



W.P(MD)No.20794 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 13.10.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.20794 of 2023**

**and**

**W.M.P(MD)Nos.17211 & 17863 of 2023**

M.Karthick

... Petitioner

Vs.

1.The State represented by  
The District Collector,  
Tenkasi District.

2.The Assistant Director,  
Geology and Mining Department,  
Collectorate,  
Tenkasi District.

3.The Tahsildar,  
Sivagiri, Tenkasi District.

4.Rajasekar

5.Premkumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,  
praying this Court to issue a Writ of Mandamus, directing the



**W.P(MD)No.20794 of 2023**

respondents 1 to 3 not to permit the respondents 4 and 5 from conducting any quarrying activities without the petitioner's written consent and permission for the property bearing S.No.430/2 to an extent of 56.2 cents situated in Ariyur Village, Sivagiri Taluk, Tenkasi District.

For Petitioner : Mr.T.S.R.Venkat Ramana  
Senior Counsel for Ms.V.Janaki Devi

For Respondent : Mr.K.Balasubramani  
Special Government Pleader  
for R.1 to R.3

Mr.V.Raghavachari, Senior Counsel  
for Mr.Ramesh for R.4 & R.5

### **ORDER**

Heard the learned Senior Counsel appearing for the writ petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the Senior Counsel appearing for the contesting private respondents.

2.The fifth respondent herein was granted license vide proceedings of the Assistant Director of Geology and Mining, Tenkasi RC.No.M1/36678/2017 dated 07.09.2020 to quarry rough stone, jelly and gravel over an extent of 4.76.5 hectares of patta land in various survey



W.P(MD)No.20794 of 2023

numbers. One of the survey numbers is 430/2. This particular survey number measures an extent of 1.113.5 HAC. The validity of this license was put to challenge in W.P(MD)No.6407 of 2023. The writ petition was dismissed on 09.08.2023. The present writ petition also pertains to the very same quarry license.

3. However, the petitioner has anchored his case on the ground that he is also having right, title and interest in the said survey number and that therefore grant of quarry license by overlooking the same is illegal.

4. Finding *prima facie* merit in the petitioner's contention, a learned Judge of this Court granted an order of interim injunction. To vacate the same, the licensee filed WMP(MD)No.17863 of 2023.

5. The learned Senior Counsel appearing for the petitioner submitted that his grandfather Shanmugaiya Thevar had 66 cents of land in Survey No.430/2 and that the same devolved on his mother and his mother Kala executed settlement deed dated 10.03.2010 in his favour.



**W.P(MD)No.20794 of 2023**

He was at pains to point out that the contesting respondent could not have purchased the entire extent of 2 acres 87 cents in Survey No.430/2.

It is further contended that all that the petitioner is seeking is that the land that legitimately belongs to him should not be the subject matter of quarry.

6.The learned Special Government Pleader appearing for the official respondents submitted that the procedure set out in the statute and rules was scrupulously followed and that there is no case for interference.

7.The learned Senior Counsel appearing for the private respondents pointed out that if at all the petitioner has any case and if at all he has some right, the same has to be established only before the jurisdictional civil Court. He called upon this Court to dismiss the writ petition.



**W.P(MD)No.20794 of 2023**

8. I carefully considered the rival contention and went through the materials on record. It is true that the counter affidavit originally filed by the contesting respondents purports to concede the case of the petitioner. This was subsequently sought to be amended. The concession was sought to be withdrawn by filing a additional counter affidavit. The learned Senior Counsel appearing for the petitioner strongly argues that concession once made cannot be withdrawn or recalled subsequently.

9. I am of the view that one should not adopt a technical approach in these matters. I am satisfied that instead of employing the word “without”, it was wrongly typed as “with”. Such typographical omissions and errors should not be taken advantage of. I therefore proceed on the premise that the contesting respondent had not conceded the case of the petitioner.

10. Coming to the merits of the matter, I would not fault the authorities also. It is true that in such cases, the authorities invariably go by the revenue record. Patta in respect of Survey No.430/2 stood in the



W.P(MD)No.20794 of 2023

name of Premkumar. It is true that a revenue entry is not determinative of one's title. But then, the authority cannot be expected to go into such issues. When the issue arose as to whether the land acquisition proceedings is vitiated for not having put the title holder on notice, the Hon'ble Full Bench of Madras High Court reported in *AIR 1989 Mad 222 (P.C.Thanikavelu Vs. The Special Deputy Collector for Land Acquisition, Madras)* had held that the authority can be expected to go only by the entries in the revenue record.

11. Therefore, the impugned quarry license cannot be questioned. At the same time, to satisfy my conscience, I called upon the learned Special Government Pleader to produce the relevant revenue records. It is seen that the revenue record reflected the names of the following persons:

- i) Maruthappa Thevar S/o Dhanushkodi Thevar
- ii) Subramanian
- iii) Muthaiya Thevar
- iv) Shanmugaiya Thevar
- v) Sangaya Thevar



**W.P(MD)No.20794 of 2023**

The contesting respondents had purchased the property way back on 11.07.2006 from the following five persons:

- 1) Dhanushkodi Ramaiyathevar S/o Subramaniya Thevar
- 2) Santhana Pandiayan S/o Maruthaiya Thevar
- 3) Sundararathal W/o Muthaiya Thevar
- 4) Pichapandi S/o Subramaniya Thevar
- 5) Maruthaiya Thevar S/o Sangaiya Thevar

Even a bare perusal of the names would indicate that the petitioner had not purchased from Shanmugayathevar branch. The writ petitioner Karthick traces his title only to Shanmugaiyathevar branch. It is not known if the writ petitioner Karthick is actually the grandson of Shanmugaiyathevar. It is also not known as to whether the share of Shanmugaiyathevar in Survey No.430/2 devolved entirely on the writ petitioner's mother Kala. Interestingly Kala / the writ petitioner's mother had settled a definite extent of property containing defined boundaries vide settlement deed dated 10.03.2010. The schedule of the property is as follows:



W.P(MD)No.20794 of 2023

“தபசில்: தென்காசி பதிவு மாவட்டம், வாசுதேவநல்லூர் சார்பதிவகம், அரியூர் கிராமம் 843 நிர் பட்டாவில் கண்ட புஞ்சை சர்வே 430/2 நிர் ஹெக்டேர் 1.13.5 ஏக்கர் 2 செண்டு 81ல் மேலக்கடாசியில் செண்டு 56.2 (ஹெக்டேர் 0.22.75)க்கு நான்குமால் ஒடைக்கும் கிழக்கு சுப்பிரமணியத்தேவர் வகையறா புஞ்சைக்கும் மேற்கு, லேட் த.சுப்பிரமணியத்தேவர் வகையறா புஞ்சைக்கும் வடக்கு முத்தையா தேவர் புஞ்சைக்கும் தெற்கு, இதற்குள்பட்டதும் அதன் சகல சர்வசுதந்திரங்களும் சேர்த்து தபசில் சரி.

மேற்படிசொத்து வாசுதேவநல்லூர் பஞ்சாயத்து யூனியன் எல்லைக்குள்பட்ட அரியூர் ஊராட்சி மன்ற எல்லைக்குள்பட்டது.

மேற்படி சொத்து மதிப்பு ரூ.19,682 / – பெறும்.”

This *prima facie* indicates that even on his own showing, Karthick / the writ petitioner does not claim an undivided share in Survey No.430/2. Only on a definite and defined earmarked portion, he makes his claim of 56.2 cents. The writ petitioner has admitted in paragraphs 2 and 3 of the affidavit as follows :

“2. I submit that the Schedule properties measuring to an extent of 4.57 Acres punja dry land situated in S.No. 430/2 – measuring 2 acres 87 cents in Patta No.843 & S.No.447/4 – measuring acres 1.70 in Patta No.1001 in Ariyur Village, Sivagiri Taluk, Tenkasi District originally belonged to my Paternal great Grandfather namely Subramania Thevar. My Grandfather got 90 cents in the



**W.P(MD)No.20794 of 2023**

family partition with reference to good and bad soil of all the family properties. Thus he was allotted 56.2 cents in S.No.430/2 and S.No.447/4 measuring 34 cents. My father is M.Mohan, my mother is Kala.

3. I submit that during my Grandfather's time when the family orally partitioned the property the area of 90 cents was allotted to my Grandfather in the above entire property with reference to good and bad soil of other properties. After the death of my Grandfather, my father got it by survivorship and on the death of my father, my mother and I succeeded the said 90 cents as per Hindu Law. My mother out of love and affection towards me being her only son executed a registered settlement deed dated 10.03.2010 in Doc.No.347/2010 for 56 cents in S.No.430/2 and the said document is herewith produced in the typed set. Thus I have become the absolute owner of the entire 90 cents including the property given to me by my brother. The Respondents are estopped and personally barred from denying these facts.”

As pointed out by the learned Special Government Pleader as well as the learned Senior Counsel appearing for the private respondents, the quarry operations are in operation since 2020. The writ petition has been filed only in August 2023. It obviously means the petitioner has also



**W.P(MD)No.20794 of 2023**

conceded that the respondents are carrying on quarrying operations with his consent. In these circumstances, even though I feel that the writ petitioner does have a share in Survey No.430/2, the same has to be established only before the jurisdictional civil Court.

12. With this observation in favour of the writ petitioner and liberty to him to work out his right in the civil Court, this writ petition is dismissed. Interim injunction is vacated. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**13.10.2023**

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

To

1. The District Collector,  
Tenkasi District.
2. The Assistant Director,  
Geology and Mining Department,  
Collectorate,  
Tenkasi District.

10/12



**W.P(MD)No.20794 of 2023**

3.The Tahsildar,  
Sivagiri,  
Tenkasi District.



WEB COPY



W.P(MD)No.20794 of 2023

**G.R.SWAMINATHAN, J.**

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W.P(MD)No.20794 of 2023  
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13.10.2023