



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2017

CORAM

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THE HON'BLE MR.JUSTICE M.VENUGOPAL
and
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.17118 of 2017

and

W.M.P. (MD) No.13701 of 2017

Ramji

.. Petitioner

vs.

1.The Assistant Director (Mines)
Geology and Mining Department,
Dindigul District.

2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal, Dindigul District.

3.The Municipal Engineer,
Kodaikanal Municipality,
Kodaikanal, Dindigul District.

4.Velraj

5.Suthakar Prabu

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to take action against 4th Respondent's illegal construction and to cancel the Building Plan approval of 4th and 5th respondents and to consider the representation given by the Petitioner to respondents 1 to 3 dated 20.07.2017.

For Petitioner : Mr.J.M.Hassanul Bazari

For R1 & R3 : Mr.T.R.Janarthanan
Additional Government Pleader

For R2 : Mr.T.S.Md.Mohideen

For R4 & R5 : Mr.S.J.Chakkaravarhty

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard both sides.

2. According to the Petitioner, he is an absolute owner of the part and parcel of vacant land situated at V.G.P. Kodai Hill resort near Swedish compound, Kodaikanal Town and Taluk, Dindigul District in old Survey No.151-part, correlated in Re-survey ward 'B', Block No.'10', T.S.No.11-part (now sub divided into T.S.No.11/70, vide new Patta No.FH-2333), to an extent of 2230 sq.ft. or 7.62 cents bearing approved Plot No.75 in the layout D.D.T.P. Plan Approval No.21/85 and reserved layout No.712/996. After the sale deed, he had put up construction in his landed property and residing with his family.

3. The stand of the Petitioner is that the Fourth Respondent and the Fifth Respondent had jointly purchased the adjacent plot No.76 situated at V.G.P. Kodai Hill resorts on 19.06.2017 from (1) S.Harisundar, S/o.K.Shanmugasundaram; (2) Dr.R.Padmanabhan, S/o.N.S.Raghavan; (3) M.B.Natarajan, S/o.M.K.Balasubramaniam represented through his power of attorney agent Santhakumar; (4) Devikarani, W/o.Vasu Jeyaprakash and (5) S.Vinoth, S/o.G.Shanmugam. Thereafter, the Fourth Respondent and the Fifth Respondent will construct the house lands. The aforesaid measured property is an approved lay out. That part, an approval was given by the Respondent Nos.2 and 3.

4. As a matter of fact, the Building Approval Plan do stand in favour of the Fourth Respondent and the Fifth Respondent's vendor. In this connection, it is represented on behalf of the Petitioner that without obtaining any permission from the Mining Department, the Fourth and Fifth Respondents are digging sand and without obtaining any permission from the Mining Department, the Fourth Respondent is illegally used Gelatin sticks and removed hard rocks in their lands. Also, it is the plea of the Petitioner that on 19.07.2017, the Fourth Respondent by using Explosive (Gelatin Sticks), had removed rocks from V.G.P. Kodai Hill resorts. The act of illegal digging and using of illegal explosive bomb will lead to land-slide of the Petitioner's area and the entire Kodai Hills.

5. By the use of explosive bombs by the Fourth and Fifth Respondents, the Petitioner's house, other houses as well as Pamparpuram areas were affected and fractured. The Petitioner had approached the Fourth and Fifth Respondents and demanded to stop illegal digging of sand and rocks and it appears that the Fourth Respondent had scolded in filthy language and refused to accept. Thereafter, the Petitioner had alleged a police complaint before Kodaikanal Town Police station against the Fourth Respondent on 19.07.2017. The Kodaikanal Town Police, after investigation, be
<https://hcservices.in/hcservices> First Information Report in Crime No.272 of 2017 against the Fourth Respondent under Sections 294(b) and 506(i) of IPC and Section 3 of the Explosives Substance Act, 1908.



6.The concern of the Petitioner is that he had reported the matter to the second Respondent on 25.07.2017 and submitted another representation before the respondents against the illegal digging and use of illegal explosive bomb. But they had not taken any action to safeguard the natural Hills, which belongs to the Government. Hence, the Petitioner has filed the present Writ Petition, praying for passing of an order by this Court in directing the Second Respondent to take action against the Fourth Respondent's illegal construction and to cancel the Building Plan approval of the Fourth and Fifth Respondents and to consider the representation dated 20.07.2017 given by the Petitioner to Respondent Nos.1 to 3.

7.At this stage, the learned Additional Government Pleader appearing for the Respondent Nos.1 and 3 brings it to the notice of this Court that the Tahsildar, Kodaikanal, in his communication, dated 28.08.2017, addressed to the Sub Collector, Kodaikanal (with a copy being marked to the first Respondent), Inspector of Police, Kodaikanal Police Station and the District Collector, Dindigul District, had among other things, stated that as per Hills Conservation Act/Rules, without any permission, the heavy motor vehicles were used and also in the residential area, the explosives like dynamite were used and for causing damage by the owner of the land, action was sought to be taken and also for taking proper action to remove the stone rubbish, a request was made.

8.In view of the fact that the Petitioner's representation, dated 20.07.2017, was considered and had acted upon by the authorities concerned, this Court, comes to an irresistible conclusion that nothing survives for adjudication in the present Writ Petition.

9.In view of the foregoings, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To:

1.The Assistant Director (Mines)

Geology and Mining Department, Dindigul District.

2.The Commissioner, Kodaikanal Municipality,

Kodaikanal, Dindigul District.

3.The Municipal Engineer,

Kodaikanal Municipality, Kodaikanal, Dindigul District.

+One cc to M/s.S.J.Chakkaravarthy, Advocate, SR.No.83783

+One cc to M/s.T.S.Mohammed Mohideen, Advocate, SR.No.84092

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