



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

W.P.[MD].No.681 of 2018

and

W.M.P.(MD)Nos.7792 & 7793 of 2018

Uchimahali

: Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Assistant Director,
Mines and Minerals Department,
Tirunelveli.

3.Arun Raja

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to cancel the granite quarry license which stands in the name of third respondent in comprised survey Nos.544/2A, 544/2B, 545/1B, 554/1B1B, 544/1B1A, 544/2, 555/1(P)2A/1A situated at Kadamboduvazhvu Village, Nanguneri Taluk, Tirunelveli District based on the petitioner's representation dated 22.09.2017.

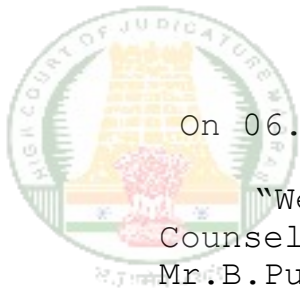
For petitioner	: Mr.V.Kathirvelu Senior Counsel for Mr.K.Prabhu
For R-1 and R-2	: Mr.R.Sethuraman Special Government Pleader
For R-3	: Mr.N.R.Elango, Senior Counsel for Mr.M.Lingadurai

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

The writ petitioner seeks issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to cancel the granite quarry license which stands in the name of third respondent and comprised survey Nos.544/2A, 544/2B, 545/1B, 554/1B1B, 544/1B1A, 544/2, 555/1(P)2A/1A situated at Kadamboduvazhvu Village, Nanguneri Taluk, Tirunelveli District based on the petitioner's representation dated 22.09.2017.

2.We have heard learned Senior counsel for petitioner, learned Special Government Pleader for first and second respondents and learned Senior Counsel for third respondent.



On 06.06.2018, this Court has passed the following order:-

"We have heard Mr.V.kathirvelu, Learned Senior Counsel for Mr.K.Prabhu, learned counsel for petitioner, Mr.B.Pugalendhi, Learned Additional Advocate General for R1 and R2, assisted by Mr.A.K.Bhaskarapandian, Learned Additional Government Pleader and Mr.N.R.Elango, Learned Senior Counsel for Mr.M.Lingadurai, learned counsel for R3.

2. Learned Senior Counsel for 3rd respondent had submitted that deviation noted by Officials of Department of Geology and Mining have been set right and on their finding, the position to be so, the Deputy Director has forwarded the papers for necessary approval of the Commissioner of Geology and Mining. He also submitted that upon a complaint preferred by 3rd respondent against the petitioner herein, the Inspector of Police, Kalakad, Tirunelveli District, registered a CSR, conducted a preliminary enquiry and then a case in Crime No.407 of 2017 has been registered informing the requirement of the petitioner being moved against in keeping with Section 110 of Cr.P.C. Without disclosing such position, the petitioner has moved the present Writ Petition.

3. Learned Additional Advocate General appearing for R1 and R2 brought to the notice that the Pollution Control Board Authorities are yet to inspect the site and file a report.

4. Learned Senior Counsel appearing for the petitioner would submit that the petitioner is not alone in raising objections to the quarry operations of the 3rd respondent but that the entire village people is against the same and even the local Panchayat passed a resolution there against.

5. Taking note of the above submissions, this Court considers it appropriate to pass the following orders.

(i) The Pollution Control Board authorities shall inspect the quarry site of the 3rd respondent and submit a report on the compliance in setting right matters or otherwise by the 3rd respondent.

(ii). The Commissioner of Geology and Mining may proceed to pass orders on merits on the rights of the 3rd respondent to conduct quarrying operation pursuant to the revised mining plan and report of the Deputy Director, dated 06.05.2018.

(iii). The Inspector of Police, Kalakad Police Station, Tirunelveli District, is required to ascertain and inform, if notice under Section 111 Cr.P.C., in respect of requirement of execution of bond by the petitioner in keeping with Section 110 Cr.P.C., has been issued by the Executive Magistrate. If so, a copy of such notice shall be obtained and forwarded by such Inspector before this Court.



Post the matter on 13.06.2018."

3. On verification, it has been represented to us that the notice under Section 107 Cr.P.C. had not been served upon the petitioner as on the date he approached this Court with this Writ Petition. Post order of this Court, a supervening event of due approval to the third respondent Unit under proceedings in No.f.0748tnv/rs/dee/ tnpqb/ tnv/a/2018, dated 08.06.2018 of the Commissioner, Tamil Nadu Pollution Control Board, has been brought to our notice.

4. When the Pollution Control Authority has thought it fit to permit the third respondent to carry out quarry operations, it is not for this Court to easily interfere. Of course the approval by the Pollution Control Authorities is subject to conditions, violation of any of which could invite action of the authorities against the third respondent.

5. Given such circumstances, we do not consider it appropriate to entertain the Writ Petition and accordingly, the Writ Petition shall stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Assistant Director,
Mines and Minerals Department,
Tirunelveli.

+1cc to M/S.K.Prabhu, Advocate SR.No. 73090

+1cc to M/S.M.Lingadurai, Advocate SR.No. 72621

+1cc to Special Government Pleader, SR.No. 72792

ORDER MADE IN
W.P. [MD].No.681 of 2018
and

W.M.P. (MD) Nos.7792 & 7793 of 2018
12.07.2018

ls/rj2

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

CM/RP/SAR 4/20.07.2018/3P/6C