



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2016

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CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

W.P. (MD) No.3120 of 2011
and
M.P. (MD) .No.1 of 2011

Blue Metals Company Pvt.Ltd,
BMC House, 32-2, Halls Road,
Post Box No.789,
Egmore, Chennai-600 008,
rep.by its Director S.Sukumar

: Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Collector,
Kanyakumari District,
Nagercoil.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus forbearing the respondents from interfering with the petitioners right and their customers right to transport the crusher materials and M Sand from the crushing unit of the petitioner at No.64 Tiruchendur Road, Kumbikulam Village, Radhapuram Taluk, Tirunelveli district to the place of the purchasers destination situated either within the State of Tamil Nadu or outside the State of Tamil nadu more particularly the neighbouring State of Kerala with the valid bills issued by the petitioner.

For Petitioner : Mr.D.Srinivasa Raghavan for
M/s.V.Sanjeevi

For respondents: Mr.Aayiram K.Selvakumar
Government Advocate

**O R D E R***********

The Manager of a Private Limited Company without any authorisation filed this Writ Petition with a strange prayer to restrain the District Collectors of Tirunelveli and Kanyakumari Districts from interfering with their right and that of their customers to transport crusher materials and M Sand from the crushing unit of the petitioner at Door No.64, Tiruchendur Road, Kumbikulam Village, Radhapuram Taluk, Tirunelveli district, to the place of the purchasers either within the State of Tamil Nadu or outside the State, more particularly, the neighbouring State of Kerala.

2. The petitioner by producing certain interim orders obtained an order of injunction on the date of admission on 07.04.2011. Thereafter, the matter was kept in cold storage.

3. The respondents have not filed counter affidavit even though five years have passed after filing the Writ Petition.

4. The Writ Petition is bound to fail on account of two reasons:-

(i) The first reason relates to the maintainability of a Writ Petition filed by the Manager of a Private Limited Company without power of attorney or authorisation. The deponent is only a Manager of the Private Limited Company. There is not even an averment to the effect that he was authorised by the Company by way of a valid resolution to file the Writ Petition. The Registry entertained the Writ Petition without considering the maintainability.

(ii) The second reason is the innocuous prayer made by the petitioner. The prayer proceeds as if the respondents are interfering with the business of the petitioner. The petitioner has filed this Writ Petition not only to protect the interests of the Company but also to safeguard the interests of unnamed customers. It is crystal clear that the petitioner has been transporting crusher materials and M Sand to the neighbouring Kerala State where there is a heavy demand. The transporters are expected to possess valid transport permits issued by the authorities. The petitioner wanted an order of this Court in the place of transport permits to transport crusher materials and M Sand from Tamil Nadu to Kerala State as well as in various places of Tamil Nadu. There is no right conferred on the petitioner for the issuance of a Writ of Mandamus. Similarly, there is no corresponding duty to forbear from verifying the records relating to the transport of crusher materials and M Sand by the statutory authorities. I am of the view that the Writ Petition is intended to smuggle minerals from one place to another, and more particularly, to the neighbouring State.



5. In the upshot, I dismiss the Writ Petition. The interim order passed by this Court on 07.04.2011 is recalled. The interim injunction petition is dismissed. No costs.

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Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Collector,
Kanyakumari District,
Nagercoil.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 46730
+ 1 CC TO MR.V.SANJEEVI, ADVOCATE IN SR No. 46679

SSM

TE/CK : 16/09/2016 : 3P/5C

ORDER MADE IN
W.P. (MD) No.3120 of 2011
and
M.P. (MD) .No.1 of 2011
23.08.2016