

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

CORAM

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P.Nos.19526 & 13661 of 2017

and

WMP.Nos.21092 & 14848 of 2017

W.P.No.19526 of 2017

S.Sekar

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. By its Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector,
Salem District,
Salem.

3.The Superintendent of Police,
Salem District,
Salem.

... Respondents

W.P.No.13661 of 2017

K.Balachandran

... Petitioner

Vs.

1.The State of Tamilnadu,
rep. by its Chief Secretary,
Fort St. George,
Chennai - 600 009.

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2.The State of Tamilnadu,
rep. by its Secretary,
Industries Department,
Fort St. George,
Chennai - 600 009.

3.The State of Tamilnadu,
rep. by The Principal Secretary,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 600 009.

4.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.

5.The District Collector,
Salem District, Salem.

6.The Commissioner,
Salem Corporation, Salem. ... Respondents

Writ Petition No.19526 of 2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to forthwith prevent the illegal quarrying of sand from Katcharayanpalayam Lake, Erumaipatti, Salem District.

Writ Petition No.13661 of 2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to forthwith delete the Panamarathupatty lake from the proceeding of the 5th respondent dated 04.5.2017 in Na.Ka.No.380/17 (Mines) published in the Salem Gazette No.11 dated 05.05.2017 and consequently direct the respondents to forthwith implement the project report for Eco-restoration of the Panamarathupatty lake, Salem prepared by the Tamilnadu Urban Infrastructure Financial Services Limited.

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For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.R.Muthukumaraswamy
Advocate General
assisted by
Mr.M.K.Subramanian
Government Pleader
Mr.R.Vijayakumar
Addl. Government Pleader &
Mr.E.Manohar

Mr.S.Divakar for R6 in
W.P.No.13361 of 2017

* * * * *

COMMON ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.K.Selvaraj, learned counsel appearing for the petitioners and Mr.R.Muthukumaraswamy, learned Advocate General, assisted by Mr.M.K.Subramanian, learned Government Pleader and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for all the respondents in W.P.No.19526 of 2017 and respondent Nos.1 to 5 in W.P.No.13661 of 2017.

2. By consent, both the writ petitions are taken up for final disposal.

3. The petitioners have filed these writ petitions styled as public interest litigation, seeking for a direction upon the respondents to prevent quarrying of sand in Katcharayanpalayam Lake and Panamarathypatty Lake in Salem District, alleging that the respondents are illegally quarrying the sand.

4. We need to point out that the affidavit filed in support of W.P.No.19526 of 2017 is absolutely bereft of material particulars and the petitioner in the said writ petition appears to have not done any research work before filing the writ petition. On a perusal of the averments made in the affidavit filed in support of W.P.No.19526 of 2017, it is not clear as to what is the illegality that the petitioner points out.

5. The learned counsel for the petitioners, by referring to certain photographs enclosed in the typed set of papers, submitted that already de-silting work has been carried out in the aforementioned two lakes and at present illicit quarrying is going on.

6. We have heard the learned Advocate General respond to the said submission of the petitioners.

7. We find that the District Collector, Salem, has issued notification published in the District Gazette dated 05.05.2017, in which the subject lakes (Katcharayanpalayam lake and Panamarathupattu lake) have been enlisted and the extent of removal of sand/savudu has also been mentioned and we do not find any illegality in the notification.

8. Faced with the aforesaid situation, learned counsel for the petitioner seeks to advance his argument stating that illicit quarrying is going on beyond the permitted quantity and permitted time frame/time cap.

9. The learned Advocate General has produced before us the list of persons/names to whom permissions were granted, period of permission and the quantity which they were permitted to remove (sand/savudu) and we find that the last of such permissions was granted on 14.07.2017 and all the permissions expire/cannot go beyond the twentieth day. Therefore, even the permission granted on 14.07.2017 should have expired/cannot operate beyond 03.08.2017, i.e., yesterday.

10. The learned Advocate General, on instruction, submits that all the permissions granted have come to an end as on date and there is no removal of sand/savudu in the two subject lakes.

11. The learned counsel for the petitioner submits that he would be satisfied if the same is placed on record.

12. In the light of the stand taken by the respondents and the documents placed before us, we find that there is no illicit quarrying in the two subject lakes and de-silting has been permitted in terms of the provisions of Tamil Nadu Minor Mineral Concession Rules, 1959.

13. Since the permissions granted by the respondent authorities have expired after operating for the maximum period and as learned Advocate General has submitted on instructions that there is no removal of sand/savudu in the two subject lakes as on date, we find no good ground to issue directions as sought for by the petitioners.

14. The writ petitions are dismissed. No costs.
Consequently, W.M.P.Nos.21092 & 14848 of 2017 are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chief Secretary,
Fort St. George,
Chennai - 600 009.
- 2.The Secretary,
Industries Department,
Fort St. George,
Chennai - 600 009.
- 3.The Principal Secretary,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.
- 4.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
- 5.The District Collector,
Salem District, Salem.
- 6.The Commissioner,
Salem Corporation, Salem.
- 7.The Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.

8.The Superintendent of Police,
Salem District,
Salem.

+2 ccs to M/s.K.Selvaraj Advocate sr 56037

W.P.Nos.19526 & 13661 of 2017

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