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W.P.No.20166 of 2013 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.06.2023

Pronounced on : 16.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

**W.P.Nos.20166 and 20167 of 2013, 15584, 15585,**  
**15586 and 15587 of 2014**  
**and**  
**M.P.Nos.1 and 1 of 2013 and 1, 1, 1 and 1 of 2014**

**W.P.No.20166 of 2013**

M/s. P.R.P Granites,  
Rep. by its Partner Mr. P.Senthilkumar,  
near Veerakaliamman Koil,  
Keelavalavu, Melur Taluk,  
Madurai District.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Industries Department,  
Fort St.George,  
Chennai – 600 009.

2. The District Collector,  
Madurai District,  
Madurai.

... Respondents



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**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents, their agents, subordinates, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks etc., stored / lying either in the vacant patta lands of the petitioner or in the vacant patta lands in respect of which the petitioner got surface rights or in the vacant lands of the Government which are situated either in the adjoining or nearby lease granted patta lands of the petitioner measuring 8-41 Acres in Survey Nos. 684/2A etc., situated in NAVINIPATTI Village, Melur Taluk, 2-67 Acres, in Survey No. 69/1 etc., 5-61 Acres in Survey No.92/1 etc., 2-56 Acres, in Survey No.113/1 etc., 5-00 Acres, in Survey No.30/1B etc., situated in KEELAIYUR Village, 17-92 Acres, in Survey No.71/4 etc., 6-15 Acres, in Survey No.62/1 etc., 3-84 Acres, in Survey No.63/1A etc., 5-34 Acres, Survey No.298/3A1 etc., KEELAVALAVU Village, 7-16 Acres, in Survey No.268/1 etc., situated in KEELAVALAVU and SARUGUVALAYAPATTI Villages, 7-20 Acres, in Survey No.221/1A1 etc., 6-89 Acres, in Survey No. 321/1 etc., 2-54 Acres, in Survey No.214/2 etc., 6-83 Acres, in Survey No.7/12 etc., 9-42 Acres, in Survey No.225/3 etc., 3-64 Acres, in Survey No.237/1 etc., situated in E.MALAMPATTI village, and all the five villages situated in Melur Taluk, Madurai District, 15-45 Acres in Survey No.197/1A1(P) etc., situated in POOLAMPATTI Village, 29-31 Acres in Survey No.56/1 etc., situated in SIVALINGAM & THIRUMOHUR villages and 16-62 Acres in Survey No.3/1 etc., situated in KARUPPUKKAL Village and all the four villages are situated



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in Madurai North Taluk, Madurai District till the completion of investigation and adjudication and till the disposal of the matters pending before this Court.

**[prayer amended as per order dated 14.08.2013 in M.P.Nos.2 and 3 of 2013 in W.P.Nos.20166 and 20167 of 2013]**

**W.P.No.20167 of 2013**

M/s. P.R.P Exports,  
Rep. by its Partner Mr. P.Senthilkumar,  
Therkkuthuru Village,  
Melur Taluk,  
Madurai District.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Industries Department,  
Fort St.George,  
Chennai – 600 009.

2. The District Collector,  
Madurai District,  
Madurai.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents, their agents, subordinates, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks etc., stored / lying either in the vacant patta lands of the petitioner or in the vacant patta lands in respect of which the petitioner got surface rights or in the vacant lands of the Government which are situated either in the adjoining or nearby lease granted



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patta lands of the petitioner measuring 8-41 Acres in Survey Nos.684/2A etc., situated in NAVINIPATTI Village, Melur Taluk, 2-67 Acres, in Survey No.69/1 etc., 5-61 Acres in survey no.92/1 etc., 2-56 acres, in Survey No.113/1 etc., 5-00 Acres, in Survey No.30/1B etc., situated in KEELAIYUR Village, 17-92 Acres, in Survey No.71/4 etc., 6-15 Acres, in Survey No.62/1 etc., 3-84 Acres, in Survey No.63/1A etc., 5-34 Acres, in Survey No.298/3A1 etc., in KEELAVALLAVU village, 7-16 Acres, in Survey No.268/1 etc., situated in KEELAVALLAVU and SARUGUVALAYAPATTI villages, 7-20 Acres, in Survey No.221/1A1 etc., 6-89 Acres in Survey No.321/1 etc., 2-54 Acres in Survey No.214/2 etc., 6-83 Acres in Survey No.7/12 etc., 9-42 Acres, in Survey No.225/3 etc., 3-64 Acres, in Survey No.237/1 etc., situated in E.MALAMPATTI Village, and all the five Villages situated in Melur Taluk, Madurai District, 15-45 Acres in Survey No.197/1A1(P) etc., situated in POOLAMPATTI Village, 29-31 Acres in Survey No. 56/1 etc., situated in SIVALINGAM and THIRUMOHUR Villages and 16-62 Acres in Survey No.3/1 etc., situated in KARUPPUKKAL Village and all the four Villages are situated in Madurai North Taluk, Madurai District till the completion of investigation and adjudication and till the disposal of the matters pending before this Court.

**[prayer amended as per order dated 14.08.2013 in M.P.Nos.2 and 3 of 2013 in W.P.Nos.20166 and 20167 of 2013]**



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**W.P.No.15584 of 2014**

M/s. PRP Granites,  
Rep. by its Partner Mr. P.Senthilkumar,  
near Veerakaliamman Koil,  
Keelavalavu, Melur Taluk,  
Madurai District.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Industries Department,  
Fort St.George,  
Chennai – 600 009.

2. The District Collector,  
Madurai District,  
Madurai.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents, their agents, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable materials etc., granite blocks stored or lying in the Government poromboke lands comprised in Survey No.67/1, 69/2, 71, 81/5, 113/7, 137/13, 137/15, 149/5, 150/1 and 228 situated in Keelaiyur Village, in Survey Nos.6, 220, 317 situated in E.Malampatti Village, in Survey No.20, situated in Navinipatti Village, in Survey Nos.12/3, 33/2, 34/4A, 34/4B, 34/5, 60/12, 66/11, 84/1, 254, 257/3, 257/4, situated in Keelavalavu Village, in Survey No.521/7, situated in Thiruvathavoor Village and all the said five villages situated in



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Melur Taluk, lands in Survey Nos.101/4, 105/1, 109, 110 situated in Thirumohur Village, in Survey No.206/16, situated in Poolampatti Village, in Survey No.41/5 and 52/1B situated in Sivalingam Village and all the said three villages situated in Madurai North Taluk and both the Taluks are in Madurai District the subject matters are the 2<sup>nd</sup> respondent public notice dated 27.02.2014.

**W.P.No.15585 of 2014**

M/s. PRP Exports,  
Rep. By its Partner Mr. P.Senthilkumar,  
Therkkuthuru Village,  
Melur Taluk,  
Madurai District.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Industries Department,  
Fort St.George,  
Chennai – 600 009.

2. The District Collector,  
Madurai District,  
Madurai.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents, their agents, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks stored or lying in the Government poromboke lands comprised



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in Survey Nos.67/1, 69/2, 71, 81/5, 113/7, 137/13, 137/15, 149/5, 150/1 and 228 situated in Keelaiyur Village, in Survey Nos.6, 220 and 317 situated in E.Malampatti Village, in Survey No.20, situated in Navinipatti Village, in Survey Nos.12/3, 33/2, 34/4A, 34/4B, 34/5, 60/12, 66/11, 84/1, 254, 257/3 and 257/4, situated in Keelavalavu Village, in Survey No.521/7, situated in Thiruvathavoor Village and all the said five villages situated in Melur Taluk, lands in Survey Nos.101/4, 105/1, 109, 110 situated in Thirumohur Village, in Survey No.206/16, situated in Poolampatti Village, in Survey Nos.41/5 and 52/1B situated in Sivalingam Village and all the said three villages situated in Madurai North Taluk and both the Taluks are in Madurai District the subject matters are the 2<sup>nd</sup> respondent's public notice dated 27.02.2014.

**W.P.No.15586 of 2014**

Mr. K.Murugesan,  
S/o. Shri.Karuppaiah Thevar,  
No.10/142, Anna Nagar,  
Madurai – 625020.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Industries Department,  
Fort St.George, Chennai – 600 009.

2. The District Collector,  
Madurai District,  
Madurai.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to



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issue Writ of Mandamus, forbearing the respondents, their agents, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks stored or lying in the Government poromboke lands comprised in Survey Nos.260, 296/5 and 297/5 situated in Keelavalavu Village, Melur Taluk, Madurai District the subject matters of the 2<sup>nd</sup> respondent's public notice dated 27.02.2014.

**W.P.No.15587 of 2014**

M/s. Vijaya Granites,  
Rep. by its Proprietor Mr. R.Chinnaiah @ Kasi,  
No.114/65 H9, New Street,  
Thiruppathur,  
Sivagangai – 630 211.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Industries Department,  
Fort St.George,  
Chennai – 600 009.

2. The District Collector,  
Madurai District,  
Madurai.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents, their agents, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks stored or lying in the Government poromboke lands comprised



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in Survey Nos.250/7, 251/10 and 525/1 situated in THIRUVATHAVOOR Village, Melur Taluk, Madurai District the subject matters of the 2<sup>nd</sup> respondent's public notice dated 27.02.2014.

For Petitioners : Mr. P.Wilson,  
Senior Counsel  
for Mr.A.Robinson (in all 6 W.Ps)

For Respondents : Mr.R.Shunmuga Sundaram,  
Advocate General

assisted by  
Mr.D.Ravichander,  
Special Government Pleader &  
Ms.A.G.Shakeenaa (in all 6 W.Ps)

### **COMMON ORDER**

The facts leading to all these writ petitions are that 'Dhinaboomi' Daily Newspaper Editor had sent letter to the Hon'ble Chief Minister regarding illegal quarrying and transportation of granites worth Crores of rupees in Madurai District on 31.01.2012. Consequently, the Government had requested the District Collector, Madurai to furnish a report regarding the issues on 19.04.2012. The District Collector, Madurai, Thiru. U.Sagayam, I.A.S had submitted a report on 19.05.2012 to the Government stating that granites worth Rs.3,350 Crores were quarried by private lessees from Tvl. TAMIN's lease



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hold areas and Rs.16,338 Crores were illegally quarried from Government poromboke lands. There may be a revenue loss to the tune of Rs.15,000 Crores due to unauthorized stocking of granite blocks in Madurai District, if proper inspection is carried out.

2. On 04.03.2013, the District Collector, Madurai had reported the Commissioner of Geology and mining that huge illegal stock of granite blocks were found and requested for necessary guidelines for speedy disposal of the granite blocks.

3. The Commissioner of Geology and Mining had deputed 1 Deputy Director, 3 Assistant Directors, 16 Assistant Geologists and 4 Surveyors for rendering assistance to the District Collector, Madurai on technical and legal aspects for the disposal of unauthorized stocks of granite blocks. The team for assessment of unauthorizedly stored granite blocks submitted their report that all these seized granite blocks were enumerated and upset price was fixed for each recovered granite block based on the variety, size and quality of the granite by the Special team in February, 2014. On 21.04.2013, proclamation



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was made by the District Collector, Madurai in Dinamani Daily newspaper for 12,274 blocks having a total volume of 93,680.378 cbm in 61 poromboke survey fields.

4. The petitioners viz., Tvl. PRP Granites and PRP Exports made a claim for the granite blocks found in 38 poromboke survey fields and requested not to proceed with the proposed auction of the waste, rejects and non-saleable materials lying in the poromboke lands adjacent to the petitioners lease hold areas.

5. On 08.05.2013, the petitioners in W.P.Nos.20166 and 20167 of 2013 were given further period of 10 days from the date of receipt of the letter to produce particulars along with relevant documents to establish his right over the granite blocks found in the said Government poromboke lands, failing which further action will be taken on the proclamation by the District Collector, Madurai.

6. The petitioners in W.P.Nos.20166 and 20167 of 2013 received a legal



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notice on 15.05.2013 to the District Collector stating that certain writ petitions on the show-cause notices issued by the District Collector, Madurai against the petitioners in connection to the illegal quarrying of granite are pending before the Madurai Bench of Madras High Court.

7. The District Collector, Madurai in a letter dated 27.06.2013 had sent a draft e-auction notice to dispose the granite blocks through tender-cum-e-auction process to the Government, for vetting.

8. Against the proclamation, 2 writ petitions in W.P.Nos.20166 and 20167 of 2013 were filed by Tvl. P.R.P.Granites and Tvl. P.R.P.Exports with a prayer to issue a Writ of Mandamus forbearing the respondents, their agents, subordinates, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks stored / lying either in the adjoining or nearby patta lands or in the adjoining or nearby Government poromboke lands of the lease granted areas of the petitioners in Navinipatti, Keelaiyur, Keelavalavu, Saruguvalaypatti, E.Malampatti, A.Vellalapatti, Thaniyamangalam, Tiruvathavur, Idayapatti, Amoor, Sivalingam, Kodikulam,



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Illankiyenthal and in Melur Taluk and Poolampatti, Tirumogur and Karuppukal villages in Madurai North Taluk and Eravarpatti in Usilampatti Taluk of Madurai District.

9. The proclamation was made by the District Collector, Madurai in Theekathir Daily newspaper on 27.02.2014 for 13,047 blocks having a total volume of 101093.43 cbm in 63 poromboke survey fields.

10. The petitioners viz., Tvl. P.R.P Granites and P.R.P Exports made their claim for granite blocks found in 33 poromboke survey fields and requested not to proceed with the proposed auction of the waste, rejects and non-saleable materials lying in the poromboke lands adjacent to the petitioners lease hold areas.

11. The petitioner in W.P.No.15586 of 2014 viz., Thiru. K.Murugesan made claim for the granite blocks found in 3 poromboke survey fields and requested not to proceed with the proposed auction of the waste, rejects and non-saleable materials lying in the poromboke lands adjacent to the petitioners



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lease hold areas.

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12. The petitioner in W.P.No.15587 of 2014 viz. Tvl.Vijaya Granites made a claim for the granite blocks in 3 poromboke survey fields and requested to drop the proceedings and to pass appropriate orders for granting permission to continue stocking of his granite blocks in Government area by paying necessary B Memo charges and to defer from proposed auction under Section 21(5) of Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'the MM(D&R) Act' for short)

13. The petitioners were given further period of 10 days from the date of receipt of the letter to produce relevant documents to establish their rights over the granite blocks found in the said Government poromboke lands, failing which further action will be taken on the proclamation by the District Collector.

14. On 27.05.2014, the petitioners viz., Tvl. P.R.P Granites, P.R.P. Exports and Thiru K.Murugesan informed the District Collector that since



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their offices were sealed and all the documents, records, hard disk etc., were seized by the investigation officer, they are unable to furnish reply and they are taking necessary legal steps to get back the same and on receipt of the same, they will submit their reply.

15. Against the proclamation, 4 writ petitions viz., W.P.Nos.15584, 15585 of 2014 filed by Tvl. P.R.P Granites, W.P.No.15586 of 2014 filed by Thiru K.Murugesan and W.P.No.15587 of 2014 filed by M/s. Vijaya Granites with a prayer to issue a Writ of Mandamus, forbearing the respondents, their agents, subordinates, officers and men etc., in any way dealing with waste, overburden, rejects and non-saleable granite blocks stored / lying either in the adjoining or nearby patta lands or in the adjoining or nearby Government poromboke lands. On 12.01.2015, the Government communicated the duly approved draft e-auction notice to dispose the granite blocks stored illegally in Madurai District with request to send action taken report from time to time.

16. With the above factual backdrops, the Government has received several complaints regarding illegal quarrying and transportation of granites in



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Madurai District, including the letters sent by the Editor of Dhinaboomi Daily newspaper to the Hon'ble Chief Minister on 31.01.2012.

17. The learned Senior Counsel appearing for the petitioners mainly contended that the Government of Tamil Nadu has granted lease of granite blocks in Madurai District in favour of the petitioners in respect of the patta lands and Government lands.

18. The topsoil, overburden, waste, rejects, non-saleable granite minerals and process ancillary to the getting dressing or preparation for sale are to be shifted on top of ground level and to be stored in the safest manner, in order to prevent accidents and to refill the quarry, because “mother earth” is the owner of all the minerals and the environment and ecology are to be maintained at the end of the quarry lease period. Transporting a mineral is entirely different from shifting the waste, rejects, non-saleable minerals to nearby and adjacent areas.

19. Section 24 of the MM(D&R) Act provides powers to the authorized officers for entry and inspection of any mine with regard to survey and take



measurement, weight and measure stocks of minerals lying at any mine.

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20. Section 3(i) of MM(D&R) Act defines “mine” and “owner”. The expression “mine” and “owner” have the meanings assigned to them in the Mines Act, 1952.

21. Section 2(j) of the Mines Act, 1952, defines “mine” as follows:-

*“‘mine’ means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—*

*(i) to (ix) ....*

*(x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;*



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*(xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;*

22. Keeping minerals a nearby or adjacent area is a legal right arising out of the legal provisions as contemplated under Sections 2(j) (x) and (xi) of the Mines Act, 1952. Thus, it may be regarded as an advantage, or a benefit conferred by the provisions of law. The statutory intention, as available in Sections 2(j) (x) and (xi) of the Mines Act, 1952 cannot be curtailed, restricted or shrunk. The statutory authorities viz., the officials of the Mines and Geology should encourage and advice to dump the waste materials in a nearby or adjacent area while carrying out scientific mining, in order to protect the labours and machineries involved.

23. Rule 22(4) of the Granite Conservation Development Rules, 1999



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provides that before starting mining or quarrying operations, conceptual ultimate limits of the quarry shall be determined and dumping ground shall be so selected that dumping is not carried out within the limits of the ultimate size of the quarry except where simultaneous back filling is proposed.

24. Rule 31(3) of the Granite Conservation and Development Rules, 1999 provides that wherever possible, such waste rock or overburden or other rejects, shall be backfilled into the worked out granite quarry, where granite has been recovered up to the optimum depth, with a view to restore the land to its original use or desired alternate use, as far as possible and where the backfilling is not feasible, the waste dumps shall be suitably terraced and stabilised by planting vegetation or otherwise.

25. Section 21(4) of the MM (D&R) Act, 1957 provides that whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority



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specially empowered in this behalf.

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26. Section 21(4-A) of the MM (D&R) Act, 1957 provides that any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.

27. The Government of Tamil Nadu issued G.O (Ms) No. 170, Industries (MMC.2) Department, dated 05.08.2020, wherein, in page no. 9, it is stated that the Hon'ble Court categorically issued direction that as per Section 21(4-A) of the said Act, seized materials are liable to be confiscated by an order of the Court competent to take cognizance of the offence under Section 21(1) of the said Act and the seized materials are to be disposed of in accordance with directions of such Court.

28. In pursuance of the proceedings of the Commissioner of Geology and Mining, Chennai in R.C.No.3796/MM2/2023 dated 26.05.2023 had



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constituted a committee consisting of :-

1. Regional Joint Director, Madurai Region,
2. Regional Joint Director, Villupuram,
3. Assistant Director, Pudukottai,
4. Assistant Director, Virudhunagar,

to verify and report the unauthorized granite blocks stacked in Government poromboke lands of Melur, Madurai East and Usilampatti Taluk of Madurai District.

29. The above committee inspected the quarry places and stated in their inspection report that “in all the areas, wherein the committee verified the stored granite blocks, it had been revealed, that all of them are having origin in the nearby quarries of both poromboke and patta lands. The super check made by them reveals that there are no tampering or alteration in the method or shape of original storage position. All the granite blocks are intact amidst thick vegetational growth.”

30. Para No. 11, Page No. 14 of the report filed by the Second



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Respondent / the District Collector specifically deals with the subject of granite blocks stacked in patta lands and poromboke lands without permission as narrated below:

*“ Complaints were filed against 180 persons in Judicial Magistrate Court, Melur with a prayer to confiscate granite blocks stocked in patta lands without permission and to prosecute the pattadars and all the cases have been transferred to the Special Court, Madurai of which 2 cases in Melur Judicial Magistrate Court and 1 case in Madurai Special Court were acquitted on the ground of lack of evidence in respect of storing the granite blocks by the respondent Tmt. Ponmalar. In respect of filing an appeal, opinion of the learned Public Prosecutor is being requested. Further, in respect of the unauthorized storage in Government poromboke lands action is being initiated by filing private complaints by following the procedures as contemplated under Section 21(4-A) read with Section 22 of the MM(D&R) Act before the Special Court*



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*constituted under the MM(D&R) Act.”*

Overburden, waste, rejects, non-saleable granite minerals, which all are kept adjacent to the leasehold area are to be utilized to refill the excavated mother earth in terms of Rule 22(4) read with Rule 31(3) of the Granite Conservation and Development Rules, 1999.

31. Overburden, waste, rejects, non-saleable granites generated during granite quarrying operations could not be allowed to be sold. If such eventualities are allowed to be taken place, the granite quarrying lessees would be put into irreparable loss, mental agony and finally granite quarrying lessees are answerable for not refilling the excavated mother earth.

32. As against the findings of the report dated 30.05.2023 in para 4 in page 36 of the typed-set and para 11, page 14 of the report filed by the 2<sup>nd</sup> respondent dated 05.06.2023, the 2<sup>nd</sup> respondent cannot go back and switch over the stand of selling the granite minerals directly by way of e-auction.

33. In the present case, the 2<sup>nd</sup> respondent / District Collector has not



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made any complaint as contemplated under Section 22 of the MM (D&R) Act for the alleged offences committed under Section 4(1A) of the Act read with Sections 21(4) and 21(4-A) of the Act and has approached this Hon'ble Court by-passing statutory mechanism, which is certainly impermissible under law. This dictum has been followed by the Hon'ble Supreme Court and High Court in catena of decisions. It is well decided that when statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed.

34. For keeping the minerals in patta lands, the District Collector, Madurai had already filed complaints against 180 persons before the competent Special Court to deal with the cases of offences in contravention of the provisions of the MM(D&R) Act constituted in terms of Section 30-B.

35. The learned Senior Counsel appearing for the petitioners concluded



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by stating that by recording the admitted facts as stated by the 2<sup>nd</sup> respondent in their report in para 14, in respect of the unauthorized storing of minerals in Government poromboke land, action is being initiated by filing private complaints following procedures as contemplated under Section 21(4-A) read with Section 22 of the MM(D&R) Act before the Special Court, constituted under the MM(D&R) Act.

36. It is not in dispute that the complaints were filed against 180 persons in Judicial Magistrate Court, Melur with a prayer to confiscate the granite block stocks in patta lands without permission and to prosecute the pattadars and all the cases have been transferred to the Special Court, Madurai, of which 2 cases in Melur Judicial Magistrate Court and 1 case in Madurai Special Court acquitted the respondent, Tmt. Ponmalar on the ground of lack of maintenance in respect of storing the granite blocks. In respect of filing of an appeal, opinion of the Public Prosecutor is being requested. Further, in respect of unauthorized storage of granite blocks in Government poromboke lands, action is being initiated by filing private complaints by following procedures as contemplated under Section 21(4-A) read with Section 22 of the MM(D&R)



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Act before the Special Court constituted under the MM(D&R) Act.

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37. The learned Advocate General appearing on behalf of the respondents reiterated that the Government has already initiated action and the auction notice was published, which is under challenge. Keeping the granites open would cause financial loss, as the value of the granites will be diminished. Therefore, the authorities may be allowed to complete the auction process and deposit the proceeds in a separate account, till such time the criminal cases are disposed of by the Special Court. It is not necessary that all those granites are to be presented before the Court for trial, since it is incapable of production. In such circumstances, the Criminal Courts have to follow the procedures as contemplated under the Code of Criminal Procedure, 1979 and therefore, the auction, if conducted, would cause no prejudice to either of the parties.

38. No doubt, the District Collector, Madurai had issued a public notice stating that the granites lying in the Government poromboke lands without the



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permission of the Government will be dealt with under Section 21(5) of the MM(D&R) Act. The persons claiming rights over the granites are provided with an opportunity to submit their objections or to establish their rights. However, the fact remains that complaints filed against 180 persons by the state is now pending before the Special Court, Madurai and the cases are in progress. These granites are the subject matter of the Criminal Case. The question arises as to whether the disposal of these granites would cause any prejudice to the trial to be conducted by the Special Court in respect of the complaints filed against 180 persons.

39. In this context, it is necessary that the granites lying are to be dealt with in accordance with the provisions of the MM(D&R) Act and the rules framed thereunder. Section 21(4) stipulates that whenever any persons raises, transports or causes to be raised and transported, without any lawful authority, any mineral from any land, and for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer of authority specially empowered in this behalf.



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40. Section 21(4-A) of the MM(D&R) Act denotes that any mineral, tool, equipment, vehicle or any other thing seized under sub-section 4, shall be liable to be confiscated by an order of the Court competent to take cognizance of the offence under sub-section 1 and shall be disposed of in accordance with the directions of such Courts. Therefore, any material seized under Section 21(4) of the MM(D&R) Act shall be disposed of in accordance with the directions of such Court.

41. In the present case, the phrase 'such Court' indicates the Court in which the trial is pending. Complaints filed against 180 persons are pending before the Special Court, Madurai. Therefore, under Section 21(4-A), the mineral tool equipment seized under sub-section 4 shall liable to be confiscated and shall be disposed of in accordance with the directions of such Court.

42. Granite Conservation and Development Rules, 1999, also



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enumerates stocking of non-saleable granite and storage over-burden, waste stoke etc., but the High Court, in a writ proceedings, cannot issue a direction to dispose of the mineral tool, equipment seized by the authorities under sub-section 4 to Section 21 of MM(D&R) Act and also Section 21(4-A) of the MM(D&R) Act stipulates that such mineral tool, equipments seized shall be liable to be confiscated by an order of the Court Competent to take cognizance of the offence under sub-section 1 and shall be disposed of in accordance with the directions of such Court.

43. The writ petitions are filed to forbear the respondents from dealing with the waste, overburden, rejects and non-saleable granite blocks etc., stored / lying either in vacant patta lands of petitioners or in the vacant patta lands in respect of which the petitioners have got surface rights or in the vacant lands of the Government. In view of the fact that the Special Court has already been seized of the matter with reference to the complaint filed against 180 persons and the trial is pending. Thus, it is preferable that the Special Court deal with the issues and dispose of the property in the manner contemplated under the provisions of the MM(D&R) Act.



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44. The granites stored / lying in the lands are nation's wealth. Thus, it cannot be allowed to be diminished. Issues regarding the offences under the Act are to be dealt with by the Special Court, Madurai with regard to the complaints filed against 180 persons. Therefore, keeping the granites for a very long period would pose danger and more so, would cause heavy revenue loss to the State Ex-chequer. It would be very difficult for the authorities to protect the same, since large quantities of granites are stored and lying in open land. After few years, their value will be diminished. All these factors are to be taken into account while considering the issues. It may not be required for the Special Court to produce the entire quantities of granite blocks stored / lying in the vacant land in huge quantities. Contrarily, the granite stones can be auctioned and proceeds may be kept in a separate account with reference to the criminal cases pending. In this regard, competent Special Court is empowered to dispose of the properties by following the procedures as contemplated under chapter XXXIV of the Code of Civil Procedure, 1908.

45. When the Special Court has been vested with the powers to dispose



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of the property seized by the authorities under the provisions of the MM(D&R) Act, it is unnecessary for the High Court in the writ proceedings to deal with the issues relating to the disposal of the granites, which all are the material objects in the pending criminal case. More so, Sections 21(4) and 21(4-A) of the MM (D&R) Act, deals with the procedures to be followed for disposal of the granites and therefore, the Special Court is empowered to issue direction to the Competent authorities to dispose of the same by following the procedures.

46. When the Special Court has been conferred with the power to issue direction to dispose of the granites by issuing necessary directions, such powers conferred under the Act need not be usurped by the High Court in the writ proceedings.

47. In view of the facts and circumstances of these cases, this Court is inclined to pass the following orders:-

- (i) the relief as such sought for in the present writ petitions are



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rejected;

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the Special Court, Madurai is directed to consider the issues raised between the parties and pass appropriate orders within a period of 4 months from the date of receipt of a copy of this order regarding disposal of the waste, overburden, rejects and non-saleable granite blocks etc., stored / lying either in the vacant lands of the petitioners or in the vacant patta lands in respect of which the petitioners have got service rights or in the vacant lands of the Government, which are stipulated either in the adjoining or nearby patta lands;

- (iii) the Special Court, Madurai is requested to dispose of the main case as expeditiously as possible, since huge quantities of nation's wealth is the subject matter of the complaints that are filed against 180 persons.

Accordingly, the Writ Petitions are disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.



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**16.06.2023**

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1. The Secretary to Government of Tamil Nadu,  
Industries Department,  
Fort St.George,  
Chennai – 600 009.
2. The District Collector,  
Madurai District,  
Madurai.



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**S.M.SUBRAMANIAM, J.**

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**16.06.2023**