



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. (MD) Nos.17775 and 19891 of 2018
and
W.M.P. (MD) .Nos.15662, 17678 and 17679 of 2018

In W.P. (MD) No.17775 of 2018:

Sundar Raj ... Petitioner

-vs-

1.The District Collector,
Sivagangai District,
Sivagangai.

2. The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Manamadurai,
Sivagangai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from taking gravel sand from the bond and channel are situated in North Santhanoor Village Survey Nos. 184/1, 184/2B, 184/5, 184/6, 184/7, 184/8, 184/9, 184/10 based on the petitioner's representation dated 30.07.2018.

*(Prayer amended as per
the order of this Court made in WMP.
(MD).No.16172/2018 dated 23.10.2018)*

For Petitioner : Mr.Joseph Thatheus Jerome
for M/s. G.Gomathi Sankar

For Respondents : Mr.K.Saravanan
Government Advocate



In W.P. (MD) No.19891 of 2018:

Sundar Raj

... Petitioner

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-vs-

1.The District Collector,
Sivagangai District,
Sivagangai.

2. The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Manamadurai,
Sivagangai District.

4.M.Selvam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order of the District Collector-1st respondent herein made in Na.Ka.No.M2/25/2018 dated 21.07.2018.

For Petitioner : Mr.Joseph Thatheus Jerome
for M/s. G.Gomathi Sankar

For Respondent Nos.1 to 3 : Mr.K.Saravanan
Government Advocate

For Respondent No.4 : Mr.T.Ramesh

Mr.S.Ramesh Kumar - Advocate Commissioner

COMMON ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

These Public Interest Litigations have been filed alleging that in the guise of permission obtained to remove gravel, the Kanmai is being used and destroyed for extracting sand.

2. The learned counsel for the petitioner submitted that if the channels are obliterated, the flow of water in the Kanmai would get obstructed. If that is done, the entire village would suffer without water, both for agricultural and drinking purposes.

<https://hcservices.ecourts.gov.in/hcservices/> Taking note of the grievances expressed, we appointed an Advocate Commissioner on an earlier occasion. It is seen that permission was also granted by the District Collector, vide his



proceedings in Na.Ka.No.M2/25/2018, dated 21.07.2018, to the fourth respondent for mining with certain conditions. Condition No.2 clearly says that there should be a gap of 50 metres between the place, in which, quarry is likely to be undertaken and the channels.

WEB COPY 4. A detailed report has been filed by the learned Advocate Commissioner today before us. The said report is filed along with the sketch.

5. We have perused the entire report and the sketch.

6. We find that there is no prohibition in law for the excavation of gravel. Therefore, there is no violation of Tamil Nadu Mines and Minerals Concessions Rule, 1959, involved, as factually found by the learned Advocate Commissioner.

7. The only other issue which is before us, is with respect of the running of channels. Condition No.2 in the proceedings, dated 21.07.2018 in Na.Ka.No.2/25/15 takes care of it.

8. However, considering the grievances expressed by the petitioner, we direct the respondents 1 to 3 to strengthen the channels, so that the flow of water into the Kanmai will have to be raised sufficiently as reported by the Advocate Commissioner. The respondents 2 or 3, as the case may be, shall also make periodical inspection of the quarrying operation on any damage to the waterbody and the channels. If such a violation is found on the part of the fourth respondent, action will have to be taken including the cancellation of the permission granted. The third respondent shall also carry out the directions issued with respect to protecting the channels and strengthening the boundary of the Kanmai, within a period of four months from the date of receipt of a copy of this order. The respondents 1 to 3 shall also take appropriate action to create the Kanmai as a permanent water source. For that purpose, all the channels, which are in existence, will have to be maintained and protected. If any of such channels are under encroachment, they will have to be removed, within a period of eight weeks from the date of receipt of a copy of this order by following due procedures.

9. The respondents 1 to 3 shall also demarcate 50 metre boundary, so that, there will not be any possible violation of Tamil Nadu Mines and Minerals Concession Rules, 1959. This successive operation will have to be done, within a period of eight weeks from the date of receipt of a copy of this order.

10. These Writ Petitions stand disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

11. Insofar as the extension of permission is concerned, the fourth respondent shall approach the first respondent in this regard, as it is submitted that four months period has already been lost, because of the interim order passed by this Court. As and when



such a request is made, the same shall be considered by the first respondent, within a period of four weeks on such receipt.

Sd/-

Assistant Registrar(CS II)

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/True Copy/

Sub Assistant Registrar(CS III)

PJL

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Manamadurai,
Sivagangai District.

1CC TO MR. G. GOMATHI SANKAR, ADVOCATE SR 91239

1CC TO MR. T. RAMESH, ADVOCATE SR 91268

1CC TO MR. S. RAMESH KUMAR, ADVOCATE SR 91261

1CC TO THE SPL GOVT PLEADER SR 91399

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