



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.24001 of 2017

and

WMP (MD) No.20171 of 2017

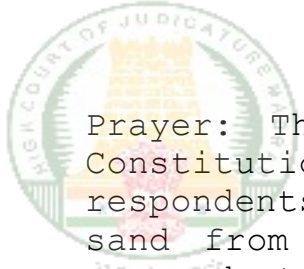
MRM Ramaiya Enterprices Private Limited,
Rep.by its Managing Director,
M.R.M. Ramaiya
No.12, Thiruvakkudi Irumpandu Post,
Avudayarkovil Taluk,
Pudukkottai District.

... Petitioner

Vs.

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Assistant Director of Geology
and Mines,
Thoothukudi,
Thoothukudi District.
- 3.The Revenue Divisional Officer,
Revenue Divisional Office,
Thoothukudi, Thoothukudi District.
- 4.The Tahsildar,
Thoothukudi Taluk Office,
Thoothukudi, Thoothukudi District,
- 5.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 6.The V.O.Chidambaranar Port Trust,
Rep.by its Chairman,
Tuticorin - 628 004.
- 7.The Union of India,
Rep.by its Secretary,
Ministry of Commerce and Industry,
New Delhi - 110 107.

... Respondents



Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to permit the petitioner to shift the imported river sand from wharfage area to bonded area belonging to the sixth respondent Port Trust in Plot No.PBYS 01& 02 admeasuring 12000 square meters in the light of the proceedings of the sixth respondent Port Trust in EST-OFCES-ALT-PBYS 01 & 02-VI-17 dated 08.12.2017 forthwith.

For Petitioner : Mr.Vallinayagam, Senior Counsel for
Mr.J.Askhok

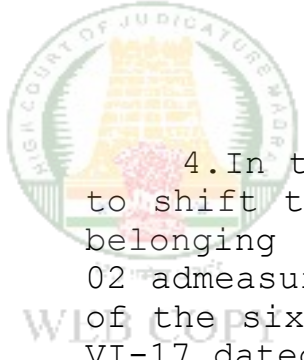
For Respondents : Mr.B.Pugalendhi,
No.1 to 5 Additional Advocate General
assisted by T.S.Mohamed Mohideen,
Additional Government Pleader.

O R D E R

The writ petitioner had imported river sand from abroad. The imported material is presently lying in wharfage area. The writ petitioner has to pay a sum of Rs.6,00,000/- per day towards demurrage. The issue between the writ petitioner and the Government is presently at the stage of writ appeal. During the pendency of the writ petition there was an interim protection in favour of the writ petitioner herein with regard to the demurrage. Since the writ petition stood disposed of, the interim protection given to the writ petitioner was no longer available. An application filed before the Hon'ble Division Bench in this regard was allowed to be withdrawn with liberty to the writ petitioner to file the present writ petition. All that the writ petitioner seeks is to shift the imported river sand from wharfage area to bonded area. Both of which belong to V.O.Chidambaranar Port Trust.

2.The learned Senior Counsel appearing for the writ petitioner produced a copy of the communication dated 08.12.2017 issued by the Port Trust permitting such shifting. The same is however strongly opposed by the learned Additional Advocate General appearing for the Government primarily on the ground that the sand may be pilfered by the writ petitioner in the guise of shifting.

3.The learned Senior Counsel appearing for the writ petitioner would submit that the imported material can be guarded by the State Security Agencies and that they would bear the cost of such arrangement. Since the area proposed to be shifted also belongs to the sixth respondent Port Trust, I am of the view that the sixth respondent can be directed to deploy appropriate security personnel to ensure that the material is not pilfered. As undertaken by the writ petitioner, the writ petitioner shall
severely criticise the cost of such security arrangements to be made by the sixth respondent.



4. In that view of the matter, the writ petitioner is permitted to shift the imported river sand from wharfage area to boned area belonging to the sixth respondent Port Trust in Plot No. PBYS 01 & 02 admeasuring 12000 square meters in the light of the proceedings of the sixth respondent Port Trust in EST-OFCE-SALT-PBYS 01 & 02-VI-17 dated 08.12.2017 forthwith.

5. The learned Additional Advocate General taking notice for the Government sought time to file counter. But, considering the urgency of the matter, I directed the learned Additional Advocate General to take instructions in the matter. The matter was passed over and taken up at 04.45 PM. The learned Additional Advocate General could not point out as to how the interests of the State would be prejudiced or affected by acceding to the petitioner's request. Considering the narrow scope of the controversy, in the interest of justice, I have no hesitation to take up the matter for final disposal even though the learned Additional Advocate General strongly opposed.

6. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Thoothukudi District, Thoothukudi.
2. The Assistant Director of Geology and Mines,
Thoothukudi, Thoothukudi District.
3. The Revenue Divisional Officer, Revenue Divisional Office,
Thoothukudi, Thoothukudi District.
4. The Tahsildar, Thoothukudi Taluk Office,
Thoothukudi, Thoothukudi District,
5. The Superintendent of Police, Thoothukudi District,
Thoothukudi.
6. The Chairman, The V.O. Chidambaranar Port Trust, Tuticorin-628 004.
7. The Secretary, Union of India, Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi - 110 107.

+2CC to Mr. J. Ashok, Advocate, SR.No. 37010

+1CC to the Special Government Pleader SR.No. 94906

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