



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Twenty Second day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

WMP(MD) No.11072 of 2019
IN WP(MD) No.9104 of 2019

SELVAM

... PETITIONER/ 19th RESPONDENT/
19th RESPONDENT

Vs

1 K.PUSHPARAJ

... 1st RESPONDENT/ PETITIONER/
PETITIONER

2 THE SECRETARY
INDUSTRIES (MMC-2) DEPARTMENT, SECRETARIAT, CHENNAI-9.

3 THE COMMISSIONER / DIRECTOR OF
GEOLOGY AND MINES DEPARTMENT, GUINDY, CHENNAI-32.

4 THE DISTRICT COLLECTOR
SIVAGANGAI DISTRICT, SIVAGANGAI.

5 THE ASSISTANT DIRECTOR OF
MINES AND MINERALS,
MINES AND MINERAL DEPARTMENT,
SIVAGANGAI, SIVAGANGAI DISTRICT.

6 THE SUPERINTENDENT OF POLICE
O/O THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT, SIVAGANGAI.

7 THE REVENUE DIVISIONAL OFFICER,
SIVAGANGAI, SIVAGANGAI DISTRICT.

8 THE TAHSILDAR,
ILAYANGUDI TALUK, SIVAGANGAI DISTRICT.

9 THE TAHSILDAR,
MANAMADURAI TALUK, SIVAGANGAI DISTRICT.

10 THE TAHSILDAR,
<https://hcservices.ecourts.gov.in/hcservices/>
THIRUPPUVANAM TALUK, SIVAGANGAI DISTRICT.



11 THE TAHSILDAR,
SIVAGANGAI TALUK, SIVAGANGAI DISTRICT.

12 THE TAHSILDAR,
DEVAKOTTAI TALUK, SIVAGANGAI DISTRICT.

13 M.KALIDASS
14 S.KALIDASS
15 S.MARIVEL
16 G.DHANAPALAN
17 AROKIA SURESH
18 ARUNACHALAM
19 SELVAM

... RESPONDENTS 2 TO 19/
RESPONDENTS 1 TO 18/ RESPONDENTS 1 TO 18

20 SHANMUGASUNDARAM
21 PERIYASAMY

... RESPONDENTS 20 & 21/
RESPONDENTS 20 & 21/RESPONDENTS 20 & 21

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the interim direction passed by this Honourable Court in WMP (MD).NO.7091 & 7092/2019 in WP(MD).NO.9104/2019 dated 15.04.2019 as against the petitioner alone pending disposal of the Writ Petition.

Prayer in WMP(MD). 7091/ 2019 :

To grant an order of Interim Direction directing the respondents 2 and 3 to immediately survey and file report regarding the quarrying of gravel sand in the places where permits have been granted in Sivagangai District pending disposal of this WP.

Prayer in WMP(MD). 7092/ 2019 :

To grant an order of Interim Injunction restraining the respondents 3 and 4 from granting any permit to quarry gravel sand in Sivagangai District pending disposal of this WP.

Prayer in WP(MD). 9104/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, forbearing the respondents 3 and 4 from granting any permit to quarry gravel sand in Sivagangai District and directing the respondents 1 to 11 to initiate appropriate action against the respondents 12 to 21 for unlawful and excess quarrying of gravel sand within the time period stipulated by this Honourable Court.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.T.RAMESH, Advocate for the petitioner and of Mr.M.KANNAN, Advocate for R1 and Mr.A.K.BASKARAPANDIAN, Special Government Pleader for R2 to R12, the court made the following



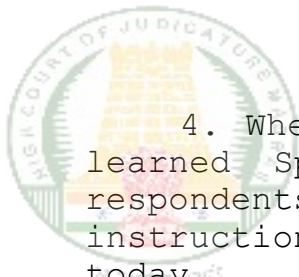
(Order of this Court was made by **M. SATHYANARAYANAN, J**)

The petitioner in this vacate stay petition is arrayed as 19th respondent in the writ petition and in the affidavit filed in support of this petition to vacate the order of interim direction, dated 15.04.2019 made in W.M.P.(MD)Nos.7091 and 7092 of 2019 in W.P.(MD)No.9104 of 2019, it is averred among other things that vide proceedings of the third respondent herein, dated 21.07.2018, in Na.Ka.No.M2/25/2018, in his patta land, admeasuring to an extent of 3.98.0 Hectares, he was granted permission to have a gravel quarry, in terms of the Tamil Nadu Mines and Minerals Concession Rules, 1959, subject to very many conditions.

2. It is a specific stand of the petitioner in this vacate stay petition / 19th respondent in the writ petition that he has done quarrying operation, as per the conditions of licence, within permissible area and it was inspected and verified by the concerned authorities periodically and in paragraph No.9 made the following averments:

"9. I respectfully submit that as far as my quarry is concerned I have not violated the terms and conditions in the permission order as well as the order of this Hon'ble Court in W.P.(MD)No.19891 of 2018. I further submit that even I was permitting to excavate gravel sand in my quarry land for 11 months from 21.07.2018, I was not able to do quarry operation as per the interim order of this Hon'ble Court in the earlier writ petitions. When the above said writ petition was disposed, this Hon'ble Court has permitted me to submit Application for extension to the 3rd Respondent herein and the same has to be considered within 4 weeks."

3. The learned Counsel appearing for the petitioner has drawn the attention of this Court to the common order dated 23.10.2018, made in W.P.(MD)No.19891 and 17775 of 2018 and would submit that in W.P.(MD)No.19891 of 2018, the present petitioner was arrayed as fourth respondent and while disposing of the writ petition, this Court has granted permission to the petitioner to approach the Collector of Sivagangai District, for extension of period by four months, on account of the subsistence of the interim order, with a further direction, directing the said official to consider the same and pass appropriate orders within a period of four weeks and accordingly, he has also submitted a petition, dated 30.05.2019, to the third respondent herein viz., the Collector of Sivagangai District, praying for extension of time / licence, for a period of four months, which has been lost, because of the interim order passed by this Court and on account of the order of ad-interim direction passed in this writ petition, the said representation/request is not processed and hence, prays for appropriate orders.



4. When the matter was taken up for hearing on 16.07.2019, the learned Special Government Pleader appearing for the official respondents prayed for short accommodation to get further instructions and accordingly, the matter was adjourned and called today.

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5. The fourth respondent has filed a counter affidavit and in paragraph No.5(ii), had stated that with regard to quarry license granted to the petitioner in the vacate stay petition/19th respondent in the writ petition, permission (license) was granted to quarry gravel admeasuring to an extent of 3.98.0 Hectares, comprising in S.No.184/1, 2B, 5,6,7,8,9,10 of Vadakku Santhanoor, Manamadurai Taluk, from 21.07.2018 to 20.06.2019, vide proceedings dated 21.07.2018 and in the light of the orders passed in W.P.(MD)No.19891 of 2018, the said licensee (vacate stay petitioner) had sought for extension of 4 months and the Tahsildar, Manamadurai, vide report dated 16.07.2019, made in A1/818/2018, has recommended for the extension of four months and on account of the subsistence of an order of ad-interim direction passed in this writ petition, further process could not go on.

6. The learned Counsel appearing for the writ petitioner would submit that the grievance of the writ petitioner, who claims to be a Public Interest Litigant is that under the guise of exploiting the licence, the quarrying of the earth/gravel on the water is also blundering in an illegal manner and prays for keeping the writ petition alive, so that further status report can be called for.

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

8. In the light of the stand taken by the fourth respondent in the counter affidavit, dated 22.07.2019, coupled with the averments made in the affidavit filed in support of the vacate stay petition, filed by the 19th respondent in the writ petition, this Court is *prima facie* of the view that during the period of license, the 19th respondent appears to have exploited the licence granted to him in accordance with law. The vacate stay petitioner/19th respondent has also moved the concerned authority praying for extension of period for license, in the light of the order dated 15.04.2019, made in W.P.(MD)No.9104 of 2019 and though the Tahsildar, Mamamadurai / 8th respondent in the writ petition, has given a positive recommendation, further process could not take place, on account of the subsistence of the order of ad-interim direction passed in the writ petition.

9. In the light of the above facts and circumstances, the order of ad-interim direction, dated 15.04.2019, is vacated, insofar as the petitioner in W.M.P.(MD)No.11072 of 2019 / 19th respondent in the writ petition is concerned and therefore, the third respondent in the writ petition - the Collector, Sivagangai District, is directed to further process the recommendation of the eighth respondent and



pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

10. Call the main writ petition on **26.08.2019.**

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sd/-
22/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SECRETARY
INDUSTRIES (MMC-2) DEPARTMENT, SECRETARIAT, CHENNAI-9.
 - 2 THE COMMISSIONER / DIRECTOR OF
GEOLOGY AND MINES DEPARTMENT, GUINDY, CHENNAI-32.
 - 3 THE DISTRICT COLLECTOR
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 - 10 THE TAHSILDAR, SIVAGANGAI TALUK, SIVAGANGAI DISTRICT.
 - 11 THE TAHSILDAR, DEVAKOTTAI TALUK, SIVAGANGAI DISTRICT.
- +1. C.C. to M/S.T.RAMESH Advocate SR.No.12062
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.12061

ORDER IN
WMP(MD) No.11072 of 2019 IN
WP(MD) No.9104 of 2019
Date :22/07/2019