



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.7349 of 2016

and

W.M.P (MD) No.6174 of 2016

WEB COPY

1.Sangilikaradu Kalludaikum Magalir

Nala Sangam (Reg.no.93/2001),

Represented by its President Mrs.S.Rajamani

No.27/1 W.1, E.B.Office Road,

Kamayagoundanpatti - 625 521,

Uthamapalayam Taluk,

Theni District.

2.K.K.Patti Kalludiakkum Magalir

Nala Sangam (reg.no.30/2002)

Represented by its President Mrs.C.Kanneeswari

No.1/52, E.B.Office Road,

Kamayagoundanpatti,

Uthamapalayam Taluk,

Theni District.

... Petitioners

Vs.

1.The District Collector,

Theni District.

2.The Assistant Director,

Geology and Mines Department,

District Collectorate Complex, Theni.

3.The District Forest Officer,

Theni Forest Division,

Theni.

4.The Wildlife Warden,

Megamalai Wildlife Division,

Theni.

5.The President

Kamayagoundanpatty Panchayat

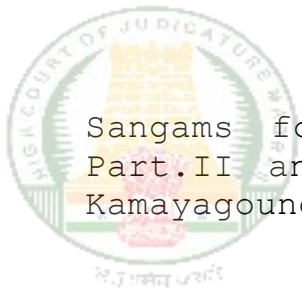
Kamayagoundanpatty,

Uthamapalayam Taluk,

Theni District.

... Respondents

<https://hccs.ecourts.gov.in/services/Petition> is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to extend the lease to the petitioners



Sangams for stone quarrying in 2.50 ha. in Survey No.1372/1-Part.II and 2.50 ha in Survey No.1372/1-Part.I respectively in Kamayagoundanpatty Village, Uthamapalayam Taluk, Theni District.

For Petitioners : Mr.A.Thirumurthy

For Respondents 1 to 4: Mr.S.Kumar

Additional Government Pleader

O R D E R

This writ petition has been filed, seeking to direct the respondents to grant extension of lease to the members of the petitioner Sangams for stone quarrying in 2.50 ha. in Survey No.1372/1-Part.II and 2.50 ha in Survey No.1372/1-Part.I respectively in Kamayagoundanpatty Village, Uthamapalayam Taluk, Theni District.

2.Heard the learned Counsel appearing on either side.

3. It is the case of the petitioner-Sangams (hereinafter referred to as "the Sangam") that Sangam is being run by the members of the Women Self Help Groups, who have much experience in the field of stone breaking in quarries as certified by the Tahsildar and RDO, Uthamapalayam. The Sangam was granted lease for conducting blue metal quarry operations initially for three years and the same was subsequently extended for further period of three years. The said period expired on 22.02.2009 and thereafter, the Government has not auctioned the quarry, thereby depriving the livelihood of the members of the Sangam. The request of the Sangam for extension of quarry lease was not considered and the respondents 1 & 2 have orally informed that as the quarries leased out to the Sangam are located within 10 kms from the boundary of Megamalai Wildlife Sanctuary and any activity within 10 kms from the boundary of Wildlife Sanctuary should be carried out only with the approval of the " Standing Committee of the National Board for Wildlife", the lease cannot be further extended. It is the further case of the Sangam that according to the 4th respondent, there is no total ban on quarrying within 10 kms, but prior concurrence is to be obtained from the National Board for Wildlife to run the quarry. It is the grievance of the petitioner that the respondents 1 and 2 have to initiate steps for getting such concurrence from the said Board, but whereas they did not take any action so far and have simply rejected the request of the petitioner Sangam. It is submitted by the petitioner that originally a representation was placed before the authority on 27.03.2008, relying upon various Government notifications and subsequently, another representation dated 27.02.2016 was sent to the Chief Minister's Grievance Cell with a copy to the respondents herein. Since there was no action taken thereon, the Sangam is before this Court with



4. Upon notice, the first respondent filed a counter affidavit, wherein in Paragraph Nos.5 and 8, it has been stated as follows:

"5. It is submitted that based on the report of the Wild Life Warden, Megamalai Wild Life Sanctuary, Theni, the quarries objected by him were deleted from the proposed list of Gazette Notification, and the first respondent published a list of 12 stone quarries located in Government lands for direct grant system in the District Gazette, Extraordinary Issue No.5 dated 23.03.2015. Aggrieved by this Notification the petitioners have filed this writ petition.

8. It is submitted that the averment in para 16 and 17 is not maintainable. The Supreme Court of India has not relaxed the condition of the Ministry of Environment and Forest, Government of India of placing the land before the Standing Committee of National Board of Wild Life for clearance. There is no blanker ban to do quarrying within 10 KM the clearance from the Standing Committee of National Board of Wild Life is obtained. Hence the petitioners may apply for quarrying lease with the clearance obtained from the Standing Committee of National Board of Wild Life."

5. At this juncture, learned counsel appearing for the petitioner invited the attention of this Court to the Guidelines for Declaration of Eco-Sensitive Zones around National parks and Wild Life Sanctuaries, issued by the Government of India, Ministry of Environment and Forests, especially to the Clause Nos.4.1 and 4.2, which read as follows:

"4.1 Many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. Some of the Protected Areas actually lying in the urban setup (Eg. Guindy National Park, Tamil Nadu, Sanjay Gandhi National park, Maharashtra, etc). Therefore, defining the extent of eco-sensitive zones around Protected Areas will have to be kept flexible and Protected Area specific. The width of the Eco-sensitive Zone and type of regulations will differ from Protected Area to Protected Area. However, as a general principle the width of the Eco-sensitive Zone could go upto 10 Kms. around a Protected Area as provided in the Wildlife Conservation Strategy-2002.

4.2 In case where sensitive corridors, connectivity and ecologically important patches, for landscape linkage, are even beyond 10 Kms. Width, these should be included in the Eco-sensitive Zone.



6. In addition to the above, the learned Counsel for the Sangam also referred to the Gazette Notification of Government of India dated 27.01.2010, in respect of Sultanpur National Park, with regard to Quarrying and Mining, in which, it has been stated as follows:

"Quarrying and Mining :- (i) Mining up to one kilometer shall not be allowed from the boundary of the protected area of Sultanpur National Park;
(ii) Crushing activity up to one kilometer shall not be allowed from the boundary of the protected area of Sultanpur National Park.

7. By relying upon the afore-stated Gazette Notifications and the counter affidavit filed by the first respondent, the learned counsel for the Sangam has submitted that there is no total ban in carrying out the mining and quarrying operations beyond the specified distance, as could be seen in the said notifications. Hence, the petitioner Sangams are seeking appropriate relief / direction against the first respondent.

8. In reply, the learned Additional Government Pleader appearing for the respondents 1 to 4 has submitted that there is a committee based on the Government Office Memorandum No.J-11013/41/2006-1A.II(I) dated 02.12.2009 of Ministry of Environment and Forest, Government of India and the Standing Committee of National Board of Wild Life is the competent authority to consider the claim of the Sangam.

9. In view of the above submission, this Court is of the view that it would suffice, if a direction is issued to the first respondent to forward the representations of the petitioner Sangams to the concerned Committee. Accordingly, considering the facts and circumstances of the case and also taking into account the rival submissions, this Court directs the first respondent, before whom several representations, sent by the petitioner Sangams are stated to be lying, to forward the same to the Standing Committee, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the said committee shall pass suitable orders thereon within a period of four weeks therefrom and the outcome of the same be duly intimated to the petitioner Sangams forthwith.

10. The writ petition is disposed of as above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/



To:

1.The District Collector,
Theni District.

2.The Assistant Director,
Geology and Mines Department,
District Collectorate Complex, Theni.

3.The District Forest Officer,
Theni Forest Division,
Theni.

4.The Wildlife Warden,
Megamalai Wildlife Division,
Theni.

+1cc to Mr.A.THIRUMURTHY,Advocate,SR. 73608

+1cc to M/S.Special Government Pleader,SR. 74236

W.P (MD) No.7349 of 2016
22.08.2017

rm/ar

KK/SKN RSK/SAR 1/12.09.2017/ 5P- 7C