

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.No.21031 of 2015  
MP.No.1 and 2 of 2015

M.Manoharan

....Petitioner

Vs

- 1.The Member Secretary, State Environment Impact Assessment Authority, Chennai-15
- 2.The Director, Geology and Mining, Chennai-32
- 3.The District Collector, Tiruppur District
- 4.The Revenue Divisional Officer, Udumalpet Tiruppur District
- 5.The Executive Officer, Komaralingam Town Panchayat Udumalpet Taluk Tiruppur District
- 6.The Tahsildar, Madathukulam, Komaralingam Town Panchayat Udumalpet Taluk Tiruppur District
- 7.The Village Administrative Officer, Komaralingam Town Panchayat Udumalpet Taluk Tiruppur District

8.S.Velumani

...Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd Respondent in Na.Ka.No.31/Mines/2014, dated 16.5.2015 and to quash the same and to direct the Respondents 1 to 7 to prevent the 8th Respondent from doing sand/gravel quarry in the lands comprised in S.No.870 to an extent of 3.00.0 hectares situated at Ramakulam, Madhathukulam Taluk, Komaralingam Village, Udumalpet Taluk, Tiruppur District so as to save the agriculture operations carried out by the Petitioner in the said lands.

For Petitioner

: Dr.R.Gouri

For Respondent 1 to 4,6,7

: Mr.T.N.Rajagopalan, SGP  
Mr.P.Jagadeesan-R8  
Mr.A.Kumar-R5

## ORDER

The Petitioner has challenged the issuance of quarry lease in the petition mentioned lands granted to the 8th Respondent by the impugned order of the 3rd Respondent dated 16.5.2015 and for a direction to the Respondents 1 to 7 to prevent the 8th Respondent from doing quarrying activities in the said lands.

2. The case of the Petitioner is that by the impugned order dated 16.5.2015, of the 3rd Respondent, the 8th Respondent was granted sand/gravel quarry lease for the lands in S.No.870 measuring an extent of 3.00.0 hectares, for a period of 11 months, invoking Section 12(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959, which provides for removal of sand from the lands belonged to the Government. Above said lands are not the Government lands and they are private lands of Ramakulam Estate, which is having more than 1500 acres of agricultural land, where the Petitioner and others are doing agricultural operations under the lease agreement for more than 50 years. The family of Petitioner and others are solely depending on the income derived from such agricultural operations. Taking advantage of such quarry permit, the 8th Respondent is quarrying sand to the depth of more than 15 to 20 feet in the said lands, which would affect the fertility of the soil of the said lands and ultimately, cripple the activities of the agricultural operations carried on by the Petitioner and others. Therefore, the Petitioner along with other agriculturists made a representation dated 9.5.2015 to the 3rd Respondent, which is still pending. Hence, this Writ Petition has been filed for the relief as stated above.

3. Separate counter affidavits have been filed by the Respondents 3 and 5 and the 8th Respondent/lessee, denying the averments made in the affidavit filed in support of this Writ Petition and stating that based on the application of the 8th Respondent and based on the Respondent's Town Panchayat resolution No.23/2014 dated 28.2.2014 for the particular portion as noted in the Plan issued by the Assistant Engineer of the Town Panchayat, the quarry lease was given to the 8th Respondent on the terms and conditions as mentioned in Na.Ka.N.103/2014 dated 25.6.2014. The 3rd Respondent is having every right to give permission to quarry sand in the tank only at the time when dry conditions prevail. In the places where the sand is stagnated in a high level only, the permission to take the sand quarry to percolate water solutions in the tank regularly is being granted and by such permission, the Petitioner would not be affected in any

manner. If the stagnated sand would not be taken by quarry, then the pecculation of water in the tank would be seriously affected. In such circumstances, this Writ Petition is liable to be dismissed.

4. The learned counsel for the Petitioner contended that granting sand/gravel quarry lease to the 8th Respondent by the impugned order is in violation of the provisions of Rule 12(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959, inasmuch as the lands in questions does not belong to the Government and the Rule 12 provides for removal of sand from lands belonged to the Government and the same are private lands. The learned counsel for the Petitioner further contended that quarrying to the depth of more than 15 to 20 feet in the subject lands would result in affecting the fertility of the soil, which would result in crippling the agricultural operation, on which the Petitioner and others are solely depending for their livelihood and hence, prayed for the relief as stated in this Writ Petition.

5. The learned Additional Government Pleader for the Respondents 1 to 7 reiterated the averments made in the counter affidavit and prayed for dismissal of this Writ Petition.

6. This court heard and considered the submissions made by the learned counsel on either side and also perused the materials placed on record.

7. The 8th Respondent was granted lease to quarry in the subject lands by the impugned order. It is the specific case of the Petitioner that the lessee is quarrying over and above the permitted limit, which would affect the agricultural operations, on which the Petitioner and others are solely depending for their livelihood and the subject lands are private lands. But, according to the Respondents, there was no violation of any conditions, while granting lease to the 8th Respondent and in the quarrying operations of the lessee.

8. It is seen from the records that the lease was granted to the 8th Respondent by the impugned order to quarry sand in the Government poramboke lands comprised in S.No.870 to an extent of 3.00.00 Hectares situated at Ramakulam, Madhathukulam Taluk, Komaralingam. Though it has been alleged by the Petitioner that the subject lands are private lands and the Petitioner and others are doing agricultural operations, there is no material evidence produced to prove the said contentions. There is also no material to show that the lessee quarried over and above the permitted level.

9. Further, the Petitioner is also not able to point out any violation of conditions and rules on the part of the Respondents in granting lessee, by producing valid evidence. On the other hand, it is seen from the impugned order that the quarry lease was granted, after following the due procedures, viz. only after getting environmental clearance and obtaining necessary sanction from Tamil Nadu Pollution Control Board and based on necessary recommendations of the Respondents 4 to 6, which would go to establish that the subject lands are Government eri poramboke lands, the lease was granted.

10. On the side of the Petitioner, the order of the Division Bench of the Madurai Bench of this Court dated 7.6.2012, made in WP(MD)No.6912 of 2012 has been relied upon and in that case also, similar allegation viz. quarrying in violation of the conditions, was raised against the lessee therein and it was established from the report filed by the Authorities as per the directions of this Court that there was violation of the conditions and accordingly, it was directed to take action in accordance with law against the lessee therein. In the other orders of the Division Bench of the Madurai Bench of this Court dated 3.8.2012 made in WP(MD) No.4699 of 2012, batch etc. and 2.12.2010, made in WP(MD) No.11182 of 2010, batch, etc. quarrying of sand in the renowned rivers was questioned and in that case, excessive quarrying has been proved by various reports and accordingly, quarrying was banned.

11. But, it is not so in the case on hand, inasmuch as, as per the directions of this Court, a field inspection report dated 22.9.2015 was filed by the Geology and Mining Department and from the said report, it is clear that there is no violation pointed out and no excess quantity is removed beyond the permitted limit and that when the inspection was conducted, no objection has been raised by anybody. Therefore, the above said decisions relied on by the Petitioner cannot be applied to the facts of the present case.

12. Therefore, in the absence of evidence produced by the Petitioner to show that the subject lands are private lands and the Petitioner and others are doing agricultural operations and there is gross violation by the authorities, while granting lease and also in the quarrying operations of the lessee, the Petitioner has no locus standi to question the quarrying operations of third party. However, as there are allegations of violations of quarrying operations, the Respondents can be directed accordingly.

13. For the reasons stated above, as held above that the Petitioner has no locus standi to file this Writ Petition, this Writ Petition is dismissed. However, the Respondents/Authorities are directed to verify as to whether

there is any violation committed by the lessee and if any violation is found, the same shall be dealt with accordingly. The representation of the Petitioner, if any kept pending, shall also be disposed of, on merits and in accordance with law. No costs. Consequently, the connected MPs are closed.

Sd/  
ASSISTANT REGISTRAR (CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

Srcm

To:

- 1.The Member Secretary, State Environment Impact Assessment Authority, Chennai-15
- 2.The Director, Geology and Mining, Chennai-32
- 3.The District Collector, Tiruppur District
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- 7.The Village Administrative Officer, Komaralingam Town Panchayat Udumalpet Taluk Tiruppur District

+1 CC to MR.P.Jagadeesan Advocate. SR.NO. 66009  
+1 CC to Ms.R.Gowri Advocate. SR.NO. 65822  
+1 CC to Govt.Pleader. SR.NO. 65938

WP.No.21031 of 2015

CO-SK  
JD 28/12/2015