

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 10619 OF 2018

AND

W.M.P. NO. 12574 OF 2018

V.K.Venkatachalam

.. Petitioner

- Vs -

1. The District Collector
Namakkal District.
 2. The Revenue Divisional Officer
Tiruchengode Taluk
Namakkal District.
 3. The Revenue Thasildar
Kumarapalayam Circle
Kumarapalayam, Namakkal District.
 4. The District Forest Officer
Namakkal Division, Collectorate Complex
Nallipalayam PO
Namakkal District - 637 003.
 5. Sree Veeramathiamman Timber
Rep. by its Owner Settu @ Kaliappan
Bye Pass Road, Kumarapalayam
Near Senthil Mill,
Namakkal District.
- सत्यमेव जयते.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents 1 to 4 to take action against the 5th respondent Mill the Sree Veeramathiamman Timber Mill, Bye Pass Road, Kumarapalayam, Near Senthil Mill, Kumarapalayam, Namakkal District, which is running without license as per the proceedings of the District Environment Engineer in Ka.Na.Ko.4/Petition/Masusupo/Thanamakava/Kuma/ 2018 dated 19.01.2018.

For Petitioner : Mr. SP. Yuvaraj

For Respondents: Mr. J.Ramesh, AGP for RR-1 to 3

Mr. Vijay Prashanth for R-4

Mr. A.Essakiappan for R-5

ORDER

The present writ petition has been filed against the functioning of the Saw Mill, owned by the 5th respondent, as it was causing noise pollution and nuisance to the neighbourhood.

2. When the matter was earlier taken up for hearing on 12.02.2019, it was represented on behalf of the official respondents that the Timber Mill in question was closed and it was not running any more and, therefore, the prayer sought in the writ petition has become infructuous.

3. However, learned counsel appearing for the petitioner submitted that the 5th respondent had removed the machineries from the place of its original functioning to a nearby place and, therefore, the submission made on behalf of the official respondents need not be taken into consideration, since in any event, the 5th respondent has shifted the premises of the timber mill to a closer vicinity in the same locality and, thereby, continuing to cause noise pollution and nuisance to the petitioner as well as to others in the neighbourhood.

4. On consideration of the rival submissions and in order to ascertain the factual position, Mr.C.P.Goutham, Advocate, (Mobile Nos.9843953555 & 7598853555) having office at , C/o Mr.V.Vijay Shankar, No.67, Law Chambers, High Court, Madras, was appointed as Advocate Commissioner and was entrusted with the following task and to file a report to this Court :-

- i) Whether the 5th respondent has been running the unit (timber mill) with proper environment clearance/licence, etc.; and
- ii) Whether the location of the timber mill is a cause of pollution and nuisance, which is prohibited in law.

5. In pursuance to the directions issued by this Court, the Advocate Commissioner has carried out the inspection and has submitted his report today. A perusal of the report filed by the Advocate Commissioner reveals that originally the timber mill was located in the place, which was challenged by the petitioner and it is further reported that there is high probability of the same causing nuisance to the petitioner. However, the report further proceeds that after filing of the writ petition, the timber mill was shifted and located diagonally opposite to the petitioner's house and the timber mill was found to be maintained in a proper manner without any timber/wooden logs strewn around and that the machineries were installed for ready functioning after obtaining appropriate authorisation. The report also further reveals that the

application for licence is pending before the State Level Committee headed by the Chief Principal Conservator of Forests, Chennai and the pendency of application has also been communicated by the Forest Range Officer, Namakkal Range to the district forest Officer, vide communication dated 26.02.2019.

6. Learned counsel appearing for the 4th respondent confirms the pendency of the application before the State Level Committee and he further asserts that the 5th respondent would not be permitted to run the mill without licence being accorded to him. The statement has also been confirmed by the learned Addl. Government Pleader appearing for respondents 1 to 3. Moreover, the report of the Advocate Commissioner, appointed by this Court, vouch for the said fact that there was no timber or wood strewn around in the said place causing any nuisance, but, however, machineries were installed for ready functioning of the mill after obtaining necessary clearance from the State Level Committee.

7. In view of the position, as noticed above, this Court feels that no further orders need to be passed in the above writ petition, since the counsel appearing for the official respondents have given a categoric undertaking before this Court that the 5th respondent would not be permitted to commence its business without getting clearance from the State Level Committee.

8. Accordingly, recording the said undertaking given by the learned counsel appearing for the official respondents, viz., respondents 1 to 4, this writ petition is closed in the terms noted above. The report filed by the Advocate Commissioner is taken on record and the same shall form part of the records and the Advocate Commissioner stands discharged. The Advocate commissioner is entitled to an additional remuneration of Rs.5,000/- (Rupees Five Thousand only), which shall be paid by the petitioner within a period of one week from today. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS)

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Sub Assistant Registrar

GLN
To

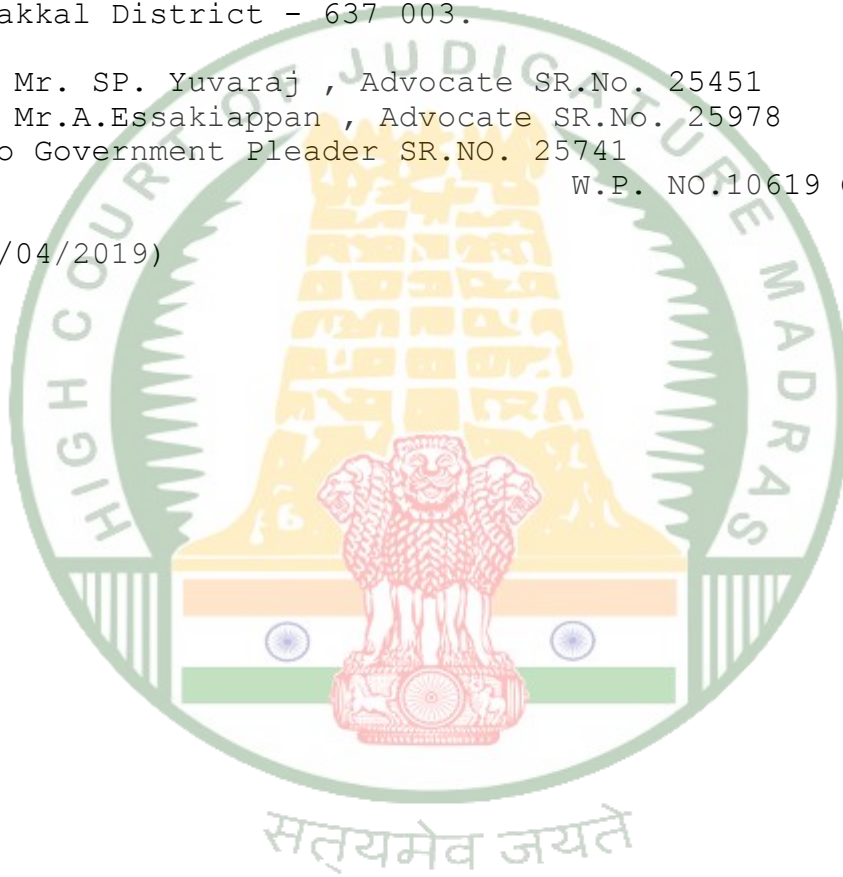
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+1cc to Mr. SP. Yuvaraj , Advocate SR.No. 25451
+1cc to Mr.A.Essakiappan , Advocate SR.No. 25978
+1 cc to Government Pleader SR.NO. 25741

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BS (CO)
A.SK(23/04/2019)



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