



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2017

CORAM

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.12843 of 2017

and

W.M.P(MD)Nos.9940 and 13789 of 2017

R.Natesan

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Iluppur,
Pudukottai District.

2. The Tahsildar,
Kulathur Taluk,
Pudukottai District.

3. The Assistant Director of Geology and Mining,
Office at District Collectorate Office,
Pudukottai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the records relating to the impugned proceedings made in Na.Ka.A1/2836/2016, dated 30.03.2017 issued by the first respondent and quash the same.

For Petitioner : Mr.M.Vallinayagam,
Senior Counsel for
Mr.P.Arun Jayatram

For Respondents : Mr.S.Kumar
Additional Government Pleader

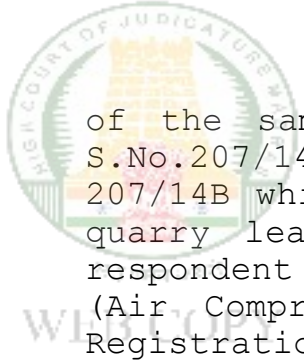
ORDER

Seeking a writ of Certiorari to quash the impugned proceedings made in Na.Ka.A1/2836/2016, dated 30.03.2017 issued by the first respondent, the present writ petition is filed.

2. By consent, the writ petition itself is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The case of the petitioner is that the land in S.No.207/14 originally belongs to one Annamalai Chettiar and he sold a portion



of the same to one Velu. S.No.207/14 has been sub-divided into S.No.207/14A, which stands in the name of Annamalai Chettiar and 207/14B which stands in the name of Velu. The said Velu took stone quarry lease in S.No.207/14B. Further, on 30.08.2016, the third respondent seized the vehicle bearing Registration No.TN-48-Q-9330 (Air Compressor) in the stone quarry and also a lorry bearing Registration No.TN-55-K-5787 outside the quarry. The owners of the said vehicles paid penalty and thereafter, they were released. Thereafter, the first respondent, by his proceedings dated 02.09.2016, directed the second respondent to submit a report and accordingly, the second respondent submitted a report on 07.09.2016. In that connection, the second respondent enquired the petitioner and the petitioner also submitted his reply dated 15.11.2016 to the second respondent. Subsequently, the second respondent submitted a report dated 06.01.2017 to the first respondent, wherein it is stated that S.No.207/14A stood in the name of Annamalai Chettiar, however, he died. It is also claimed by the petitioner that no lease was granted in respect of S.No.207/14A. Based on the proceedings of the second respondent, dated 06.01.2017, the first respondent passed the impugned order imposing penalty of Rs.61,50,078/- (Rupees Sixty One Lakhs Fifty Thousand and Seventy Eight only), however, without affording due opportunity of hearing to the petitioner. Hence, the petitioner is before this Court.

4. Mr.M.Vallinayagam, learned Senior Counsel appearing for Mr.P.Arun Jayatram, learned Counsel for the petitioner contended that the first respondent has passed the impugned order imposing penalty on the petitioner, without affording any opportunity of personal hearing to the petitioner and hence, the impugned order is vitiated on that ground alone. Further, he also contended that the land in S.No.207/14A does not belong to the petitioner and hence, the alleged report submitted by the second respondent in that regard is also untenable and the first respondent without any application of mind passed the impugned order and therefore, he prays for allowing this writ petition.

5. In support of his contentions, the learned Senior Counsel for the petitioner relied on the following decisions:

(i) **V.Kottaiveeran v. The District Collector, Madurai District, Madurai** reported in **2012 (1) CWC 451**; and

(ii) **V.S.O.Balakrishnan and another v. District Collector, Thiruvallur and another** reported in **(2009) 2 MLJ 577**.

6. Per contra, Mr.S.Kumar, learned Additional Government Pleader appearing for the respondents, reiterating the averments in the counter affidavit filed by the first respondent, submitted that the first respondent sent a notice to the petitioner on 20.01.2017 calling upon him to attend the enquiry on 24.01.2017, however, he failed to attend the said enquiry and further, the second



respondent, on enquiry, found that the petitioner indulged in illegal quarry operations without any licence in the land in question and thus, the claim of the petitioner is baseless. Therefore, he prays for the dismissal of this writ petition.

7. I have considered the rival submissions and perused the materials available on record.

8. In **V.S.O.Balakrishnan and another v. District Collector, Thiruvallur and another** reported in (2009) 2 MLJ 577, this Court held that "*when there has been no proper enquiry conducted or no personal hearing was conducted or no materials were produced to show that the petitioners were involved in illicit quarrying, there is violation of the principles of natural justice and the orders imposing penal liability on the petitioners are not justified. In such a case, the availability of alternative remedy is not a bar for maintaining the writ petition.*"

9. A mere perusal of the impugned order passed by the first respondent dated 30.03.2017, would reveal that no opportunity of personal hearing was afforded to the petitioner, before passing the said order. Though the first respondent claimed that notices were sent to the petitioner calling upon him to appear for enquiry, this Court finds that there is no such reference in the impugned order as to the notices sent to the petitioner and thus, it is seen that the first respondent failed to afford due opportunity of hearing to the petitioner. Therefore, this Court holds that the impugned order is vitiated on the ground of violation of principles of natural justice.

10. This Court has not gone into the disputed question of fact regarding the ownership of the petitioner with regard to the land in question as the impugned order is liable to be quashed for want of compliance of principles of natural justice.

11. Accordingly, the impugned order passed by the first respondent in Na.Ka.A1/2836/2016, dated 30.03.2017 stands quashed and the matter is remitted to the first respondent for fresh consideration. The first respondent shall pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

12. In the result, this writ petition is allowed as above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)



To

1. The Revenue Divisional Officer,
Iluppur,
Pudukottai District.

2. The Tahsildar,
Kulathur Taluk,
Pudukottai District.

3. The Assistant Director of Geology and Mining,
Office at District Collectorate Office,
Pudukottai.

+ 1 CC TO Mr.P.ARUNJAYATRAM, ADVOCATE IN SR No. 79383
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 79578

RSB

TE/JC/SAR-II : 10/10/2017 : 4P/6C

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