaji and S.V. Sanjeevi and Anr, for the Appellant; G. Kavitha, Government Advocate, for the Respondent

Judgement

P.K. Misra, J.—Heard the learned counsel appearing for the parties. Though the matter was listed for considering the question of issuing

directions, keeping in view of the order proposed to be passed, on consent of the learned counsel appearing for the parties, the writ petition itself is

taken up for final disposal.

2. The petitioner was granted quarry lease as per the lease deed dated 23.11.01. Subsequently as the lease having been cancelled, the present writ

petition has been filed. In the order of cancellation, it has been indicated 1) that putting up of boundary stones has not been done, 2) that the

petitioner has raised a bund for a width of 6 meters only instead of raising it to the width of 10 meters and 3) that the distance between the quarry

and the river is less than 50 meters. So far as the first two remarks are concerned, the petitioner submitted that the boundary stones may be placed

after fresh demarcation for which the petitioner may not have any role and that may be done by the Survey Department . In respect of the second remark, learned counsel for the petitioner submits that the petitioner is prepared to raise the height of the bund to the required width as per the directions of the respondent and that so far as the 3rd remarks is concerned, learned counsel for the petitioner submitted as per the certificate of the Tahsildar, the distance is more than 60 metres and not less than 50 metres as alleged by the respondents. Learned counsel appearing for the respondents submitted that several opportunities have been provided to the petitioner and the petitioner did not attend any personal hearing and therefore it is not now open to the petitioner to raise this question at this stage.

3. Since the lease had been granted and it has been cancelled , I think , in the interest of justice, before taking final decision in the matter, an opportunity of hearing should be given to the petitioner particularly keeping in view of the submissions made on behalf of the petitioner with regard to the first two defects and also in view of the fact that even regarding the 3rd defect, the question of distance can be verified in the presence of the petitioner. Therefore, it is directed that an enquiry should be held and a fresh decision should be taken by the respondent after giving an opportunity to the petitioner. For the purpose of facilitating early disposal of the matter the petitioner is directed to appear before the first respondents on 15-7-2002 on which date the first respondent may enquire in the matter or fix any convenient date for holding the enquiry in the presence of the petitioner. The petitioner shall be given opportunity of personal hearing and thereafter fresh decision should be taken and the result should be intimated to the petitioner. All these exercise should be completed as expeditiously as possible preferably before the end of July,2002. It is also made clear that no opinion is expressed on the merits of the contentions raised by either party and the first respondent collector is free to take fresh decision in accordance with law. The impugned order is set aside and the petitioner shall not be permitted to carry on any quarrying operations till the matter is re-determined.

4. With the above observations, the writ petition is disposed of alongwith the connected WMPs. No costs.