



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.17853 of 2018

and W.M.P. (MD) Nos.15737 of 2018 and 3756 of 2019

C.Balasubramanian

... Petitioner

-VS-

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Assistant Director,
Geology and Mining Department,
Madurai.
- 3.K.N.Solairajan,
- 4.S.Susila
- 5.P.Ashokan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the Respondents 1 and 2 from granting quarrying permit to the Respondents 3 to 5 for the property measuring 1 Acre 38 Cents situated in Survey No.206/4, Patta No.221, Thiruchunai Village, Melur Taluk, Karungalakudi Sub Registration District, Madurai North Registration District, Madurai District and consequently direct the Respondents 1 and 2 to recover the dues payable by the 3rd Respondent on account of his illegal quarrying.

For Petitioner : Mr.M.Kannan

For Respondents 1 and 2 : Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents 3 to 5 : Mr.S.Doraisamy

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.M.Kannan, learned counsel appearing for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.S.Doraisamy, learned counsel appearing for the respondents 3 to 5.



2.The petitioner has filed this Writ Petition designed as a Public Interest Litigation praying for issuance of a Writ of Mandamus, forbearing the Respondents 1 and 2 from granting quarrying permit to the Respondents 3 to 5 for the property measuring 1 Acre 38 Cents situated in Survey No.206/4, Patta No.221, Thiruchunai Village, Melur Taluk, Karungalakudi Sub Registration District, Madurai North Registration District, Madurai District and consequently direct the Respondents 1 and 2 to recover the dues payable by the 3rd Respondent on account of his illegal quarrying.

3.It is not in dispute that the fourth respondent is the wife of the third respondent and the 5th respondent is the nominee of the third respondent. There is already a case pending against the third respondent for illicit mining and Criminal Cases are pending against him in Crime Nos.17 and 18 of 2015 under Sections 447, 430, 506(i) I.P.C. r/w 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 on the file of Keelavalavu Police Station, Melur Taluk.

4.The District Collector, Madurai District has filed an Additional Affidavit in the Writ Petition, wherein there is a reference about the inspection conducted by a Special Team in respect of an area, where permission has been granted to the third respondent to quarry the granite stone. The Special Team found that there is large scale violation in quarrying granite in the years leased to the third respondent and the adjacent area which is not leased out to the third respondent. It is further stated that the third respondent has indulged in illicit quarrying and transportation of Granite blocks from outside of the lease hold area in Government Malai Poramboke land etc. The Special Team in its report finally concluded that a total quantity of 146783.08 m3 of Granite Blocks have been illicitly quarried and transported from the lease hold as well as in the non-lease area for a value to the tune of Rs.517.75 Crores. In this regard a Show Cause Notice was issued on 18.03.2013 under sub section (5) of Section 21 of Mines and Minerals (Development and Regulations) Act, 1957.

5.It appears that this issue is also subject matter of inspection by one more Committee appointed by the High Court, which has submitted its report to the High Court and the matter is now pending before the specially constituted Division Bench.

6.The contention of the learned counsel appearing for the petitioner is that third respondent having been charged in criminal cases, apart from a Show Cause Notice having been issued to him for recovery of penalty and other charges for illicit quarrying, knowing fully well that if he applies for lease/permission to quarry, the



respondents 4 and 5 on 26.07.2017. There is another lease deed dated 12.01.2018 executed by the third respondent in favour of the respondent No.5 and based on these documents permission was sought for from the District Collector to grant permission to quarry stone. In fact for the area, where the illicit mining has been conducted, which is pending in the manner of Show Cause Notice issued to the third respondent, license was granted to quarry rough stone, whereas granite has been quarried. Same modus operandi has been adopted by respondents 3 to 5. In these circumstances, the petitioner filed Public Interest Litigation for appropriate direction to the authorities.

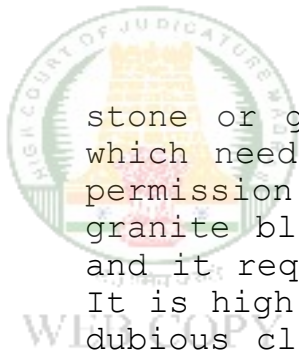
7.Mr.S.Doraisamy, learned counsel appearing for the 5th respondent would contend that the prayer has become infructuous in as much as the District Collector, Madurai District in proceedings in Na.Ka.No.1237/2017 - Minerals dated 12.03.2018 has granted permission to the 5th respondent, the nominee of the 3rd respondent to quarry rough stone for a period of 21 years from 26.07.2017 to 25.07.2038.

8.In our considered view, the permission has been secured from the District Collector by burking the important facts and circumstances and by sealing as to who is the true owner of the property and by giving lease right to the 5th respondent, the third respondent continues to harp upon the permission dated 12.03.2018. The fact that respondents 3 to 5 are appeared together in these writ petition itself is a clear indication that the 5th respondent is the nominee/ binamee of the third respondent. Apart from that, in order to ensure the control over the 5th respondent, the third respondent has made his wife the 4th respondent as a joint licensee. Thus, the fraud has been clearly exposed by the Writ Petitioner. Therefore, the prayer has not become infructuous and the permission granted by the District Collector dated 12.03.2018, which is passed in ignorance of the factual position, is a nullity. Therefore, we have no hesitation to set aside the order passed by the District Collector in Na.Ka.No.1237/2017 - Minerals dated 12.03.2018 and the same is accordingly quashed.

9.From the Additional Counter Affidavit filed by the District Collector, Madurai dated April, 2019, it is seen that based upon the recommendations of the Special Committee, which concluded that totally 146783.08 M3 of granite blocks have been illicitly quarried, valued at Rs.517.75 Crores and Show Cause Notice dated 18.03.2013 has been issued. It is not known as to why the authorities have not initiated any further action. If there are records to show that the authorities have kept the matter aside for the reasons, then it is high time that action should be initiated against the authorities. We reserve this issue to be considered at an earlier point of time.

10.Until the third respondent is exonerated of the charge, he is not entitled to get license to quarry either rough or granite.

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stone or granite or any minor or major minerals. One more aspect, which needs to be pointed out is that under the guise of obtaining permission for quarrying rough stone, the licensee had quarried granite blocks and exported the same. This is a very serious crime and it requires to be effectively taken forward by the authorities. It is high time that the authorities should be sensitized about such dubious claims made by such persons like that of the respondents 3 to 5. Therefore, before granting of license either for rough stone or granite, if the applicant submits the lease deed then the parent documents of the concerned property should be obtained and scrutinized to ensure that the lessor had right over the property and also to ascertain as to whether the conduct of the lessor is clear or not.

11.A contention may be raised that merely because the third respondent has been issued with a Show Cause Notice and Criminal cases have been registered against him for illicit mining, it would not dis-entitle him from applying for fresh license. In fact, the third respondent has not understood this position, so he proceeded to execute the lease deed in favour of his wife, the 4th respondent and his nominee, the 5th respondent. However, from the facts placed before this Court, the past conduct of the third respondent is far from satisfaction. So, unless he is honourably cleared from the acquisition he is not entitled to any lease, permission or license to quarry any mineral either minor or major.

12.With the above directions, this Writ Petition stands disposed of. It is needless to state that the authorities shall expeditiously proceed with the Show Cause Notice and take the same to some logical conclusion, if there is no legal impediment. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar

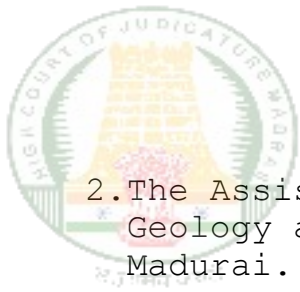
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Sub Assistant Registrar(CS)

sj

To

1.The District Collector,
Madurai District,
Madurai.



2.The Assistant Director,
Geology and Mining Department,
Madurai.

+1CC TO MR.M.KANNAN, Advocate Sr. No. 86483
+1CC TO MR.V.KANNAN, Advocate Sr. No.86697
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 86931

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PM(CO)
TR(14.10.2019) 5P 6C