



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.01.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. (MD) No.1956 of 2016

and

W.M.P. (MD) No.1720 of 2016

Nagarajan

: Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Commissioner,
Madurai City Corporation,
Madurai.

3.The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Kappaloor,
Madurai.

4.Gnanasekar

5.Gunasekar

: Respondents

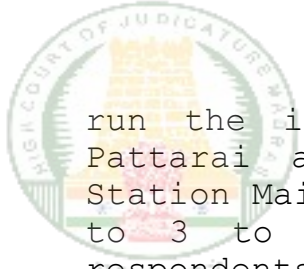
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents 1 to 3 herein from in any way allowing the fourth and fifth respondents running the industry in the name and style of Gnanam Ever Silver Pattarai at Door No.9-A E.V.R.Periyar Street, Nandavanam Palam Station Main Road, Sellur, Madurai and also direct the respondents 1 to 3 to take immediate action against the fourth and fifth respondents for violating the provision of Public Health Act and Madurai City Municipal Corporation Act.

For Petitioner	: M/s.S.Vijaya Santhi
For Respondents 1&3	: Mr.S.Chandrasekar, Government Advocate
For Respondent No.2	: Mr.Shanmugaselvam
For Respondents 4&5	: Mr.V.Vinayagamoorthy

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

The petitioner has filed the present Writ Petition seeking for the issue of a Writ of Mandamus, forbearing the respondents 1 to 3 herein from in any way allowing the fourth and fifth respondents to



run the industry in the name and style of Gnanam Ever Silver Pattarai at Door No.9-A E.V.R.Periyar Street, Nandavanam Palam Station Main Road, Sellur, Madurai and also direct the respondents 1 to 3 to take immediate action against the fourth and fifth respondents for violating the provision of Public Health Act and Madurai City Municipal Corporation Act.

2. The case of the petitioner is that the fourth and fifth respondents have been carrying on an Industry in the name and style of 'M/s.Gnanam Ever Silver Pattarai' i.e., manufacturing ever silver products in the petitioner's street. The fourth and fifth respondents are manufacturing stainless steel utensils and engaging labourers for the work of welding, cutting, tinkering, polishing and spinning by using heavy machineries. Due to the usage of heavy power equipments and machineries, there is a heavy noise to the surrounding residents and pollution in that locality. Hence, unable to bear with the hardships, the petitioner has sent a detailed representation to the respondents 1 to 3 explaining the difficulties that have been faced by the petitioner and other residents in that locality. However, no action was taken.

3. The learned counsel for the petitioner further submits that the third respondent also, vide letter dated 05.11.2015, has informed the second respondent that he has found that the fourth and fifth respondents have been running the industry illegally and unauthorizedly. The Joint Chief Environmental Engineer of Pollution Control Board, vide letter dated 11.09.2015, requested the third respondent to take immediate action on the basis of the petitioner's representation. But, so far, no action was taken. Hence, he is before this Court with the present Writ Petition for the above stated reliefs.

4. The main grievance of the petitioner is that in spite of his complaint about the usage of heavy power equipments and machineries, which resulted in heavy noise and pollution in that area, no action was taken by the respondents 1 to 3. It is to be noted that the fourth and fifth respondents, without having licence to carry on the business, are running the industry. Hence, he sought for a direction to consider his representation and pass orders.

5. The second respondent has filed a counter-affidavit stating that notice under Section 41(8), 42(b), 44 and 134(1) of the Tamil Nadu Public Health Act was issued to the fourth respondent on 29.01.2016, directing the fourth respondent not to use the machineries after 10.00 p.m., till 06.00 a.m., and also directed the fourth respondent to take steps to reduce the sound of machineries.

6. The third respondent has also filed a counter-affidavit stating that the petitioner has given a complaint against the operation of M/s.Gnanam Ever Silver Pattarai, which is located next to the petitioner's house and because of usage of heavy machineries, there were severe vibration, noise pollution and public nuisance. Further, according to the petitioner, the Unit is running without local body licence and building plan approval. The complaint of the petitioner was forwarded to the Commissioner of Madurai Corporation to take action under the Local Body Act and the Public Health Act, vide letter dated 05.11.2015.

7. It is further stated in the counter-affidavit that another petition was received from the petitioner on 08.02.2016 against the same Unit. Based on the said complaint, the Unit was investigated on 12.02.2016 by the Assistant Engineer, Tamil Nadu Pollution Control Board, Madurai and it was observed thus:

"The unit was under operation.

The unit is located in the residential area.

The unit has provided one lathe, one plate turning machine, 4 no's of spinning/shaping machine, 2 No's of polishing machine and a welding machine

It is reported that the lathe is not under operation for more than 8 months.

It is also reported that 1 no.of spinning/ shaping has been relocated (i.e. away from Complainant house) based on the request from complainant 4 months before.

It was found that the unit has not provided any noise absorbing materials or any vibration controlling materials to the machinery and in the unit's premises.

It is further to submit that no action taken reports has been received from the Commissioner, Madurai Corporation with respect to the previous complaints forwarded from this office."

8. Thereafter, the said complaint was again forwarded to the Commissioner of Madurai Corporation to take action under the Local Body Act and the Public Health Act, vide letter dated 16.02.2016. Again the Unit was inspected by a team of Tamil Nadu Pollution Control Board on 21.04.2016 and it was observed thus:

"The unit was under operation.

The unit is engaged in the production of Ever silver vessels. The manufacturing activity involves purchasing of ever silver sheets, cutting into required dimensions, rolling and welding of sheets, Base welding, smoothening of welded surface, Spinning the vessels to get required shape and polishing.

The above operations are performed in various working sheds. The topo sketch may be referred for details. The details of machineries in different work sheds are given below -

Shed No	Activities	Machinery Details	Power (HP)	No of Machineries
1	Cutting of Ever silver sheets	Cutting Machine	0.25	1
2- I	Rolling	Sheet rolling machine	0.5	2
	Welding	Welding machine	-	2
	Welding of base	Manual welting	-	1



	Smoothing of welded surface	Running Machine	2	1
	Shaping of bottom edges.	Edge shaping machine	0.25	1
	Shaping of the vessels	Spinning machine	3	1
2- II	Smoothing of welded surface	Running Machine	2	1
	Shaping of the vessels	Spinning machine	3	3
	Polishing of vessels	Polishing machine	3	2
3	Smoothing of welded surface	Running Machine	2	3 (1 machine is not in

without motor)

Other than the machineries listed above, one lathe with 5 hp capacity is also installed in work shed of 2-1, which is reported to be not in operation for last one year period.

Totally, the unit has installed machineries with electric motor capacity of 32.5 hp

It is informed that 19 employee are working in the unit.

No sanitation facilities are provided to the employee working in the unit.

The unit has pasted 0.5 inch thick thermacool sheets for 12 feet height and 20 feet width in the wall adjoining with the complainant's house in work shed of 2-I

By observation, it is noticed that the unit is located in the residential area and complainant house is located on northern side of work shed of 2-I

Significant noise is generated during vessel spinning operation and dust emission is expected from the polishing area.

No dust/noise control measures are provided in the vessel polishing area."

9. Pursuant to the same, a show cause notice was issued to the Unit under the Water Act and Air Act for running the industry without valid consent. The Unit, by reply letter dated 07.05.2016, has stated that it has removed all the machineries installed nearer to the complainant's house and requested to grant one month time for removal of few of machineries in other part of the Unit i.e., Shed No.2-II.

10. Based on the reply of the Unit, it was again inspected by the Assistant Engineer, Tamil Nadu Pollution Control Board, on 20.05.2016 and on inspection, it was found that the Unit was under operation, but all the machineries adjacent to the petitioner's house were removed, except 2 numbers of welding machines and the manual sheet turning machine.

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

11. Thereafter, the Joint Chief Environmental Engineer (Monitoring), Madurai was requested by the District Environmental



Engineer, Tamil Nadu Pollution Control Board, Madurai, to conduct a personal hearing with the Unit, vide letter dated 17.05.2016. Pursuant to the same, the Joint Chief Environmental Engineer (Monitoring), Madurai has called for a personal hearing with the Unit on 11.07.2016, vide letter dated 28.06.2016. Based on the report, further action would be taken on the complaint.

12. The grievance of the petitioner is that the second and third respondents have not taken any action on his complaint to curtail the heavy noise and pollution, which the fourth and fifth respondents create by running the industry.

13. However, a perusal of the counter-affidavits filed by the second and third respondents would go to show that on receipt of the complaint preferred by the petitioner, the officials concerned are taking steps immediately. In fact, the second respondent has directed the Unit not to use the machineries after 10.00 p.m., till 06.00 a.m., and the third respondent has also constantly monitored the position of the Unit. When the official respondents have taken action against the Unit, this Court need not give any further direction. Therefore, recording the statements made by the Tamil Nadu Pollution Control Board in the counter-affidavit, more particularly, their undertaking that as soon as they receive the report from the Joint Chief Environmental Engineer (Monitoring) Madurai, they would take further action on the complaint of the petitioner, the Writ Petition is closed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Madurai District,
Madurai.

+1 cc to Mr. VIJAYA SHANTHI, Advocate, Sr.No:1338

+1 cc to Mr. V.VINAYAGA MOORTHY, Advocate, Sr.No: 1284

+1cc to M/S Special Government Pleader, Sr No. 1977

SML

MAS/PM-JN:230.01.2017:5P/5C

Order made in
W.P. (MD) No.1956 of 2016
Dated: 06.01.2017