



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2016

CORAM:

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. (MD) No.13056 of 2013

and

M.P. (MD).Nos.1 and 2 of 2013

S.Balraj

... Petitioner

Vs.

1. The District Collector,
Thoothukudi District.

2. The Revenue Divisional Officer,
Thoothukudi District.

... Respondents

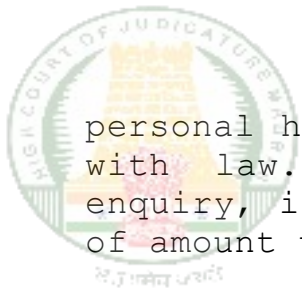
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the proceedings of the impugned publication dated 19.06.2013 published in Daily Thanthi newspaper on the file of the first respondent insofar as this petitioner (Serial No.15) is concerned and quash the same.

For Petitioner	: Mr.G.Prabhu Rajadurai
For Respondents	: Mr.V.Muruganandam Additional Govt. Pleader

O R D E R

The writ petition has been filed challenging the notification issued by the District Collector, Thoothukudi District, which was published in Daily Thanthi Newspaper, on 19.06.2013, regarding the recovery of penalty amount imposed on the petitioner.

2. According to the petitioner, he was granted with licence to quarry sand in Survey No.292/4 in Muthalankurichi Village, Srivaikuntam Taluk, Thoothukudi District and a show-cause notice was issued to him on 25.10.2000, by the second respondent alleging that he quarried sand illegally. Subsequently, the second respondent, without conducting any enquiry, passed an order dated 10.03.2001, directing the petitioner to pay a sum of Rs.25,84,623/-. Challenging the said order, the petitioner has filed a writ petition in W.P.No.16387 of 2002 before this Court by order dated 14.05.2002, set aside the order passed by the second respondent and directed the second respondent to conduct a fresh enquiry, after giving an opportunity of



personal hearing to the petitioner, and pass orders in accordance with law. Now the first respondent, without conducting any enquiry, issued the impugned notice, dated 19.06.2013 for recovery of amount under Revenue Recovery Act.

3. The second respondent filed a counter affidavit stating that a notice was issued to the petitioner vide this Office Letter No.Roc.B2/4051/2002, dated 04.07.2002 to appear before Revenue Divisional Officer, Thoothukudi on 15.07.2002 at 11.00 a.m. But the petitioner did not appear for enquiry. Meanwhile, the Collector published an advertisement with regard to list of persons penalised for illegal mining to remit the amount imposed failing which action will be taken under Revenue Recovery Act. In this advertisement, the petitioner name also placed.

4. The learned counsel for the petitioner would submit that after filing the present writ petition, the second respondent passed an order dated 30.08.2013, without conducting enquiry, once again imposed the same penalty. Now, challenging the order passed by the second respondent, dated 30.08.2013, he has filed an appeal before the Director of Geology and Mining, Chennai and after receipt of the appeal, the Director of Geology and Mining, Chennai transferred the appeal to the District Collector, Tuticorin, the first respondent herein, on the ground that against the order passed by the R.D.O., only an appeal lies before the District Collector. According to the petitioner, after transfer, the appeal is pending with the first respondent and no final order has been passed.

5. The above said submission was not disputed by the learned Additional Government Pleader.

6. Since already the order passed by the second respondent has been set aside by this Court and against the second order passed by the second respondent, an appeal is pending before the first respondent/ District Collector, the first respondent cannot initiate any recovery proceedings pending disposal of the appeal. As already stated, apart from that, the impugned notice was issued under Revenue Recovery Act by the first respondent based on the earlier order passed by the second respondent, which was set aside by this Court.

7. In the above circumstances, since the order passed by the second respondent has already been set aside, the respondents cannot recover the amount, based on the above order. Accordingly, the writ petition is allowed. However, since the appeal filed by the petitioner against the order of the second respondent is pending before the first respondent, the first respondent is directed to dispose of the appeal within a period of 12 weeks from the date of receipt of a copy of this order, after giving sufficient opportunity to the petitioner and after conducting



enquiry. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CSII)

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/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
Thoothukudi District.
2. The Revenue Divisional Officer,
Thoothukudi District.

+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.51369

+One cc to The Special Government Pleader, SR.No.51489

akv

RL/5C/2P/CK/28/9/2016

W.P. (MD) No.13056 of 2013

08.09.2016