



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.19882 of 2017
and
W.M.P (MD) No.16153 of 2017

P.Maharajan

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai Circle,
Madurai.

3.The Tahsildar,
Thirupparankundram Circle,
Thirupparankundram,
Madurai.

4.The Assistant Director (Mines),
Madurai Circle,
Madurai.

5.T.Devanathan Yadav

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 17.10.2017 and subsequently cancel the licence having been issued in favour of the fifth respondent by means of proceedings dated 18.08.2017 made in Na.Ka.No.397/2016(mines) in relation to Survey Numbers 40/47 (1.01.0), 40/48(0.60.5), 40/49(0.60.5) and 40/57(0.8.10) measuring total extent of 3.03.0 hectares of lands situated at Thanakkankulam Village, Madurai District forthwith.

For Petitioner
For R-1 to R-4

For R-5

: Mr.J.Sankarapandian
: Mr.A.K.Baskarapandian,
Special Government Pleader
: Mr.V.Kathirvelu, Senior Counsel
Assisted by
Mrs.S.Ragaventhree
for Mr.K.Prabhu

ORDER

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

By consent, the main Writ Petition itself is taken up for final disposal.

2. Mr.A.K.Baskarapandian, learned Special Government Pleader appears for R-1 to R-4.

3.Mr.V.Kathirvelu, learned Senior Counsel assisted by Mrs.S.Ragaventhree, learned counsel on record for the fifth respondent, appears for the fifth respondent.

4. The Writ Petition is filed as a 'Public Interest Litigation', by a resident of Thanakkankulam, Thirupparankundram Circle, Madurai. The petitioner in the affidavit filed in support of this Writ Petition would aver among other things that his village is having population of more than 11,000 persons and adjacent to his village, another village by name Keelakulikudi is located and in between the said villages, there is a hill having 200 feet height and 1 kilometre length and it is also the continuance of Western Ghats. The petitioner would further aver that during rainy period, the flood and rain water used to collect in a big pond located on the southern end of the said hill, which lies adjacent to the petitioner's village and the said water is the sole source for the villagers and it also percolates the ground water and thereby, the ground water source is also increased.

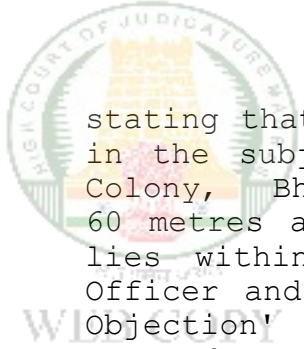
5. The grievance expressed by the petitioner is that the fifth respondent has been granted quarry licence to quarry gravel in the lands bearing Survey Nos.40/47(1.01.0), 40/48 (0.60.5), 40/49 (0.60.5) and 40/57 (0.8.10) admeasuring to a total extent of 3.03.0 hectares. The petitioner alleging violation of the relevant Acts and Rules and more particularly, for the impact on the environment, had submitted a representation dated 17.10.2017 to the first respondent, to take appropriate action to hold quarrying operations and despite the receipt and acknowledgment, no response is forthcoming from the first respondent and therefore, he came forward to file this Writ Petition.

6. The Writ Petition was entertained on 30.10.2017 and notices to respondents were ordered.

7. The first respondent has filed a detailed counter-affidavit stating among other things, denying the allegations made in the affidavit filed in support of this Writ Petition, would state that it is not correctly alleged that the small hill is the continuance of western Ghats and insofar as the location of water body is concerned, the first respondent would state that during rainy season, the gravel deposits percolates the ground water only and there is no stream formation and there is no pond in and around 300 kilometres away from the quarry and further add that quarrying licence had been granted in favour of the fifth respondent after full satisfaction of the procedural formalities and relevant norms and in compliance of the relevant Acts and Rules.

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

8. The first respondent has also stated that the Tahsildar, Thirupparankundram Taluk, had caused inspection and submitted a report



stating that there is no monument, memorial places, buildings and temples in the subject area and the residential Colonies namely, Adi Dravidar Colony, Bharathi Nagar and Thiruvalluvar Nagar, are located 60 metres away from the area in question and all the above habitations lies within Thanakankulam Revenue Village and the President/Executive Officer and the public of Thanakankulam Village had also signed the 'No Objection' granted for the grant of licence in favour of the fifth respondent as alleged by the petitioner. The location of Uchikaruppana Samy Temple on the southern side of the hill as alleged by the petitioner is also denied by the first respondent and further took a stand that the lease deed was executed on 01.09.2017 and quarry permission had been accorded, subject to the condition that quarry operation should be carried up to the ground level, without using explosives and if any violation is found at the time of quarry operation, appropriate action will be taken, as per the terms and conditions prescribed in the Acts and Rules in force

9. The fourth respondent has also filed a status report taking similar stand as that of the first respondent.

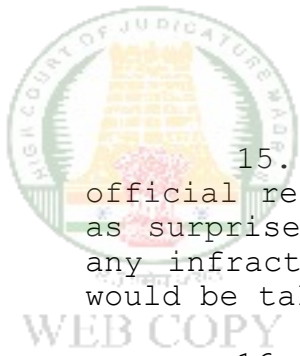
10. The learned counsel appearing for the petitioner would submit that the fifth respondent is a political functionary and using his clout, managed to get the quarrying licence and the same has been given in his favour in violation of the relevant norms and Rules and Regulations and would further submit that in the event of the quarrying operations being allowed to be continued, it not only causes environmental degradation, but also affects the water source, namely the Pond and therefore, prays for appropriate orders to cancel the quarry licence forbearing the fifth respondent from proceeding with the quarry operations.

11. Per contra, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the official respondents has invited the attention of this Court to the counter-affidavit filed by the first respondent and would submit that quarrying licence had been granted in strict compliance with the relevant Acts and Rules and during the period of licence, periodical as well as surprise inspection will be made and if any infraction is noted, action would be taken immediately, in accordance with law.

12. Mr.V.Kathirvelu, learned Senior Counsel assisted by Mrs.S.Ragaventhree, learned counsel appearing for the fifth respondent would submit that the fifth respondent being a responsible citizen would fully adhere to the terms and conditions of the quarrying licence and if any infraction is noted, it is always open to the concerned official respondent, to take appropriate action in accordance with law and would further add that the apprehension expressed by the petitioner, is wholly unfounded and based upon surmises and conjectures.

13. This Court considered the rival submissions and also perused the materials placed before it.

14. Perusal of the counter-affidavit filed by the first respondent would disclose that before granting quarrying licence in favour of the fifth respondent in respect of his patta lands, all the norms and Rules and Regulations have been strictly adhered to and the attention of this Court has also been drawn to the terms and conditions of the quarrying licence granted in favour of the fifth respondent, dated 18.08.2017.



15. The learned Special Government Pleader appearing for the official respondents on instructions would assure that periodical as well as surprise inspection will be taken in respect of the said site and if any infraction is noted, immediate action to avoid the nuisance if any, would be taken without any loss of time.

16. The learned Senior Counsel appearing for the fifth respondent also assures that the environment and other aspects will be taken note of and quarrying operation will be done strictly in accordance with the conditions of the licence.

17. In the light of the facts and circumstances, this Court is of the considered view that no further orders are necessary. However, it is open to the petitioner to approach the concerned official respondent, if any infraction is noted or any nuisance is caused, in the form of representation and he may also work out his remedy in accordance with law before the competent forum.

18. In the result, the Writ Petition is closed, subject to above observations. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (RTI)

True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
Madurai District,
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2. The Revenue Divisional Officer,
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3. The Tahsildar,
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Thirupparankundram,
Madurai.

4. The Assistant Director (Mines),
Madurai Circle, Madurai.

+One cc to The Special Government Pleader, SR.No.43673
+One cc to Mr.S.Palanivelayutham, Advocate, SR.No.43182
+One cc to Mr.K.Prabhu, Advocate, SR.No.43126

pm
RL/8C/4P/KKR/SAR1/2/2/2018