



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD)No.8357 of 2014 and
M.P.(MD) Nos.2 and 3 of 2014

- 1.Palanisamy
- 2.Kandasamy
- 3.Thirumalaisamy
- 4.Kalimuthu
- 5.Ramasamy

... Petitioners

-vs-

1. The District Collector,
Dindigul District,
Dindigul .
2. The Revenue Divisional Officer,
Palani, Dindigul District.

... Respondents

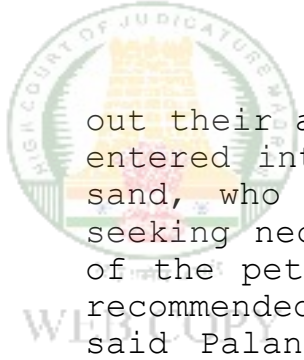
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of 2nd respondent comprised in and by his proceedings Na.Ka.No.6210/13/A7 dated 24.3.2014 signed by the 2nd respondent on 02.04.2014, quash the same and consequently direct the respondents not to insist the petitioners to pay penalty.

For Petitioners : Ms.Abisha Isaac
For Mr.Thayumanasamy
For Respondents : Mr.J.Gunaseelan Muthiah
Govt. Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned order of the 2nd respondent made in Na.Ka.No.6210/13/A7 dated 24.03.2014 signed on 02.04.2014, by which, a penalty of Rs.14,39,400/- was imposed on the petitioners for unauthorizedly removing the same for brick work without getting permission from the concerned authorities. The petitioners also sought a direction to the respondents not to insist the petitioners to pay penalty.

2. It is the case of the petitioners that they are all agriculturists and due to heavy wind blow, there was a huge deposit of sands, pursuant to which, the petitioners were not able to carry



out their agricultural operations. The petitioners, being very poor, entered into an agreement with one T.Palanisamy for removal of the sand, who in turn made an application to the District Collector, seeking necessary permission in this regard. It is the further case of the petitioners that though the Tahsildar conducted enquiry and recommended for the grant of permission to remove the sand by the said Palanisamy, all of a sudden, the impugned order came to be passed against the petitioners, directing them to pay the penalty of Rs.14,39,400/- for removal of the sand without permission. Aggrieved by the action of the 2nd respondent, the petitioners are before this Court.

3. The learned counsel for the petitioners would submit that the 2nd respondent has passed the impugned order without application of mind, because the 2nd respondent failed to consider the application made by one Palanisamy and the same awaits suitable orders from the District Collector on the report submitted by the Tahsildar. He would further submit that the impugned order came to be passed without any notice or enquiry, which is in utter violation of the principles of natural justice. Therefore, the impugned order needs interference by this Court.

4. Per contra, the learned Government Advocate appearing for the respondents would submit that the petitioners have committed illegality by removing the sand without prior permission from the concerned respondent, which attracts the provisions of the Tamil Nadu Minor Minerals Concession Rules, 1959. Hence, there is nothing wrong on the part of the 2nd respondent in imposition of penalty on the petitioners and the order of penalty does not warrant any interference by this Court.

5. Heard the learned counsel on either side.

6. It is not in dispute that one Palanisamy submitted an application seeking permission from the District Collector for removal of the heap of sand from the land and the said land, according to the petitioners, is being used for agricultural purposes and before the said application reaching its fate, the 2nd respondent has passed the impugned order of penalty. This error could have been avoided in case the 2nd respondent had given an opportunity of hearing to the petitioners to put forth their contention. Pending consideration of application by the District Collector, in the midst, the impugned order has been passed and therefore, the non application of mind on the part of the 2nd respondent is apparent on the face of record. Before deciding the issue as to whether the sand had already been removed or yet to be removed either by the petitioners or by the said T.Palanisamy, a hasty decision has been taken by the 2nd respondent. Normally, it is obligatory on the part of quasi judicial authorities to verify all the records before coming to a conclusion on a particular issue and in absence thereof, such mistake as found in the present case is bound to happen.



7. In view of the foregoing discussions, this Court is of the view that the impugned order dated 24.03.2014 does not survive and the same lacks merits acceptance. Accordingly, this petition is allowed and the impugned order of penalty dated 24.03.2014 (signed on 02.04.2014) passed by the 2nd respondent is hereby quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Dindigul District,
Dindigul .
2. The Revenue Divisional Officer,
Palani, Dindigul District.

+ 1 CC TO Mr.THAYUMANASAMY, ADVOCATE IN SR No. 78431
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 78592

AR
TE/SKN-RSK/SAR-I : 05/10/2017 : 3P/5C

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