

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2016

CORAM

THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.1593 of 2016
&
W.M.P.No.1356 of 2016

1. Mrs.K.Sudha
W/o.Late Krishna Kumar
2. Miss.Harshithaa Shree
D/o.Late Krishna Kumar
3. Miss.Madhumitha
D/o.Late Krishna Kumar

... Petitioners

Vs

1. The District Collector
Thiruvallur District
Thiruvallur
2. Deputy Director of Geology and Mining
Thiruvallur District
3. Mr.Karthikeyan
S/o.Rathina Pandi Nadar

... Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents 1 and 2 to initiate proceedings against the 3rd respondent on the basis of the complaint dated 31.10.2015 given by the petitioners for the illegal mining by the 3rd respondent in the schedule mentioned properties.

For petitioner : Mr.T.Sundaravadanam

For Respondents : Mr.T.N.Rajagopalan,
Special Government Pleader
for R1 & R2

Mr.B.Vijay, for R3

O R D E R

Heard Mr.T.Sundaravadanam, learned counsel appearing for the petitioner, Mr.T.N.Rajagopalan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.B.Vijay, learned counsel appearing for the third respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioners are the legal heirs of one late Krishna Kumar, who is none other than the brother of the third respondent. The dispute is between the family members with regard to the brick industry in the name and style of M/s.Shree T.K.R.Brick Industries. The petitioners have initiated arbitration proceedings and the matter is now seized of by the Hon'ble Arbitrator appointed by the Hon'ble Chief Justice in O.P.No.55 of 2015 and a preliminary award has been passed by the Arbitral Tribunal on 29.04.2016. Both the parties have also agreed to abide by the preliminary award and proceed with the matter further.

3. The petitioners have now come forward with the present writ petition stating that the third respondent is carrying on illegal mining activities in the properties which are jointly owned by her husband late Krishna Kumar and the third respondent herein. Admittedly, the patta to the property stands in the joint name of the late Krishna Kumar and the third respondent herein. As Krishna Kumar is no more, his legal heirs viz., the petitioners herein and the mother of late Krishna Kumar viz., Saraswathi Ammal would automatically become entitled to the properties. Further, the photographs produced would show that huge pits have been dug in those properties to excavate the red sand used for the brick industries. However, according to the third respondent, he has not done any quarrying in the said land and it is stated that they used to purchase red sand used in the brick industries only from the open market.

4. Counter affidavit filed by the first respondent viz., District Collector, Thiruvallur District would reveal certain startling facts. It is stated that the Tahsildar, Poonamallee and the Asistant Geologist (G & M), Tiruvallur, on inspection, found that three pits have been dug to a depth of 2 metres and a quantity of 5360 cubic metres or 893 lorry loads of savudu has been illegally quarried. The exact measurements and details have been set out in tabular column in paragraph 5 of the counter affidavit. The counter affidavit further states that there has been illegal mining and the Assistant Geologist (G & M), Tiruvallur has recommended to direct the Sub-Collector, Tiruvallur for taking penal action against the offenders for

illicit removal of 5360 cubic metres or 893 lorry loads of savudu under Rule 36(A) of Tamil Nadu Minor Mineral Concession Rules, 1959. Further, it appears that as on date, the responsibility has not been fixed and the action is being proceeded with. Therefore, the petitioners representation/complaint has been taken note of and the authorities have initiated action and it appears that the matter is proceeding in the right direction.

5. Therefore, there will be a direction to the respondents 1 and 2 to proceed further pursuant to the report/recommendations submitted by the Assistant Geologist (G & M), Tiruvallur to fix the responsibility as to who has done the illegal quarrying and take appropriate action in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that this order will have no bearing on the Arbitral proceeding which is pending before the Hon'ble Arbitrator.

6. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Xerox Copy of Schedule of Property
is enclosed herewith.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Thiruvallur District
Thiruvallur
2. The Deputy Director of Geology and Mining
Thiruvallur District

+1cc to Mr.T.Sundaravadanam, Advocate, S.R.No.29286
+1cc to Mr.B.Vijay, Advocate, S.R.No.29145

W.P.No.1593 of 2016

PPA(CO)
CA(09/06/2016)