



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.04.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.2271 of 2017

and

W.M.P (MD) No.1870 of 2017

V.Murugesan

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Sub-Collector,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Paramakudi,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus forbearing the respondents from initiating revenue recovery proceedings till the disposal of the appeal pending before the first respondent submitted by the petitioner on 20.01.2017.

For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.K.P.Krishnadoss
Government Advocate

ORDER

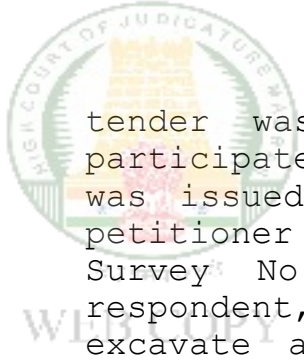
The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus forbearing the respondents from initiating revenue recovery proceedings till the disposal of the appeal pending before the first respondent submitted by the petitioner on 20.01.2017.

2. Mr.K.P.Krishnadoss, learned Government Advocate takes notice for the respondents.

3. By consent of parties, the main writ petition itself is taken up for final disposal.

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

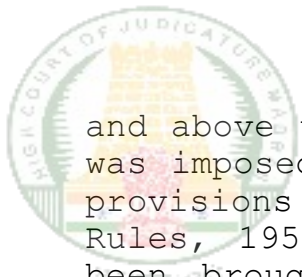
4. The petitioner would aver among other things that he is a registered Contractor and in the year 2014, under PMGSY Scheme, a



tender was called for, with regard to laying of road. He participated in the said tender and became successful bidder and he was issued with work order and to carry out the said work, the petitioner applied for quarrying rough stone in the patta land in Survey No.171/2. Pursuant to the said request, the first respondent, vide proceedings dated 10.12.2014 permitted him to excavate and transport 425 lorry loads of gravel. The said permission was valid for the period from 10.02.2014 to 01.03.2014. After quarrying gravel, for the purpose of transporting the minerals, he has paid necessary charges and after completion of works, he raised bills. The said bills are partly paid and the remaining amounts are yet to be paid. While so, he received proceedings dated Nil.11.2016 from the third respondent, directing the Revenue Inspector to initiate revenue recovery proceedings against the petitioner stating that he has failed to remit a sum of Rs.51,33,000/-, which was levied as a charge for excess quarrying and on coming to know about the said proceedings, the petitioner enquired the matter and found that the second respondent by an order dated Nil.03.2015 passed an order holding that the petitioner excavated more than the permitted unit and violated the permitted depth of 1.5 meter.

5. It is the case of the petitioner that the said order was not at all served on him and without putting him on notice, the second respondent has passed the order and the third respondent also initiated revenue recovery proceedings against the petitioner. Thereafter, the petitioner has taken steps to get a copy of the order passed by the second respondent. Subsequently, he approached the third respondent in person with *bona fide* impression that his explanation would be duly forwarded and there would not be any necessity to file appeal and hence, produced the order of the first respondent permitting him to quarry 425 lorry loads of gravel and explained the fact that the petitioner had completed the work and there is no excess quarrying in the said land and requested him to take necessary action to forward the same and to drop all the further proceedings. Since no proper steps were taken by the third respondent to forward the explanation of the petitioner and to communicate the materials produced by the petitioner, the petitioner filed an appeal before the first respondent and he sent the appeal through registered post on 20.01.2017 and the said appeal is pending before the first respondent. Without waiting for the disposal of the appeal, the respondents are taking coercive steps under the Revenue Recovery Act. Therefore, the petitioner is before this Court with the aforesaid prayer.

6. The learned Government Advocate based on the averment made in the counter affidavit submitted that the first respondent has granted permission to the petitioner to take only 2550 cubic metres/425 lorry loads of sand(savadu) from Survey Number 171/3 in Vengalur Group, Paramakudi Taluk. After obtaining the temporary permit for mining, the petitioner had misused the permit and illegally mined a quantity of 10625 cubic metres(3540 units) over



and above the permit and subsequently, a penalty of Rs.51,33,000/- was imposed upon the petitioner by the second respondent as per the provisions laid under the Tamil Nadu Minor Mineral Concessions Rules, 1959. As the petitioner failed to remit the dues, it has been brought under the purview of Revenue Recovery Act. He further submitted that the Tahsildar, Paramakudi has made a field inspection and reported that the petitioner has quarried illegally, over and above the permitted quantity. Therefore, revenue recovery proceedings was initiated and it is the case of the respondents that if the petitioner is aggrieved over the same, there is also a provision to prefer an appeal to the Collector under 36(C) of the Tamil Nadu Minor Mineral Concession Rules, 1959 and the petitioner has filed this writ petition unnecessarily.

7. Heard the submissions made on either side and perused the materials available on record.

8. The specific case of the petitioner is that he has not been put on notice before passing the order impugned in this writ petition, whereas, the learned Government Advocate would submit through his counter affidavit that due procedure was followed and notice was issued to the petitioner through the Village Administrative Officer concerned, but the petitioner did not appear for enquiry. Be that as it may, admittedly, there is no proper evidence available either in the records or in the counter affidavit filed by the respondents to show that proper service was effected by the respondents. Needless to say that it is prudent knowledge that if the petitioner had refused to receive the notice sent through the Village Administrative Officer concerned, there is no embargo on the part of the respondents to send it through the registered post. But, they have failed to do so. Therefore, to meet the ends of justice, without adverting into the merits of the case, the petitioner is directed to file an appeal under Section 36-C of the the Tamil Nadu Minor Mineral Concession Rules, 1959 within a period of one week from the date of receipt of a copy of this order and the first respondent is directed to pass final orders within a further period of four weeks, thereafter in the appeal to be filed by the petitioner. Till such time, the revenue recovery proceedings initiated against the petitioner is stayed. The petitioner is directed to co-operate with the enquiry for the disposal of the appeal filed by him.

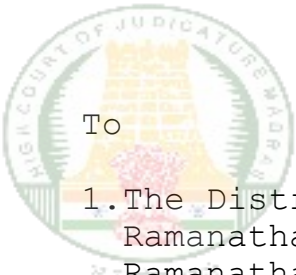
With the above direction, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Sub-Collector,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Paramakudi,
Ramanathapuram District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.54666

+1cc to M/s. J.ANAND KUMAR Advocate in SR. No.53794

PM

JS/GT/SAR.3/19.6.2017/4P-6C

W.P(MD)No.2271 of 2017
25.04.2017