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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P. (MD)No.4860 of 2018

and

W.M.P. (MD)Nos.4859 & 4860 of 2018

R.Ayyanar

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

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

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for records relating to the impugned Tender Notification issued by the first respondent in Na.Ka.No.K.V.1/811/2017, dated 02.2018, which is published in Virudhunagar District Gazette Notification No.5, dated 16.02.2018 and to quash the same in respect of Schedule Serial No.12 and 13 quarry site in Survey No.705/1 and 705/II, at Kottaiyur Village, Srivilliputhur Taluk, Virudhunagar District respectively alone.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.A.K.Baskarapandian,
Special Government Pleader

ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.)**

The writ petition is filed as a 'Public Interest Litigation' by a resident of Kottaiyur, Maharajapuram (Via), Srivilliputhur Taluk, Virudhunagar District, who said to have carried on agricultural oriental business including selling paddy, dal, banana, coconut, etc., and he is also an income tax assessee. The grievance expressed by the petitioner is that the first respondent had invited tender for granting licence to quarry rough stone in Survey No.705/1 and 705/2 at Kottaiyur Village, Srivilliputhur, Virudhunagar District, apart from inviting applications in respect of 11 other sites in Rajapalayam and Vembakottai Taluks.



2. The learned counsel for the petitioner has drawn the attention of this Court to the typed set and additional typed set and would submit that even prior to the issuance of the impugned Notification, dated 24.02.2018, objections were resisted as to the restarting of the stone quarry in the said Survey Numbers and in this regard, meetings were also conducted by the residents of Kottaiyur Village and that apart, the Grama Sabha has also passed a resolution and forward the same to the first respondent and without properly considering their objections, sentiments, the respondents are proceeding with the auction. It is the further submission of the learned counsel for the petitioner that the tender process in respect of the said survey numbers cannot go on, for the reasons enumerated in Paragraph No.3 of the affidavit filed in support of this writ petition and it is relevant to extract the same:

(i) The proposed quarry site place nearest 50 Meter distance a 100 years old Pethanaswamy Temple is situated in Survey No.695.

(ii) There is a river bed viz., Settikuichi river bed, is there in Survey No.695 within the distance of 250 meters to the proposed quarry site.

(iii) Another Kadapillaiyarkulam Kanmai is there within 250 meters of the proposed quarry site.

(iv) The private coir company along functioning with 60 daily wages employees and the same was closed temporarily, it may run any time in future.

(v) From Mavoothu Tank to Kottaiyur Village Drinking Water Pipe line is crossed over the proposed quarry site.

(vi) There is the State Highways Road from Madurai to Watrap is crossed near the quarry site within 200 meter distance.

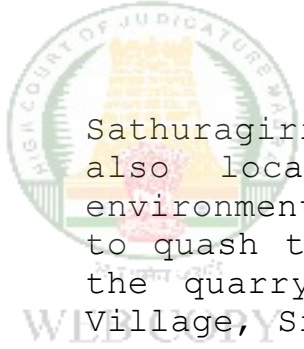
(vii) There are 7000 family members are residing Kottaiyur 2nd Grade Panchayat Village.

(viii) There is another Reserve Forest is situated 10 KM away from the quarry site viz., Sathuragiri Forest Division and Sundarapandian Forest Range.

(ix) There is a Grizzled Squirrel Wildlife sanctuary at Shenbaga Thoppu, Srivilliputhur, within 20 kms.

(x) There cannot be any quarry within the sanctuary limit 25 kilometers.

3. Attention of this Court has also been invited to the photographs and vehement submission of the learned counsel for the petitioner is that in the event of the permission being accorded to quarry rough stone, definitely explosives would be used and it would definitely cause nuisance and air pollution and it would also affect the water body and that apart, about 20 kms. away, a Grizzled Squirrel Wildlife Sanctuary at Shenbaga Thoppu is located and within 10 kms., forests, comes under the jurisdiction of



Sathuragiri Forest Division and Sundarapandian Forest Range, are also located and it will also lead to psychological and environmental disaster and therefore, prays for appropriate orders to quash the impugned Notification insofar as the commencement of the quarrying operation in Survey No.705/1 and 2 of Kottaiyur Village, Srivilliputhur, Virudhunagar District.

4. The writ petition was listed for admission on 07.03.2018, and this Court, after taking into consideration the submissions made by the learned counsel for the petitioner, directed the learned Special Government Pleader, who had accepted notice on behalf of the respondents 1 and 2 to get instructions as to the latest position. Accordingly, the files relating to the Notification have been produced before this Court and the learned Special Government Pleader has also submitted a Letter dated 08.03.2018, in Roc.No.KV1/811/2017, addressed by the Deputy Director of Geology and Mining, Virudhunagar to the learned Special Government Pleader. A perusal of the files would disclose that the objections submitted by the petitioner and the village people have been forwarded to the Srivilliputhur Revenue Thasildar and the Revenue Tahsildar has caused an inspection of the site on 07.09.2017 and has submitted his report through his communication, dated 15.09.2017, addressed to the first respondent.

5. The Deputy Director of Geology and Mining, Virudhunagar has also caused an inspection and he has noted that within a distance of 300 metres, there are no residence and it is also located 100 meters away from Alagapuram to Watrap Road and beyond 500 meters, water bodies are also situated and within the distance of 50 meters from the quarry site, there is no electric line, water resources and no other permanent structures are there and to reach the quarry site, access is also available and also indicated that in the event of quarrying operation continuing, the local residents would also get employment and against which, made a false complaint.

6. In response to the same, the learned counsel for the petitioner has invited the attention of this Court to the additional typed set and would submit that the assignment Patta have been granted to the people belonging to the Scheduled Caste community in land in Survey No.859/2 of Ilanthaikulam Village, Srivilliputhur Taluk, Virudhunagar District, has also located closure to the water body and in the event of the superstructure being put up by the said assignee also, they may be put to difficulty and hardship on account of the running of the stone quarry and prays for appropriate orders to quash the impugned Notification insofar as the Survey No.705/1 and 2 is concerned.

7. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.



8. It is relevant to extract Chapter V of Tamil Nadu Minor Mineral Concession Rules, 1959,

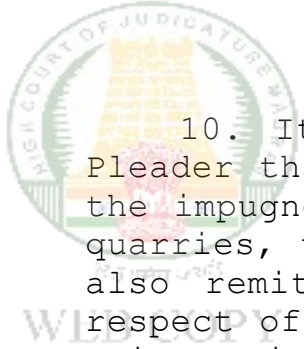
36. General restrictions in respect of quarrying operations :-

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(1) The quarrying permit holder or the lessee or their men shall not work or carry on or allow to be worked or carried on any mining operations at or to any point within a distance of 50 metres from any railway line except with the previous written permission of the Railway administration concerned or under or beneath any rope way or any rope way trestle or station except under and in accordance with the written permission of the authority owning the rope way or from any reservoir, canal or other public works such as public roads and buildings 1[]1 except with the previous written permission of the Collector of the district or any other officer authorised by the State Government in this behalf and otherwise than in accordance with such instructions, restrictions and conditions, either general or special, which may be attached to such permission. The said distance of 50 metres shall be measured in the case of railway, reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting, as the case may be, and in case of building horizontally from the plinth thereof. In the case of village roads no working shall be carried out within a distance of 10 metres and except with the previous permission of the Collector of the District or any other officer duly authorised by the State Government in this behalf and otherwise than in accordance with such directions, restrictions and additions, either general or special, which may be attached to such permission:

Provided that notwithstanding anything contained in any law for the time being in force or any provision in any lease deed or agreement already executed under these Rules, there shall be no quarrying of sand in any river bed or adjoining area or any other area which is located within 500 metres radial distances from the location of any bridge, water supply system, infiltration well or pumping installation of any of the local bodies or Central or State Government Department or the Tamil Nadu Water Supply and Drainage Board head works or any area identified for locating water supply schemes by any of the above mentioned Government Departments or other bodies.

9. Rule 36 of Section V deals with General Restrictions in respect of Quarrying Operations.



10. It is the submission of the learned Special Government Pleader that the auction has also been taken place in pursuant to the impugned Notification and out of 13 quarries, in respect of 5 quarries, the auction was successful and the successful bidder has also remitted 10% of lease amount i.e., Rs.30,03,200/- and in respect of S.F.No.705, which is the subject matter of the present writ petition, the stone quarry was auctioned for an amount of Rs.40,10,000/- in favour of one Krishnakumar and the successful bidder in respect of the quarry has also remitted 10% of the lease amount and it was also deposited in the Government account and the mandate cast upon the Official respondents as well as the Department of Geology and Mining, Rule 36 would be only complied with and also the quarrying operation would not cause any inconvenience to the nearby sanctuaries and forests and the other submission on instruction, is placed on record.

11. The Revenue Officials as well as the Deputy Director of Geology and Mining has carried out the inspection, in pursuant to the complaint / representation submitted by the petitioner and other village people and found that the location of the stone quarry is well within the norms. It is also to be noted at this juncture that previously quarrying operation was carrying on in the very same Survey Number and after expiry of the licence, it was not carried out for some time. Now, the respondents thought it fit to revive the stone quarry and in respect of the Survey No.705/1 and 2, the auction was also successful and therefore, this Court is not inclined to interfere with the same.

12. In the result, the writ petition is dismissed and however, it is made clear that the first respondent as well as the Deputy Director of Geology and Mining, Virudhunagar District shall carry out periodical inspection and if required, surprise inspection in respect of the stone quarry site in Survey No.705/ 1 and 2 of Kottaiyur Village, Srivilliputhur, Virudhunagar District and depending upon the result of the inspection, shall take appropriate action in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.



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

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3. The Deputy Director of Geology and Mining,
Virudhunagar District.

+1cc to Mr.D.Selvanayagam, Advocate Sr.No.54348

+1cc to Spl.Government Pleader Sr.No.54915

AKV

VB/SKN/RSK/SAR1/25.04.2018/6P/6C

W.P. (MD) No.4860 of 2018
09.03.2018