



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2017

CORAM:

THE HON'BLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.3743 of 2015

and

M.P. (MD) .No.1 of 2015

Pandian

... Petitioner

-vs-

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Sub Collector /
Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.P2/6363/2013, dated 04.02.2015 and quash the same as illegal.

For Petitioner : Mr.V.P.Rajan

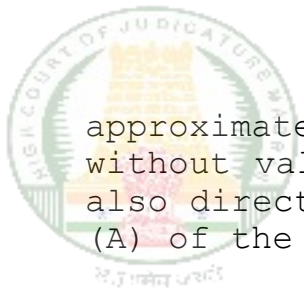
For Respondents : Mr.R.Anandaraj,
Govt. Advocate

O R D E R

This writ petition has been filed by the petitioner challenging the order passed by the 2nd respondent in his proceedings in Na.Ka.No.P2/6363/2013, dated 04.02.2015.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

3.The petitioner averred among the other things that he is the owner of the properties in Survey No.84/1A, to an extent of 4.12.5 hectares and Survey No.85/1A to an extent of 1.88.0 hectares situated at Avarenthal Village, Urappuli Group, Paramakudi Taluk, Sivagangai District. The said lands, according to the petitioner, neither fit for agriculture purpose nor for any other purpose. While so, the second respondent passed the impugned order in his proceedings in Na.Ka.P2/6363/2013, dated 04.02.2015, alleging that on enquiry, it came to light that the petitioner quarried



approximately 125 tractor loads of alkaline sand in his lands without valid permission from the respective official concerned and also directed to pay a sum of Rs.2,01,250/- as penalty under Rule 30 (A) of the Tamil Nadu Minor and Mineral Rules 1959.

4. The case of the petitioner is that he never quarried alkaline sand in his lands as the alkaline sand could not be used for any purpose and that the second respondent has passed the impugned order without issuing any notice or without giving any opportunity to him. Though there is an alternative remedy available under Rule 30(C) of the Tamil Nadu Minor and Mineral Act, as the impugned order suffers from violation of principles of natural justice, he has filed this writ petition.

5. When the matter came up for hearing on 08.03.2017, this Court posed a specific question to the learned Government Advocate whether any notice was served to the petitioner before passing the impugned order and as to whether the inspection has been taken place behind the back of the petitioner or not, for which the learned Government Advocate sought time to get instructions. Today, when the matter came up for hearing, the learned Government Advocate by producing a letter dated 02.02.2015 submitted that on 02.02.2015 a notice was affixed on the door of the petitioner's residential house. There is no other documents to show that the petitioner was served with notice before passing the impugned order or making any inspection on the petitioner's lands. He would further submit that if the impugned order is set aside, the matter may be remanded back to the file of the second respondent.

6. It is the specific case of the petitioner that he has not quarried alkaline sand in his properties and without giving any notice or without giving any opportunity to him, the impugned order has been passed by the second respondent. The respondents have produced only a letter dated 02.02.2015, wherein it is stated by the Village Administrative Officer that he has affixed a show notice on the door of the petitioner's residential house. The authenticity of such service of notice has not been proved, when the petitioner specifically denied such service of notice. When the respondents well aware of the residential house of the petitioner, they could very well send notice by registered post. But, they have not produced any such service of notice. Thus, it is clear that the impugned order has been passed in violation of the principle of natural justice.

7. More over, the respondents have not produced any documents, based on which the impugned order has been passed. Absolutely, there is no material to show that the petitioner has quarried the alkaline sand. It appears that the impugned order has been passed merely on presumption. Hence, this Court is of the view that no fruitful purpose will be served even if the matter is remitted back to the file of the second respondent.



8. In view of the above, this writ petition is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed.

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SD/-

ASSISTANT REGISTRAR (P&A)

SUB ASSISTANT REGISTRAR

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Sub Collector /
Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

+1 CC TO MR.V.P.RAJAN, ADVOCATE, SR NO.14871

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.14402

gcg

MAS/SV-MMS/SAR2:07.04.2017:3P-5C

W.P. (MD) No.3743 of 2015
13.03.2017